

IP Enforcement Must Shape Up, According to EU Progress Report

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Intellectual Property, Turkey

The European Commission has published its Progress Report on Turkey's preparations for accession to the European Union. The Progress Report covers the period from October 2006 to October 2007 and focuses on economic, political and social issues. Section 4 of the report deals with Turkey's ability to assume the obligations of membership, as expressed in the EU Treaties, secondary legislation and EU policies. Chapter 7 of this section deals with IP law, and particularly developments in the area of copyright law and related rights.

The report states that while Turkey's legislative framework for copyrights and related rights is mostly aligned with the European Union, its enforcement capacity is lagging behind. The most recent step with regard to the legislative framework was Turkey's accession to the World Intellectual Property Organization's Copyright Treaty and Performances and Phonograms Treaty in May 2007. Some improvements have also been introduced with regard to the regulation of collecting societies and further improvements are being prepared.

The report's negative conclusions with regard to enforcement are primarily due to the lack of well-educated staff. The report states that although the law on intellectual and artistic works has been amended to give greater incentives to enforcers (ie, civil servant members of the provincial anti-piracy commissions), these commissions are not yet functioning effectively. The report also mentions that piracy of books and other media, such as CDs and DVDs, is widespread even though the legislation is designed to provide effective protection for copyright owners. Infringement of copyright on a work is described as a criminal offence in Articles 72 and 73 of the Copyright Law and subject to imprisonment terms of between two and six years, as well as monetary fines. Article 80 and Article 81 of Law 5846 on Intellectual and Artistic Works also sets out efficient penal provisions for the sale of reproductions of cinematographic works without banderol such as CDs, DVDs, VCDs and cassettes. The enforcement of the latter does not require a complaint from the rights holder to the authorities; accordingly, the police have the authority to intervene *ex officio* in the sale of reproductions of copyrighted works on the streets no matter whether they are original.

The report concludes that some progress has taken place against the background of a legislative framework that is largely aligned. However, serious deficiencies remain with regard to copyright legislation and its enforcement.

The report's chapter on intellectual property should be evaluated in view of the political situation and Turkey's overall progress in preparing to become a member of the European Union. In that context, it would not be wrong to say that discussions over whether to give Turkey associate member status rather than full membership, as well as other longstanding political problems, have had a detrimental effect on Turkey's motivation. Further, the general elections that took place in July 2007 have also slowed down the legislative process. It is expected that the new term will see much more progress in this area.

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