

PROTECTION OF PROPERTY RIGHTS OUTLINE

Bulgarian law protects the acquisition and disposition of property rights. In practice, the protection of property rights is subject to difficulties in varying degrees.

Bulgarian intellectual property legislation has been strengthened recently, and now includes modern patent and copyright laws and criminal penalties for copyright infringement. Bulgarian legislation in this area is considered to be among the most modern in Central and Eastern Europe.

Until recently, Bulgaria was the largest source of compact-disk and CD-ROM piracy in Europe and was one of the world's leading exporters of pirated goods. For this reason, Bulgaria was placed on the U.S. Trade Representative's Special 301 Priority Watch List in 1998. In 1998, enforcement improved considerably with the introduction of CD-production licensing. In recognition of the significant progress made by the Bulgarian government in improving protection of intellectual property, the U.S. Trade Representative removed Bulgaria from all Special 301 Watch Lists in April 1999.

Bulgaria is a member of the World Intellectual Property Organization (WIPO) and a signatory to the following agreements: the Paris Convention for the Protection of Intellectual Property; the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcast Organizations; the Geneva Phonograms Convention; the Madrid Agreement for the Repression of False or Deceptive Indications of Source of Goods; the Madrid Agreement on the International Classification and Registration of Trademarks; the Patent Cooperation Treaty; the Universal Copyright Convention; the Bern Convention for the Protection of Literary and Artistic Works; the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration; the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purpose of Patent Protection; the Nairobi Treaty on the Protection of the Olympic Symbol; the Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks; the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks; the Strasbourg Agreement Concerning the International Patent Classification; and Locarno Agreement Establishing an International Classification for Industrial Designs. On acceding to the World Trade Organization (WTO), Bulgaria agreed to implement the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) without a transitional period.

The 1993 Law on Copyright and Neighboring Rights protects literary, artistic and scientific works. Article 3 provides a full listing of protected works including computer programs (which are protected as literary works). The Law distinguishes between moral and economic rights. The use of protected works is prohibited without the authorization of the author except in those instances enumerated in Article 23. On March 22, 2000 amendments to the law extended the copyright term of protection from 50 years to 70 years after the author's death. The new term of protection is retroactive, i.e., a term of protection that expired at the moment of approval of the amendments was resumed within the frameworks of the 70 year term of protection. For films and other audio-visual works, copyrights are protected during the lives of director, screenplay-writer, cameraman, or the author of dialogue or music plus 70 years. Other amendments to the law enable copyright owners to file civil claims to suspend the activities of pirates, confiscate equipment and pirated materials, enhance border control over pirated material, introduce a new neighboring right for film producers, and harmonize Bulgarian legislation with the Association Agreement with the European Union.

Part II of the law addresses neighboring rights for performers and producers of sound recordings and radio/television programs. Part III of the Law focuses on enforcement.

The Copyright Office of the Ministry of Culture is responsible for copyright matters in Bulgaria. The National Film Center is responsible for enforcing intellectual property rights with regard to films and videos. Remedies for violations are provided in civil law. However, under the Penalty Code, copyright infringement was originally considered only a misdemeanor subject to nominal fines.

Bulgaria's current Law on Patents (the "Patent Law") dates from 1993. Bulgaria grants the right to exclusive use of inventions and utility models for 20 years and 10 years, respectively, from the dates of patent application filings. Inventions eligible for patent protection must be new as a result of innovation and have industrial applications. Article 6 lists items not considered inventions. Utility models are defined as "objects with structural and technological features relating to an improved construction, form and spatial combination of elements of articles, tools, mechanisms, equipment and parts thereof, materials and other items for industrial or home use."

The independent Patent Office is the competent authority with respect to patent matters. Chapter IV of the patent law, Articles 34-53, describe the application procedures and the examination process. Applications are submitted directly to the Patent Office. Compulsory licensing may be ordered under certain conditions: the patent has not been used within four years of filing the patent application or three years from the date of issue; the patent holder is unable to offer good justification for failing to sufficiently supply the national market; or declaration of a national emergency.

Patent infringement is punishable with the imposition of fines of up to 1,000 leva. Disputes are reviewed by specialized panels convened by the President of the Patent Office. Parties dissatisfied with the outcome must initiate action in the Sofia City Court within three months of the panel's decision.

On September 19, 1996, Parliament approved the Protection of New Types of Plants and Animal Breeds Act. The Certificate allows for a

term of protection of 25 years for annual plants and 30 years for perennial plants and animal breeds. The term of protection starts from its date of issuance by the Patent Office as specified in the law. On April 24, 1998, Parliament ratified the 1991 text of the International Convention for the Protection of New Varieties of Plants (UPOV).

In September 1999, Parliament passed a series of laws on trademarks and geographical indications, industrial designs and integrated circuits in accordance with TRIPs requirements and government's EU Association Agreement. The 1999 Trademarks and Geographical Indications Act, which repealed the 1967 Law on Trademarks and Industrial Designs, regulates the establishment, use, cession, suspension, renewal and protection of rights of trademarks, collective and certificate marks, and geographic indications. Registration is refused or the existing registered trademark is canceled if a trademark constitutes a reproduction, an imitation or creates confusion with a well-known trademark as stipulated by the Paris Convention and the Trademarks and Geographical Indications Act. Applications for registration must be submitted to the Patent Office under specified procedures.

Right of priority, with respect to trademarks that do not differ substantially, is determined based upon application first filed in compliance with information required in Article 32. Right of priority is also established based on the timing of a request made in one of the member countries of the Paris Convention or of the World Trade Organization. To exercise the right of priority, the applicant must file a request within six months of the date of original filing.

A trademark is normally granted within three months of filing of a complete application. Refusals can be appealed in the Sofia City Court within three months of the notification of the decision. The right of exclusive use of a trademark is granted for 10 years from the date of submitting the application. Requests for extension of protection must be filed during the final year of validity but not less than six months from expiration. Failure to use a mark during a five-year period results in protection being terminated.

Infringement of trademarks is a problem in Bulgaria for many U.S. manufacturers. While the law allows for confiscation of offending products, infringement is deemed a misdemeanor under the Penal Code and subject to a nominal fine which does not act as a deterrent to illegal activities. However, the competition law provides for fines of up to 500,000 levs for companies, which use misleading packaging, trademarks or other signs, which injure the interests of competitors.

Protection of Secured Creditors: Difficulties in recovering collateral are often cited as an impediment to commercial lending. A Collateral Loan Law was enacted in October 1996, with the assistance of IRIS (Institutional Reform and the Informal Sector) and the U.S. Agency for International Development. A warehouse receipts program for agricultural commodities is also being implemented with U.S. Government assistance.