

# Recommendations for Enhancing the Intellectual Property Rights Protection System in Ukraine

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# 1. Introduction

## 1.1. Purpose of the Document

Within the framework of fulfilling Ukraine's obligations in the field of intellectual property, as defined by the Action Plan for the implementation of the recommendations of the European Commission set out in the Ukraine Progress Report under the European Union Enlargement Package 2024 (hereinafter referred to as the Action Plan), as well as in the context of the further implementation of European Union law in the field of intellectual property rights protection, the Intellectual Property Rights Infringement Monitoring Centre, operating within the State Organization "Ukrainian National Office for Intellectual Property and Innovations" (which has been entrusted with the functions of the National Intellectual Property Authority), has prepared consolidated proposals regarding possible directions for improving the system of intellectual property rights protection in Ukraine.

The establishment of a modern and effective system for the protection of intellectual property rights constitutes an important component of Ukraine's further European integration, the creation of favourable conditions for innovative development, the investment climate, and the development of the creative economy, the prevention of infringements of the rights of IP rightsholders, as well as the strengthening of enforcement mechanisms in line with European standards.

During the preparation of the proposals, the following were taken into account:

- the provisions of the EU acquis in the field of intellectual property, in particular Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights;
- the work and analytical outputs of specialised bodies operating in the field of intellectual property;
- conclusions of the expert and academic community;

- recommendations of professional and business associations;
- statistical data relating to enforcement practice, investigations, customs procedures, and judicial review of the relevant categories of cases.

This document is of an informational nature and is intended for public access, in particular for the professional community, international partners, and the European Commission.

## 1.2. Sources Considered in the Preparation of the Document

- Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights
- Action Plan for the implementation of the recommendations of the European Commission, as presented in the Ukraine Progress Report under the European Union Enlargement Package 2024
- Association Agreement between Ukraine and the European Union
- European Commission Recommendation C(2024) 1739 final of 19 March 2024 on measures to combat counterfeit goods and strengthen the protection of intellectual property rights
- Guidance for the Development of an IP Strategy in Countries in Transition (WIPO, 2012).
- Special 301 Report for 2024 of the Office of the United States Trade Representative (USTR).
- Report on the protection and enforcement of intellectual property rights in third countries, 2025
- Counterfeit and Piracy Watch List, 2025
- National Strategy for the Development of the Intellectual Property Sphere in Ukraine for the period 2020–2025 (draft, published during the Parliamentary Hearings on 16 December 2019)
- Concept of the Draft National Strategy for the Development of the Intellectual Property Sphere until 2030, the Strategy for the Devel-

opment of the Intellectual Property Sphere in Ukraine until 2030 (draft)

- Proposals of public authorities, in particular the Ministry of Economy of Ukraine, the Ukrainian National Office for Intellectual Property and Innovations (UANIPIO) the Economic Security Bureau of Ukraine the Antimonopoly Committee of Ukraine, and the Supreme Court;

- Report of the Intellectual Property Rights Infringement Monitoring Centre of the IP Office "Statistics on the investigation and adjudication of intellectual property cases for 2019–2023"

- Data from relevant business associations and right holders;
- Materials of the EUIPO, WIPO, OECD, World Customs Organization, IMI.

Analytical publications of scholars and expert groups.

### 1.3. Key Challenges in the Field of Intellectual Property in Ukraine

Despite the tangible progress achieved in the development of the regulatory and legal framework, the establishment of specialised institutions, and the advancement of certain enforcement mechanisms, the system of intellectual property rights protection in Ukraine remains under development and requires further improvement.

In the Ukraine 2024 Report prepared by the European Commission within the framework of the European Union Enlargement Package, the European Commission noted that Ukraine had taken certain steps to implement the recommendations set out in the 2023 Enlargement Package Report. At the same time, the key recommendations remain relevant for the subsequent period, in particular the need for Ukraine to continue improving the system of industrial property rights protection, *inter alia* through combating piracy and counterfeit goods, ensuring the functioning of the specialised court for intellectual property matters, and strengthening cooperation with the European Union Intellectual Property Office.

The need to improve the protection of intellectual property rights in Ukraine was emphasised

in the National Strategy for the Development of the Intellectual Property Sphere for 2020–2025 (draft, presented at the Parliamentary Hearings on 16 December 2019). It was noted that further steps of state policy should be focused on strengthening institutional capacity, increasing the effectiveness of enforcement, developing digital solutions, and enhancing interagency co-operation.

Improving the effectiveness of intellectual property rights protection is the focus of Section III of the Strategy for the Development of the Intellectual Property Sphere until 2030, the draft of which was developed with the support of the World Intellectual Property Organization and GIZ, at the request of the Ministry of Economy of Ukraine, on the basis of the Ukrainian National Office for Intellectual Property and Innovations (UANIPIO).

Among the strategic objectives identified in this area are: a substantial increase in the standards of administrative and legal protection of intellectual property rights; the establishment of an effective, integrated, institutionally and professionally capable system of criminal law protection of intellectual property rights in Ukraine; qualitative improvement of judicial protection of intellectual property rights; detection and cessation of intellectual property rights infringements on the Internet; enhancement of the effectiveness of intellectual property rights protection in the context of customs control; wider use of out-of-court dispute resolution mechanisms in the field of intellectual property; as well as strengthening the implementation of sanctions policy in the field of intellectual property.

Strengthening these areas constitutes an important factor in achieving the objectives of European integration and in establishing an effective system for the protection of intellectual property rights as an integral component of Ukraine's national intellectual property system.

In this context, the need for a systemic renewal of approaches to the protection of intellectual property rights becomes particularly significant. First and foremost, this concerns:

- the need for systematic updating of legislation in order to ensure full compliance with the EU acquis;
- ensuring stable and consistent judicial practice in intellectual property disputes, in particular with regard to the launch of specialised judicial jurisdiction (the Intellectual Property Court);
- the improvement of administrative appeal procedures and the granting of additional powers to the Appeal Chamber of the National Intellectual Property Authority;
- ensuring a more effective response to infringements in the digital environment, in particular in the areas of online piracy, e-commerce, and digital counterfeit goods;
- the development of cooperation instruments between right holders and customs and law enforcement authorities, taking into account the specific features of the detection and documentation of infringements;
- the updating of criminal law mechanisms, taking into account modern approaches to the qualification of infringements and the differentiation of liability;
- the further development of alternative dispute resolution procedures (mediation) in the field of intellectual property;
- the strengthening of interagency coordination and the development of professional training of personnel.

## 2. Current State

### 2.1. Overview of the Existing Intellectual Property Rights Protection System in Ukraine

The system of intellectual property rights protection in Ukraine formally encompasses the key components characteristic of European models, namely legal regulation, institutional infrastructure, protection procedures, and enforcement mechanisms. However, in practice, its functioning remains uneven, with significant gaps between formal norms and their effective implementation.

Certain elements of the system demonstrate gradual progress; in particular, digital services are being introduced, some administrative procedures have been improved, and mechanisms of interaction with users and right holders are being enhanced. At the same time, such developments remain fragmented and are often not supported by parallel changes in related institutions (customs authorities, courts, law enforcement bodies, cybersecurity, etc.)

The absence of a specialised court for intellectual property matters, fragmented interagency coordination, an insufficiently developed system for monitoring infringements, and the limited application of preventive and sanction-

ing measures create obstacles both for right holders and for national and foreign investors.

### 2.2. Statistical Data on Intellectual Property Rights Infringements (2019-2024)

According to the analytical reviews "Statistics on the Investigation and Adjudication of Intellectual Property Cases for 2019–2023" and "The State of Intellectual Property Rights Protection in Ukraine for 2024", prepared by the Intellectual Property Rights Infringement Monitoring Centre of the Ukrainian National Office for Intellectual Property and Innovations (UANIPIO), the key trends relating to the nature of infringements, the intellectual property objects whose rights are most frequently infringed, the main channels for the distribution of counterfeit goods, and other relevant aspects have been identified.

The data indicate that the judicial system bears the greatest workload in the field of intellectual property. Commercial (economic) jurisdiction considers the majority of cases relating to intellectual property rights objects, among which cases involving copyright and trademark infringements prevail.

The number of criminal proceedings is significantly lower, which is largely due both to the low level of activity of right holders in initiating investigations into intellectual property rights infringements and to the existing priorities in the activities of Ukraine's law enforcement authorities, determined by the ongoing full-scale aggression of the Russian Federation against Ukraine.

The data used for the reports were obtained either upon requests submitted by UANIPIO to the relevant public authorities or from open sources.

### 2019 – 2023

#### Judicial System

In courts of first instance within the commercial jurisdiction, in 2023 the majority of disputes concerned copyright and related rights (56%) and trademark rights (27%).

Cases relating to patents, utility models, and industrial designs were considered twice as rarely (13.5%). Cases concerning the right of prior use accounted for the smallest share (3.5%).

The statistics of local courts, courts of appeal, and the Supreme Court indicate a decrease in the number of cases in 2020 and 2022 and an increase in 2021 and 2023.

Over the period 2019-2023, the statistics demonstrate a stable trend in case adjudication, with the percentage of cases resolved exceeding 60%. At the same time, over the past two years, the percentage of resolved cases has increased, while the number of pending cases has decreased.

The dynamics of the amounts of compensation awarded are directly linked to the number of cases adjudicated and the volume of claims filed:

- in 2021, the amount was three times higher;
- in 2022, a record decline was recorded - an eightfold decrease;
- in 2023, the situation improved and approached a level almost equivalent to that observed prior to the full-scale invasion of Ukraine by the Russian Federation.

According to 2023 civil case statistics, the review of cases relating to copyright and related rights (44%) and trademark rights (41%) demonstrates almost identical dynamics. At the same time, cases relating to patents, utility models, and industrial designs (15%) are considered three times less frequently compared to other categories.

#### Law Enforcement Authorities

The data indicate a decline in the number of registered criminal proceedings recorded by the National Police of Ukraine over the period from 2019 to 2022. From 2023, the number increased compared to the previous period.

The majority of registered criminal proceedings relate to Article 176 and Article 229 of the Criminal Code of Ukraine, while in 2022–2023 no criminal proceedings were recorded under Article 203-1 of the Criminal Code of Ukraine.

The Economic Security Bureau of Ukraine commenced its operations in 2021. Under Article 229 of the Criminal Code of Ukraine, 5 criminal offences were recorded in 2022, while 79 criminal offences were recorded in 2023, which indicates a positive trend in the activities of the authority.

#### State Customs Service of Ukraine

As of 31 December 2023, 980 intellectual property rights objects were registered in the customs register upon applications submitted by right holders. These include trademarks, industrial designs, patents, and copyright objects.

#### In 2023, the following were registered:

- 144 trademarks, of which 90 are protected under national legislation and 54 are protected under international legal instruments;
- 1 copyright object;
- 5 industrial designs (all protected under national legislation).

Following the registration of an intellectual property right object in the customs register, customs authorities apply measures aimed at facilitating the protection of intellectual property rights on the basis of the data contained in such register.

Over the period 2019-2023, the majority of suspensions of customs clearance were carried out by the State Customs Service of Ukraine on the basis of data from the customs register of intellectual property rights objects, in accordance with Article 399 of the Customs Code of Ukraine. This indicates the importance for right holders of registering their intellectual property rights objects in the customs register.

During 2022-2023, the number of reports on violations of customs rules decreased, while the number of cases involving changes to labelling remained relatively unchanged and minimal.

#### *Appeal Chamber of the National Intellectual Property Authority*

In 2019-2022, the total number of decisions reviewed by the Appeal Chamber ranged from 64 to 84 per year. The largest share consistently consisted of decisions fully upholding the claims, while the number of refusals decreased. Partial satisfaction of applications remained sporadic, with the exception of 2022, when the number of such cases increased.

From November 2022, the activities of the Appeal Chamber were temporarily suspended in connection with the revision of the rules of procedure governing the functioning of the collegial body.

#### *Antimonopoly Committee of Ukraine*

In 2019-2023, the Antimonopoly Committee of Ukraine adopted 18 decisions related to the unlawful use of designations and packaging designs.

#### **2024**

Compared to 2023, which proved to be relatively effective under the conditions of martial law, 2024 saw a decline in the number of cases related to intellectual property rights infringements, as reflected in the activities of both judicial and law enforcement authorities. The downward trend in indicators in the field of intellectual property rights protection has been significantly influenced by the full-scale invasion of Ukraine by the Russian Federation. At present, the primary focus of public authorities, in particular law enforcement bodies, is concentrated on the investigation of war crimes.

At the same time, the trends observed in the activities of public authorities, including law enforcement and customs authorities, indicate increased attention to the field of intellectual property, as well as a higher level of engagement and the further development of institutional interagency cooperation aimed at enhancing the effectiveness of intellectual property rights protection.

The judicial system continues to remain the most heavily burdened in terms of case review. An analysis of the state of judicial proceedings in the field of intellectual property indicates an overall decrease in the number of cases across all categories. The most pronounced decline is observed within commercial and civil jurisdictions, which traditionally constitute the primary fora for resolving disputes related to intellectual property rights infringements.

In certain categories of cases, in particular criminal cases and administrative offence cases heard by local courts, a slight increase is recorded; however, the overall downward trend persists at the levels of appellate and cassation instances. This decrease directly correlates with a reduction in the number of claims filed with courts of first instance.

In the previous year, the majority of disputes concerned copyright, whereas in 2024 the dynamics are almost identical across the following categories: trademark cases (42%) and copyright and related rights cases (40%).

The statistics demonstrate a stable case adjudication rate, with the percentage of resolved cases exceeding 60%. At the same time, the share of resolved claims in commercial cases amounts to 93%.

The distribution of amounts claimed and awarded in civil cases in 2024 shows that the largest amounts claimed in civil proceedings totalled approximately UAH 75 million, while only UAH 2 million was awarded. A more stable practice is observed in trademark cases, where approximately UAH 8 million was awarded out of UAH 11 million claimed.

### **| *Law Enforcement Authorities***

In investigations conducted by the National Police of Ukraine, the majority of criminal proceedings continue to relate to Article 229 and Article 176 of the Criminal Code of Ukraine, with a small number of cases under Article 177, while no criminal proceedings under Article 203-1 have been recorded to date. Compared to 2023, the number of proceedings decreased in 2024.

The Economic Security Bureau of Ukraine demonstrates stable performance in the conduct of pre-trial investigations. In 2023 and 2024, the same number of criminal proceedings was initiated.

During 2024, based on the results of investigations conducted during this period, including proceedings initiated in previous years, detectives of the Economic Security Bureau of Ukraine served notices of suspicion on 53 persons for committing criminal offences provided for under Article 229 of the Criminal Code of Ukraine.

A total of 29 criminal proceedings of this category involving 45 persons were referred to court.

In 2024, six convictions were delivered by courts following the consideration of criminal proceedings in which the pre-trial investigation was carried out by detectives of the Economic Security Bureau of Ukraine.

### **| *State Customs Service of Ukraine***

In 2024, an almost twofold decrease was recorded in the number of intellectual property rights objects entered into the customs register (85), compared to 150 in 2023. At the same time, the number of suspensions of customs clearance increased significantly: from 347 cases in 2023 (314 based on the customs register and 33 initiated by customs authorities) to over 600 cases in 2024. At the same time, a trend characteristic of previous periods persists: the vast majority of decisions are adopted on the basis of data from the customs register.

### **| *Appeal Chamber of the National Intellectual Property Authority***

During 2024, the following were submitted to the Appeal Chamber: 37 objections against decisions, 1 appeal application for invalidation of

rights to a utility model, 4 appeal applications for invalidation of rights to an industrial design, and 8 applications for recognition of trademarks as well known in Ukraine.

The Appeal Chamber resumed its activities in September 2024, and since that time has been actively conducting case reviews within its competence.

Throughout 2024, the panels of the Appeal Chamber held 94 hearings to consider objections, appeal applications, and applications for recognition of trademarks as well known in Ukraine, resulting in the adoption of 21 decisions.

### **| *Antimonopoly Committee of Ukraine***

In 2024, the Antimonopoly Committee of Ukraine adopted two decisions in cases under Article 4 of the Law of Ukraine "On Protection against Unfair Competition".

One decision concerned the activities of the international company LEGO JURIS A/S, while the other concerned a national business entity, Private Joint Stock Company "Kyiv Cardboard and Paper Mill".

## **2.3. Legislative Framework**

As of 2025, a number of core legislative acts regulating the field of intellectual property are in force in Ukraine, in particular:

- Civil Code of Ukraine;
- Customs Code of Ukraine;
- Code of Ukraine on Administrative Offences;
- Criminal Code of Ukraine;
- Law of Ukraine "On the Protection of Rights to Marks for Goods and Services";
- Law of Ukraine "On Copyright and Related Rights";
- Law of Ukraine "On Effective Management of Property Rights of Right Holders in the Field of Copyright and (or) Related Rights";
- Law of Ukraine "On the Protection of Rights to Inventions and Utility Models";
- Law of Ukraine "On the Protection of Rights to Industrial Designs";
- Law of Ukraine "On the Legal Protection of Geographical Indications";

Law of Ukraine "On the Protection of Rights to Layout Designs (Topographies) of Semiconductor Products";

Law of Ukraine "On the Protection of Rights to Plant Varieties", etc.

In the course of implementing the provisions of the Association Agreement with the European Union and adapting the EU *acquis* to national legislation, a number of important reforms have been carried out. At the same time, the legislative framework continues to require further im-

plementation in order to achieve full compliance with the EU *acquis*, as well as the alignment of sector-specific national legislation and the improvement of certain of its provisions.

Certain issues, in particular those relating to the protection of trade secrets, non-traditional intellectual property objects, mechanisms for challenging granted rights (post-grant opposition), and the legal regulation of emerging digital objects, are currently at the stage of preparing proposals or ongoing development.

## 2.4. Institutional Structure

In the field of intellectual property rights protection, the following key authorities operate:

<b>Ministry of Economy of Ukraine (Ministry of Economy)</b>	The principal body within the system of central executive authorities responsible for formulating and implementing state policy in the field of intellectual property.
<b>State Organization "Ukrainian National Office for Intellectual Property and Innovations" (UANIPIO)</b>	A state organization that forms part of the state system of legal protection of intellectual property and is designated at the national level by the Cabinet of Ministers of Ukraine as an entity vested with powers in the field of intellectual property, including the right to represent Ukraine in international and regional organizations. The State Organization "Ukrainian National Office for Intellectual Property and Innovations" performs the functions of the National Intellectual Property Authority.
<b>Public Authorities Responsible for the Consideration or Investigation of Intellectual Property Rights Infringements</b>	
<b>Judicial System</b>	The judicial system consists of local courts, courts of appeal, and the Supreme Court. The Supreme Court is the highest court within the judicial system.  For the consideration of certain categories of cases, the judicial system, in accordance with the Law of Ukraine "On the Judiciary and the Status of Judges", provides for the establishment of higher specialised courts, including the High Court on Intellectual Property Matters. However, as of 2025, the functioning of this court has not commenced, and its judicial composition has not been formed.
<b>Prosecutor General's Office</b>	The Prosecutor General's Office organises and coordinates the activities of all prosecution bodies, ensures the proper functioning of the Unified Register of Pre-Trial Investigations and its maintenance by pre-trial investigation authorities, establishes a uniform procedure for compiling reports on the state of criminal unlawfulness and prosecutorial activities with a view to ensuring the effective performance of prosecutorial functions, and also manages state-owned property falling within the scope of administration of the Prosecutor General's Office.

**National Police of Ukraine**

A central executive authority that serves society by ensuring the protection of human rights and freedoms, counteracting crime, and maintaining public safety and order.

The National Police of Ukraine considers cases in the field of intellectual property under Articles 176, 177, 203-1, and 229 of the Criminal Code of Ukraine (hereinafter - the Criminal Code), namely:

- infringement of copyright and related rights (*Article 176 of the Criminal Code*);
- infringement of rights to an invention, utility model, industrial design, layout design (topography) of an integrated circuit, plant variety, or rationalisation proposal (*Article 177 of the Criminal Code*);
- illegal circulation of discs for laser reading systems, matrices, equipment, and raw materials for their production (*Article 203-1 of the Criminal Code*);
- illegal use of a mark for goods and services (trademark), trade name, or protected designation of origin of goods (*Article 229 of the Criminal Code*).

**Economic Security Bureau of Ukraine**

A central executive authority entrusted with tasks related to counteracting offences encroaching upon the functioning of the state economy.

In the field of intellectual property, the Economic Security Bureau of Ukraine is authorised to conduct pre-trial investigations into criminal offences provided for under Article 229 of the Criminal Code of Ukraine.

**State Customs Service of Ukraine**

The State Customs Service of Ukraine implements state customs policy and state policy on combating offences arising in the course of applying legislation on customs matters.

The customs authorities implement measures for the protection of intellectual property rights in accordance with Articles 399, 400, 400-1, 401, 401-1, 402, 402-1, and 403 of the Customs Code of Ukraine (hereinafter - the Customs Code), namely:

- suspension of customs clearance of goods on the basis of data contained in the customs register (*Article 399 of the Customs Code*);
- suspension of customs clearance of goods at the initiative of a customs authority (*Article 400 of the Customs Code*);
- early release of goods whose customs clearance has been suspended on suspicion of infringement of intellectual property rights (*Article 400-1 of the Customs Code*);
- destruction of goods whose customs clearance has been suspended on suspicion of infringement of intellectual property rights (*Article 401 of the Customs Code*);
- specific features of suspension of customs clearance and destruction of small consignments of goods moved (sent) across the customs border of Ukraine in international postal items and express consignments (*Article 401-1 of the Customs Code*);
- change of marking on goods and their packaging (*Article 402 of the Customs Code*);

<b>State Customs Service of Ukraine</b>	<ul style="list-style-type: none"> <li>specific features of customs control exercised by customs authorities with respect to certain goods (Article 402-1 of the Customs Code);</li> <li>interaction of customs authorities with other public authorities in the field of intellectual property rights protection (Article 403 of the Customs Code).</li> </ul>
<b>Appeal Chamber of the National Intellectual Property Authority</b>	<p>The Appeal Chamber of the National Intellectual Property Authority is a collegial body responsible for the consideration of objections against decisions of the National Intellectual Property Authority concerning the grant of rights to intellectual property objects, applications for the invalidation of rights to industrial property objects in whole or in part, as well as applications for the recognition of a trademark as well known in Ukraine.</p>
<b>Antimonopoly Committee of Ukraine</b>	<p>The Antimonopoly Committee of Ukraine is a state authority with a special status, the purpose of whose activities is to ensure state protection of competition in entrepreneurial activity and in the field of public procurement. In the field of intellectual property, the Antimonopoly Committee of Ukraine considers cases in accordance with the Law of Ukraine of 7 June 1996 No. 236/96-VR "On Protection against Unfair Competition".</p>

In addition, the Ukrainian National Office for Intellectual Property and Innovations includes internal units such as Mediation Centre in the Field of Intellectual Property, which contributes to the development of alternative dispute resolution mechanisms, as well as specialised analytical and educational structures, namely the - IP Academy and the Intellectual Property Rights Infringement Monitoring Centre.

## 2.5. Organisation of Enforcement

The analysis of the current situation indicates the need to improve approaches to the organisation of enforcement in the field of intellectual property, in particular with regard to coordination between institutions, the effectiveness of criminal law responses, and customs control.

Despite certain progress recorded in legislative regulation and in the development of specific practices of interaction among public authorities, courts, right holders, customs authorities, and law enforcement bodies, the enforcement system continues to face a number of challenges. Challenges remain with regard to timeliness and effectiveness of responses, the limited use of preventive measures, fragmented communication among the stakeholders involved, and the absence of a unified methodology for the investigation of cases.

The overall assessment indicates the need for:

- optimisation of customs response procedures;

- strengthening the institutional capacity of pre-trial investigation bodies in cases involving intellectual property rights infringements;
- improvement of methodologies for damage assessment in cases of intellectual property rights infringements, which would facilitate the proper determination of the amount of damages;
- ensuring sustained interagency coordination, in particular through the development of interaction algorithms between customs authorities, police, prosecution bodies, and other stakeholders;
- strengthening international cooperation with a view to improving the application of intellectual property rights protection procedures, as well as the exchange of information and experience;
- regular professional development and training of relevant personnel involved in the enforcement of intellectual property rights.

## 2.6. Emerging Challenges

In the context of digital transformation, a continuing trend of an increase in intellectual property rights infringements on the Internet can be observed, which poses new challenges for enforcement mechanisms. The rapid development of electronic commerce, the growing role of online platforms, and the increased accessibility of digital content contribute to the spread of online piracy, illegal trade in counterfeit goods, and the use of unfair practices in the digital environment.

Issues that have become particularly relevant include:

- the development of effective tools to counter infringements in the digital environment, in particular in the field of copyright and related rights;
- the improvement of cooperation mechanisms with online platforms, including the introduction of self-regulatory mechanisms;
- enhancing liability mechanisms for infringements committed through the use of the

Internet and ensuring a prompt response to such infringements;

- the improvement of procedures provided for by the regulatory acts of Ukraine governing the detection of digital infringements, interaction with foreign entities, blocking of illegal content, as well as international cooperation aimed at ensuring the enforcement of decisions beyond national jurisdiction;

- the expansion of opportunities for international cooperation, in particular with regard to information exchange, joint identification of infringers, and the implementation of joint initiatives;

- raising awareness among right holders and consumers regarding mechanisms for the protection of rights in the digital environment.

The challenges outlined above require a comprehensive approach to their resolution, based on synergy between public authorities, business representatives, international partners, and digital infrastructure stakeholders.

## 3. European Commission Recommendation C(2024)1739 of 19 March 2024

on Measures to Combat Counterfeit Goods and Strengthen the Protection of Intellectual Property Rights

### 3.1. Key Provisions of the European Commission Recommendation

The European Commission Recommendation emphasises the need for a comprehensive strengthening of intellectual property rights protection in EU Member States and candidate countries, in particular through:

- the development of effective coordination systems among authorities involved in intellectual property rights protection, using single information platforms for data exchange (including analogues of the IP Enforcement Portal (IPEP), Information and Communication System on Market Surveillance (ICSMS)).
- the establishment of national contact points for intellectual property matters;

- the expansion of cooperation with online platforms, marketplaces, service providers, domain registrars, and payment systems;

- the introduction of “trusted flagger” tools, namely recognised expert organisations granted simplified access to infringement blocking systems;

- the development of procedures for dynamic court injunctions (dynamic injunctions) to ensure effective blocking of systemic online infringements;

- the strengthening of instruments available to market surveillance authorities;

- the development of environmentally safe mechanisms for the destruction of counterfeit goods;

- the use of advanced technologies (artificial intelligence, blockchain, track-and-trace systems) for monitoring goods flows;
- the enhancement of legal awareness and education, particularly among young people and users of digital services.

## 4. Proposals for Enhancing the System of Intellectual Property Rights Protection

### 4.1. Improvement of the Regulatory Framework and Completion of Implementation with the EU acquis

Within the framework of implementing Ukraine's obligations under the Association Agreement with the European Union and in fulfilment of the recommendations of the European Commission within the European Union Enlargement Package, a comprehensive implementation and updating of the regulatory framework in the field of intellectual property in general, and the protection of intellectual property rights in particular, is ongoing. Further legislative development should be focused on the following areas.

Ukraine is consistently adapting national legislation to the EU acquis in the field of intellectual property. This process covers a broad range of legal institutions, including copyright and related rights, industrial property, trade secrets, and geographical indications, and also relates to the formation of judicial practice and enforcement.

Ukraine has also submitted requests to join the European Union Intellectual Property Network (EUIPN), to implement EUIPN common practices in Ukraine, to participate in the working and task groups of the EUIPO Observatory on intellectual property rights infringements, as well as to join the European Intellectual Property Prosecutors Network (EIPPN). In addition, a separate request has been submitted to the European Union regarding the continued protection of 29 geographical indications registered by Ukraine.

Ukraine's legislative framework is already partially aligned with a number of EU directives and regulations, in particular:

Copyright and related rights: partial alignment with Directive 2014/26/EU on collective rights management (CRM Directive). The introduction of multi-territorial licensing and clarification of the functions of collective management organisations (CMOs) are planned by 2027. The re-accreditation of CMOs is to be resumed after the termination of martial law.

Computer programs: partial alignment with Directive 2009/24/EC. It is necessary to include "preparatory materials" in the definition of a computer program, as well as to establish exceptions for permitted user actions without the right holder's consent.

Industrial property: partial alignment with Regulation (EU) 2017/1001 and Directive (EU) 2015/2436 on trademarks. The adoption of a new version of the Law of Ukraine "On the Protection of Rights to Trademarks" is planned by 2027.

Geographical indications: partial alignment with Regulation (EU) 2023/2411. Amendments to national legislation are planned by 2027, including provisions covering digital tools and enforcement.

Trade secrets: partial alignment with Directive (EU) 2016/943. The adoption of a new stand-alone Law on the Protection of Trade Secrets is planned by the end of 2026, in particular with regard to the acquisition, use and disclosure of trade secrets, measures, procedures and remedies, and measures resulting from decisions on the merits of a case.

Patents and SPCs: partial adaptation to EU requirements in the field of supplementary protection certificates and compulsory licensing, with relevant amendments planned for 2026.

Biotechnological inventions: partial harmonisation; further alignment is expected with regard to provisions on exceptions, deposit of biological material, mandatory cross-licensing, and related matters.

Copyright in the digital environment: Ukraine has not yet aligned with the SatCab II Directive and has not harmonised provisions on the cross-border portability of online content. Relevant amendments are to be introduced into the Law of Ukraine "On Copyright and Related Rights".

IPRED: partial alignment with the Directive on the enforcement of intellectual property rights. Further refinement is required in relation to injunctions, evidence gathering, proportionality of measures, as well as the establishment of a specialised Intellectual Property Court.

To ensure full compliance with its obligations, Ukraine needs to strengthen the institutional capacity of bodies responsible for the implementation of the EU acquis, in particular by ensuring adequate staff training and improving interagency coordination.

#### 4.2. Improvement of Procedural Legislation

Legislative regulation in the field of intellectual property rights protection in Ukraine requires enhanced attention, as the current legal framework does not fully ensure effective enforcement. This issue is of particular relevance in the context of Ukraine's European integration course and its obligations to implement the EU acquis.

#### 4.3. Development of Specialised Judicial Jurisdiction in the Field of Intellectual Property

One of the key prerequisites for the effective protection of intellectual property rights is the functioning of a specialised court. At present, the organisational establishment of the High Court on Intellectual Property Matters remains unfinished, which hinders the development of consistent and predictable judicial practice in disputes of this category.

It is necessary to:

- complete the organisational arrangements and ensure the practical functioning of the High Court on Intellectual Property Matters (hereinafter also referred to as the IP Court);
- increase the efficiency and quality of the adjudication of intellectual property disputes;
- ensure uniform enforcement and consistency with the EU acquis.

Particular attention should be paid to the specialised training of judges, which should include:

- methodologies for assessing the amount of damages in intellectual property infringement disputes;
- specific aspects of examining expert opinions;
- procedural particularities of evidence-taking in intellectual property infringement cases;
- analysis of European case law and acts of the EU acquis.

Prior to the commencement of the functioning of the IP Court, it is necessary to develop methodological guidelines and specialised training programmes for judges of general jurisdiction for the consideration of intellectual property cases.

#### 4.4. Improvement of the Administrative Mechanism for the Protection of Intellectual Property Rights

In view of the need to enhance the effectiveness of enforcement in the field of intellectual property, and taking into account European approaches to pre-trial dispute resolution, it appears appropriate to further develop administrative protection instruments, in particular by expanding the powers of the Appeal Chamber of the National Intellectual Property Authority.

The current legislation lacks comprehensive mechanisms enabling the effective resolution of intellectual property disputes outside judicial proceedings, in particular in the form of administrative post-grant review of rights following their state registration (post-grant opposition). In this context, the issues of defining the functional status of the Appeal Chamber of the National Intel-

lectual Property Authority, its competence, and the procedures applicable within administrative protection mechanisms become particularly relevant.

In this regard, it is proposed to:

- consider the expediency of legislatively regulating the powers of the Appeal Chamber of the National Intellectual Property Authority to invalidate trademark rights in a pre-trial (post-grant opposition) procedure, by introducing appropriate amendments to the Law of Ukraine "On the Protection of Rights to Marks for Goods and Services"

- explore the possibility of establishing an administrative mechanism for the protection of copyright and related rights by expanding the powers of the Appeal Chamber of the National Intellectual Property Authority, in particular with regard to the examination of applications concerning:

- the appeal of conclusions on the absence of grounds for state registration of copyrights and agreements;
- the existence or absence of protectability of works;
- the invalidation of intellectual property rights or the determination of their legal status in the absence of heirs.

- address the issue of forming a professional composition of the Appeal Chamber of the National Intellectual Property Authority as a permanent collegial body, ensuring the professional independence and specialisation of its members.

- take into account EU experience in the field of administrative protection of intellectual property rights, in particular the functioning of the Boards of Appeal of European Union Intellectual Property Office (EUIPO) and the European Patent Office (EPO), their organisational structures, as well as the provisions of Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market.

The above proposals may contribute to the improvement of enforcement practice in Ukraine,

the reduction of the caseload of the judicial system, and further harmonisation with the legislation of the European Union.

## 4.5. Enhancing the Effectiveness of Intellectual Property Rights Enforcement

### 4.5.1. Customs Procedures

Customs authorities play a key role in preventing counterfeit goods from entering the domestic market and in ensuring effective protection of intellectual property rights at the import stage. Despite the availability of basic instruments, current practice indicates the need to improve both the regulatory framework and the procedural implementation of these mechanisms.

Among the general proposals aimed at improving the protection of intellectual property rights by customs authorities are the following:

Monitoring the entire logistics chain of placing goods suspected of infringing intellectual property rights on the market. To this end, it is necessary to introduce an obligation for economic operators, when selling any imported goods on physical and online markets in Ukraine, to indicate in the tax invoice the number of the customs declaration under which such goods were imported. This would enable supervisory authorities to verify the legality of the importation of any goods into Ukraine.

Given that counterfeit goods are predominantly imported into Ukraine through smuggling, it is necessary to extend the application of measures facilitating the protection of intellectual property rights to cases involving the detection of "smuggled" goods suspected of infringing intellectual property rights, which are moved outside customs control, including concealment from customs control, non-declaration, and similar methods. (This measure is provided for in the Action Plan for the Implementation of the State Anti-Corruption Programme for 2023–2025, but has not yet been incorporated into the current legislation.)

The introduction of mandatory destruction of counterfeit goods confiscated pursuant to a court decision in accordance with Article 476

of the Customs Code of Ukraine is required, as the absence of such a sanction allows courts to refrain from ordering the destruction of counterfeit goods.

The procedure for releasing counterfeit goods from warehouses for destruction should be regulated by secondary (by-law) regulatory acts.

Regional customs offices should verify the accuracy of information regarding officially authorised enterprises for destruction included in their lists, and confirm that such enterprises have indeed obtained authorisation to destroy specific categories of goods.

It is necessary to introduce amendments to Article 397 of the Customs Code of Ukraine providing the right of the right holder to claim from the owner of the goods compensation for costs related to the destruction of goods that constitute an infringement of the right holder's intellectual property rights, or from other liable persons. (Currently, the right holder is entitled to claim compensation only for the storage of such goods.)

Strengthening professional training of customs personnel in the areas of identification of counterfeit goods, documentation of infringements, and effective cooperation with right holders.

Support for the initiative to establish a customs hub specialising in intellectual property matters on the basis of the State Tax University. Such a hub may become a modern educational, research, and expert-analytical centre, bringing together specialised training of customs officers, the development of methodological guidelines, the design of mechanisms for more effective detection of counterfeit goods, and contributing to enhanced inter-institutional cooperation with right holders.

#### ***4.5.2. Protection of Intellectual Property Rights in Law Enforcement Authorities***

Criminal law protection of intellectual property rights constitutes an important component of the nationwide system for countering systemic infringements in this field. The effectiveness of pre-trial investigations determines not only the efficiency of holding perpetrators liable, but also

the formation of sustainable preventive mechanisms. At the same time, law enforcement practice demonstrates the existence of a number of challenges that require improvement of the regulatory framework, strengthening of institutional capacity, and the introduction of unified methodological approaches.

In this regard, it is proposed to:

- ensure the active involvement of right holder representatives in pre-trial investigations, in particular in court hearings concerning the seizure of confiscated goods, as well as the examination of complaints regarding the lifting of seizures or the return of property.
- systematise law enforcement practice relating to the imposition and lifting of seizures on confiscated counterfeit goods and equipment in cases under Article 229 of the Criminal Code of Ukraine, identify problematic aspects in the work of investigative bodies and procedural supervisors, and provide relevant recommendations to regional prosecutors by the Prosecutor General's Office;
- introduce the collection and publication, on a semi-annual basis, of information on the quantity of seized counterfeit goods and equipment in cases under Article 229 of the Criminal Code of Ukraine, and define the number of destroyed counterfeit goods as a criterion for assessing the effectiveness of law enforcement agencies;
- apply scientific methods to develop standards (model action algorithms and guidelines) for conducting pre-trial investigations of criminal offences under Article 229 of the Criminal Code of Ukraine, with the involvement of right holder representatives;
- strengthen the specialisation and training of investigators and detectives handling criminal cases in the field of intellectual property, including through participation in specialised training programmes, workshops, and interagency exchanges;
- systematise enforcement practice in cases involving infringements of intellectual property rights and provide recommendations by the Prosecutor General's Office to regional prosecu-

tors on measures to accelerate pre-trial investigations;

- apply the method for calculating damages established and validated by the case law of the Supreme Court, whereby damages suffered by right holders as a result of the unlawful use of trademarks on counterfeit goods are calculated based on the price of the original product multiplied by the number of seized counterfeit items.

It is proposed to introduce amendments to Article 229 of the Criminal Code of Ukraine, in particular to provide for:

- a lowering of the threshold for the onset of criminal liability;
- strengthening liability by increasing the amount of fines and reintroducing the sanction of imprisonment, which was abandoned in previous years during the decriminalisation of certain provisions of the Criminal Code of Ukraine;
- the reinstatement of sanctions involving confiscation and destruction of seized (counterfeit, falsified) goods, raw materials, materials, and equipment used for their production, given that special confiscation introduced in 2016 is rarely applied in relation to Article 229 of the Criminal Code of Ukraine;
- the introduction of criminal liability of legal entities under Article 229 of the Criminal Code of Ukraine.

Enhancing the effectiveness of criminal law protection of intellectual property rights requires a comprehensive approach, both in terms of regulatory and legislative regulation and in the organisational and practical domain. The proposed measures are aimed at strengthening the institutional capacity of law enforcement bodies, improving pre-trial investigation procedures, enhancing the quality of the evidentiary base, and ensuring the inevitability of liability for infringements.

At the same time, the involvement of right holders as active participants in the process is of particular importance, as it allows for a higher professional standard of investigations and ensures a more accurate assessment of damages incurred. The implementation of these propos-

als will contribute to the establishment of an effective and transparent mechanism for countering intellectual property rights infringements in Ukraine.

#### ***4.5.3. Protection of Copyright and Related Rights***

The protection of copyright and related rights is an essential element in ensuring the proper functioning of the creative economy, the cultural sector, and the digital market. Despite the existence of enforcement mechanisms, practice indicates the need for further improvement of procedures, especially in the context of the spread of illegal online content and the insufficient transparency of the activities of collective management organisations.

In addition, Ukraine has not yet implemented the SatCab Directive and has not harmonised provisions on the cross-border portability of online content. The relevant amendments should be introduced into the Law of Ukraine "On Copyright and Related Rights", taking into account provisions applicable to the digital environment. It is also necessary to review regulatory approaches to the use of artificial intelligence in the creation of works and to ensure labelling of content generated using generative AI, in accordance with the provisions of the AI Act.

It is also necessary to take into account the partial harmonisation with EU legislation in the areas of the protection of computer programs, orphan works, terms of protection, public lending, the resale right, accreditation of collective management organisations (CMOs), the implementation of the Marrakesh Treaty, and related matters.

The definition of a computer program requires further refinement so as to include preparatory design materials, as well as to provide for the right to modify a program without the authorisation of the right holder, in accordance with Article 5(1) of Directive 2009/24/EC.

Significant discrepancies with the EU acquis remain in the area of multi-territorial licensing (the CRM Directive). The Law of Ukraine "On Effective Management of Proprietary Rights of

Right Holders in the Field of Copyright and/or Related Rights" does not provide for the possibility of such licensing for musical works used online, nor does it establish independent management entities. Full alignment is envisaged by 2027 through amendments to the above-mentioned Law.

In this context, it is advisable to initiate consideration of issues aimed at enhancing the effectiveness of state policy in this field, in particular through the following approach.

With regard to state policy, the following measures are proposed:

Studying international experience and examining the functioning of procedures for preventing access to pirated content, including within the framework of Ukraine's participation in the WIPO ALERT initiative.

Taking into account international best practices, in particular the approach implemented in Spain by LaLiga, which actively applies comprehensive intellectual property protection measures, including restricting user access to pirated content and preventing the placement of servers and the provision of hosting services for pirate websites within the country, with a view to eliminating the so-called "safe harbor" for pirate resources in Ukraine.

Initiating cooperation with the National Council of Ukraine on Television and Radio Broadcasting and the State Service of Special Communications and Information Protection of Ukraine, in particular with the National Centre for Operational and Technical Management of Telecommunications Networks, aimed at introducing effective mechanisms for blocking websites that infringe intellectual property rights.

Discussing the possibility of introducing amendments to existing legislation to provide for the restriction of access within the territory of Ukraine to websites that distribute content infringing intellectual property rights, in particular copyright and related rights.

Introducing effective mechanisms for auditing the transparency of collective management organisations (CMOs), including public report-

ing, an open register of CMOs, and independent verification of royalty distribution.

With regard to the protection of the rights of right holders:

- Examine the expediency of defining the non-payment of remuneration to collective management organisations, including accredited CMOs, in cases prescribed by law, as a separate type of infringement of copyright and/or related rights (Part 2 of Article 53 of the Law of Ukraine "On Copyright and Related Rights").

- Establish a multi-channel information platform on the activities of collective management organisations in Ukraine, which could also serve as an information hub for right holders, users, and the general public.

With regard to awareness-raising and educational measures:

- Strengthen cooperation between the Ukrainian National Office for Intellectual Property and Innovation and content service providers to counteract the placement of illegal audio and video content.

- Enhance interagency coordination to counter intellectual property rights infringements in the field of copyright.

The effective implementation of state policy in the field of copyright and related rights requires a systemic approach that combines enforcement, technical, and awareness-raising measures. The effective use of the WIPO ALERT mechanisms, ensuring the transparency of the functioning of collective management organisations, and strengthening inter-institutional cooperation will make it possible to establish an effective model for the protection of copyright in the context of digital transformation.

#### ***4.5.4. Strengthening Information Exchange and Monitoring in the Field of Enforcement***

In order to enhance the effectiveness of information interaction, optimise the processing of appeals and requests, and strengthen analytical support for the activities of various institutions in the field of intellectual property rights protection, it is proposed to introduce a number of organisational and digital solutions.

With regard to the digitalisation of enforcement monitoring activities, it is proposed to:

- Introduce an analytical module capable of generating statistics by types of appeals, taking into account the subject matter under consideration and key issues identified; producing monthly or quarterly reports for management with proposals for improving performance; and ensuring the automatic generation of templates for future requests. Such a module is particularly relevant given the large number of reports submitted annually, which currently require manual consolidation, especially in the context of regularly updated official statistics.
- Introduce functionality on the websites of law enforcement agencies enabling the submission of citizens' appeals and public information requests, together with the ability to track the status of consideration of such appeals and requests.
- Develop a chatbot capable of responding to frequently asked questions (e.g. regarding submission formats and processing timeframes) and providing basic information without human involvement. This would enable the efficient handling of a large volume of repetitive inquiries and reduce the workload on specialists.

The implementation of the above proposals will contribute to strengthening the institutional capacity of the relevant authorities in the collection, processing, and use of data on intellectual property rights infringements, as well as increasing transparency and convenience in communication with citizens and public authorities.

#### 4.6. Response to Infringements in the Digital Environment

The digital environment creates new opportunities for the development of creative industries; however, at the same time, it contributes to the scaling of intellectual property rights infringements. Online trade in counterfeit goods, the dissemination of pirated content through electronic platforms, as well as the difficulty of verifying the origin of goods, pose significant challenges for public policy in this area.

In particular, an example of effective cooperation is the joint information campaign implemented by UANIPIO and the OLX online platform entitled "Trust the Originals." The positive experience of cooperation within the framework of such information initiatives demonstrates the potential of online platforms to respond effectively to complaints submitted by right holders. Provided that clearly defined content moderation procedures are in place and that infringements are assessed in a responsible manner, such platforms are capable of playing an important role in preventing intellectual property rights infringements.

At the same time, the overall situation remains complex. Systemic infringements in the digital environment require a comprehensive response, both at the level of regulatory framework and at the level of day-to-day cooperation between public authorities and market actors.

In this context, it is proposed to:

- Introduce rapid response mechanisms (in particular, notice-and-stay-down) to remove recurrent infringements on digital platforms.
- Improve national procedures for blocking access to online resources that systematically infringe intellectual property rights, while ensuring judicial oversight and the proportionality of measures.
- Expand cooperation and strengthen communication between public authorities and e-commerce platforms, hosting providers, payment service providers, and marketplaces in order to prevent the circulation of pirated content and counterfeit goods.
- Enhance the digital capacity of public authorities, in particular with regard to the detection of infringements, risk analysis, and rapid response mechanisms.

#### 4.7. Development of the System of Pre-Trial Dispute Resolution in the Field of Intellectual Property (Mediation)

In view of the increasing number of disputes in the field of intellectual property and the need to reduce the burden on the judiciary, the intro-

duction of effective alternative dispute resolution mechanisms, in particular mediation, is gaining particular relevance. Such an approach allows the parties to reach mutually acceptable solutions, preserve partnership relations, and reduce time and resource costs

National institutions have already taken initial steps towards the development of IP mediation, in particular through the establishment of the Mediation and Conciliation Center under the Ukrainian National Office of Intellectual Property and Innovations (UANIPIO). The activities of this Center were launched pursuant to the Memorandum of Understanding between the Ministry of Economy of Ukraine and the World Intellectual Property Organization on cooperation in the field of intellectual property dated 24 July 2023, as well as the Memorandum of Understanding between the World Intellectual Property Organization and the Ministry of Economy of Ukraine on alternative dispute resolution in the field of intellectual property dated 28 September 2018. At the same time, the further development of a sustainable infrastructure for out-of-court dispute resolution requires a targeted state policy, cross-sectoral cooperation, and the adaptation of international best practices.

Particular attention should be paid to the need for a clear mediation mechanism in the context of harmonisation with Directive 93/83/EEC, which provides for the conclusion of retransmission agreements. The lack of sufficient clarity in this process indicates the relevance of further development of the IP mediation framework in Ukraine.

In order to establish a sustainable system of pre-trial dispute resolution in the field of intellectual property, it is proposed to:

- Ensure the possibility of conducting online mediation using modern digital platforms, including the integration of services such as WIPO eADR for the organisation of mediation, arbitration, and expert determination procedures administered by the World Intellectual Property Organization.

- Establish ongoing dialogue between relevant public authorities, the professional com-

munity, and the business sector in order to exchange experience and develop unified approaches to the advancement of the IP mediation framework.

- Conduct regular analytical studies and monitor legislative initiatives in the field of alternative dispute resolution relating to intellectual property objects.

- Strengthen cooperation with international mediation centres in order to incorporate best international practices into the development of the national IP mediation system.

- Develop educational programmes and implement information and awareness-raising activities aimed at increasing awareness among right holders, businesses, and the general public regarding the opportunities and advantages of mediation in the field of intellectual property.

In this context, it should be noted that, pursuant to Article 521 of the Customs Code of Ukraine, in the absence of elements of a criminal offence in the actions of a person who has committed a violation of customs rules, proceedings in the case of such a violation may be terminated by way of a compromise. Such a compromise consists in the conclusion of a settlement agreement between the authorised person and the customs authority, represented by the official conducting the proceedings in the case. A legal compromise is a form of legally significant compromise enshrined in law, reflecting the joint achievement of a balance of interests between the parties, reached on the basis of mutual concessions through specific forms of legal activity and resulting in legal consequences.

According to Article 190 of the Code of Administrative Procedure of Ukraine, the parties may fully or partially settle a dispute on the basis of mutual concessions. The parties may reach a settlement on terms that go beyond the scope of the subject matter of the dispute, provided that such terms do not violate the rights or legally protected interests of third parties.

Accordingly, taking into account the provisions of the applicable legislation, mediation as a method of conflict resolution may serve as an

effective instrument for the settlement of customs disputes.

Furthermore, in order to facilitate the organisation of IP mediation processes, it is important to undertake measures aimed at developing and implementing online dispute resolution (ODR) methods, which enable disputes between parties to be resolved online, without the need for physical presence during negotiations. Such processes typically encompass negotiation, mediation and arbitration, or a combination thereof, thus operating as a digital analogue of traditional ADR (alternative dispute resolution) mechanisms.

The establishment of an online platform for the resolution of IP disputes would allow mediation participants to make use of effective tools for the protection of intellectual property rights, while also ensuring the confidentiality of the process.

#### 4.8. Intellectual Property Rights Infringement Monitoring Center

The Intellectual Property Rights Infringement Monitoring Center, which operates under the Ukrainian National Office for Intellectual Property and Innovations (hereinafter - the IPR Monitoring Center), performs analytical, communication, and coordination functions in the field of combating intellectual property rights infringements.

The main areas of activity of the IPR Monitoring Center include:

- International and national cooperation. The IPR Monitoring Center establishes cooperation with international partners and organizes specialized events for representatives of law enforcement authorities, customs authorities, and other public bodies, as well as business representatives involved in the detection, prevention, and counteraction of intellectual property rights infringements.

The IPR Monitoring Center also invites such stakeholders to participate as speakers in order to exchange experience and best practices.

- Awareness-raising and educational activities. The IPR Monitoring Center organizes activ-

ities for various segments of society aimed at increasing awareness of the negative consequences of counterfeiting and piracy, in particular through information campaigns, including:

- 1. **ANTI-PIRACY: BOOKS** - an information campaign against piracy in the book publishing sector.

- 2. **TRUST THE ORIGINAL** - an information campaign against counterfeit goods on marketplaces, implemented in cooperation with the online platform OLX.ua.

- 3. **ANTI-PIRACY: MUSIC** - an information campaign against piracy in the music industry.

- Analytical activities. The IPR Monitoring Center carries out analytical activities, in particular by conducting quantitative assessments of intellectual property rights infringements, analysing their impact on the economy, health and safety, as well as studying the level of awareness and perception of intellectual property among the population.

- Expert networking. The IPR Monitoring Center develops expert networking by establishing working and expert groups in relevant areas, including issues of infringements in the digital environment, public awareness-raising, the activities of law enforcement and customs authorities, as well as the analysis of legislation and judicial practice.

In addition, monitoring of enforcement and judicial practice in the field of intellectual property is carried out, and a draft Unified Ukrainian Portal on Intellectual Property Rights Infringements is being prepared as a digital tool for co-ordinating actions among numerous authorities dealing with intellectual property rights issues, rightsholders, and the public.

At the same time, existing challenges require further improvement of institutional mechanisms, in particular, it is proposed to:

- Introduce digital tools for regular analytical activities, including the integration of data from law enforcement, judicial and customs authorities

- Accelerate the launch of and ensure technical support for the Unified Ukrainian Portal on Intellectual Property Rights Infringements.

- Introduce, on the basis of the IPR Monitoring Center portal, an online platform for legal content, modelled on Agorateka, which would aggregate verified sources of access to digital content (music, films, books, software, etc.) for the purpose of promoting legal consumption and raising user awareness of compliance with intellectual property rights.

#### 4.9. Institutional Coordination and Capacity Building

Effective protection of intellectual property rights requires not only the improvement of legal mechanisms, but also proper coordination among all institutions involved in this field. At the same time, there is a growing need to form a professional community of specialists capable of acting in accordance with international standards, European practices, and the specific features of national enforcement. Appropriate capacity building, continuous professional training, and systematic interaction between public authorities, rightsholders, and the wider public constitute the basis for achieving coordinated and effective solutions in the field of intellectual property.

In this context, it is important to enhance the level of training of personnel of all relevant public authorities, which will ensure the effective im-

plementation of intellectual property legislation and have a significant impact on the quality of enforcement practice.

For this purpose, it is proposed to:

- Deepen coordination among the authorities involved in the protection of intellectual property rights (the Ministry of Economy of Ukraine, Ukrainian National Office for Intellectual Property and Innovations, the judicial system, the Customs authorities, Economic Security Bureau of Ukraine, Antimonopoly Committee of Ukraine, and law enforcement authorities).
- Ensure the sustainability of updating training programmes based on international standards, current EU practices, and aggregated national practice.
- Organise regular coordination meetings, joint training programmes, and working groups with the involvement of representatives of all relevant authorities.

Strengthening institutional coordination and developing human capacity should become one of the priority objectives of state policy in the field of intellectual property. This will make it possible to ensure consistency of enforcement practice, strengthen rightsholders' trust in the national IP protection system, and enhance the effectiveness of responses to infringements.

### 5. Expected Results of the Implementation of the Proposals

- Establishment of a transparent, predictable, and EU-harmonised legal environment for the protection of intellectual property in Ukraine.
- Reduction in the number of intellectual property rights infringements (including a decrease in counterfeit products, pirated content and illegal trade).
- Prevention of intellectual property rights infringements.
- Increase in the level of legal awareness of market participants and end consumers.
- Growth in the volume of foreign investment attracted to the real sectors of the economy, in-

cluding creative industries, start-up industries, and the expansion of innovation.

- Improvement of the effectiveness of the judicial, customs, law enforcement and administrative components within the intellectual property rights protection system.
- Increase in the transparency, effectiveness and predictability of the intellectual property rights protection system, which, in particular, will contribute to the objective recognition of such progress in international analytical reports (USTR Special 301, the European Commission, WIPO, etc.).

The above proposals have been prepared taking into account the current state of enforcement, an analysis of national legislation, international standards, the practice of the European Union *acquis*, as well as consolidated proposals provided by public authorities, the expert community and professional associations.

The proposed areas for improvement may be taken into account in further work on harmonising Ukraine's intellectual property rights protection system with the legislation of the European Union and ensuring the fulfilment of obligations within the European integration process.

## List of Key Abbreviations and Acronyms

Abbreviation	Explanation
<b>ADR</b>	Alternative Dispute Resolution
<b>AMCU</b>	Antimonopoly Committee of Ukraine
<b>ESBU</b>	Economic Security Bureau of Ukraine
<b>CRM Directive</b>	Collective Rights Management Directive (EU Directive 2014/26/EU)
<b>EIPPN</b>	European Intellectual Property Prosecutors Network
<b>EUIPO</b>	European Union Intellectual Property Office
<b>EPO</b>	European Patent Office
<b>EUIPN</b>	European Union Intellectual Property Network
<b>GI</b>	Geographical Indications
<b>ICSMS</b>	Information and Communication System on Market Surveillance
<b>IMI</b>	International Mediation Institute
<b>IPEP</b>	Intellectual Property Enforcement Portal (EU)
<b>IPRED</b>	EU Directive on the Enforcement of Intellectual Property Rights
<b>IP</b>	Intellectual Property
<b>CCU</b>	Criminal Code of Ukraine
<b>CCU (Customs)</b>	Customs Code of Ukraine
<b>Ministry of Economy</b>	Ministry of Economy of Ukraine
<b>NFT</b>	Non-Fungible Token
<b>UANIPIO</b>	Ukrainian National Office for Intellectual Property and Innovation
<b>CMO</b>	Collective Management Organization
<b>IP Court / High IP Court</b>	High Court on Intellectual Property
<b>TM</b>	Trademark
<b>USTR</b>	United States Trade Representative
<b>WCO</b>	World Customs Organization
<b>WIPO</b>	World Intellectual Property Organization
<b>WIPO eADR</b>	WIPO Electronic Alternative Dispute Resolution Platform
<b>IPR Monitoring Center</b>	IP Rights Infringement Monitoring Center