

UNESCO
WORLD ANTI PIRACY OBSERVATORY

POLAND

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I. Legislation

1. Copyright laws

Copyright is protected in Poland through international Agreements, the [Act of 4th February 1994 on Copyright and Related Rights](#) (Journal of Laws 2006, No. 90, item 631, as amended), as well as other legislation related to enforcement of copyright or affecting copyright protection.

2. Other laws

- Act of 17 November 1964, the Code of Civil Procedure (Journal of Laws No 43, item 296, as amended);
- The Broadcasting Act of 29 December 1992 (Journal of Laws 2004, No. 253, item 2531, as amended);
- Act of 16 April 1993 on combating unfair competition (Journal of Laws 2003, No. 153, item 1503, as amended);
- Act of 6 June 1997, Penal Code (Journal of Laws, No. 88, item 553, as amended);
- Act of 30 June 2000, Industrial Property Law (Journal of Laws 2003, No. 119, item 1117, as amended);
- Act of 27 June 2001 on protection of databases (Journal of Laws, No. 128, item 1402, as amended);
- Act of 5 July 2002 on protection of certain services provided by electronic means and based on or consisting in conditional access (Journal of Laws No. 126, item 1068, as amended);
- Act of 18 July 2002 on provision of services by electronic means (Journal of Laws No. 144, item 1204, as amended);
- Act of 19 June 2004, Customs Law (Journal of Laws, No. 68, item 622, as amended);
- Regulation of the Minister of Justice of 16 October 2002 on designation of district courts adjudicating cases related to infringement of copyright and related rights (Journal of Laws No. 180, item 1510, as amended);
- Regulation of the Minister of Culture of 1 January 2009 on designation of categories of devices and media used for recording of productions and payments levied on sales of these devices and carriers carried out by producers and importers (Journal of Laws
- Regulation of the Minister of Culture of 27 June 2003 on payments made by owners of reprographic equipment (Journal of Laws No. 132 , item 1232);
- Regulation of the Minister of Culture of 30 April 2004 on the register of information on manufacturing of optical discs and types of identification codes (Journal of Laws No. 124, item 1301);
- Regulation No. 83 of the President of the Council of Ministers of 9 November establishing the Team For Counteracting Infringements of Copyright and Related Rights (PM No. 36, item 727).

3. Latest developments and perspectives

There are no planned amendments.

4. Summary of legislation

- *Exclusive rights of the authors and of owners of neighboring rights*

The Polish Copyright laws provide copyright owners with both exclusive economic and moral rights.

Exclusive Rights of the authors

- a) Economic (Articles 17 to 22 of the Act on Copyright and Related Rights)

The author enjoys the exclusive right to use the work and to manage its use throughout all the fields of exploitation and to receive remuneration for the use of the work unless the Copyright Act stipulates otherwise (Article 17).

The author's economic rights may devolve upon other persons through inheritance or by contract and the person, who acquires the author's economic rights, may transfer them to other persons. Unless the contract stipulates otherwise, the author shall retain his/her exclusive right to permit the exercise of his/her derivative copyright even though the contract stipulates for the transfer of all author's economic rights.

The author and his/her heirs shall have the right to remuneration in the amount of 5% of the price of professionally performed resale of manuscripts of literary and musical works.

- b) Moral (art.16 of Copyright Act)

The moral rights of the author are established in article 16 of the Act on Copyright and Related Rights.

The author has in particular the right:

- to be an author of the work
- to sign the work with the author's name or pseudonym, or to make it available to the public anonymously
- to have the contents and form of the author's work inviolable and properly used
- to decide on making the work available to the public for the first time
- to control the manner of using the work

Those moral rights are unlimited in time and independent of any waiver or transfer.

Exclusive Rights of owners of neighbouring rights

- **Performers rights** (Article 86 of the Act on Copyright and Related Rights):

Artistic performers shall have, within the limits specified by the Act on Copyright and Related Rights, the exclusive right to:

- 1) protect his personal interests, particularly within the scope of:
 - a) listing him/her as a performer, except for cases when omission is customary practice;
 - b) deciding how the performer should be named, including maintaining anonymity or using a pseudonym;
 - c) raising objections against any distortions, misrepresentations and other changes in the performance which could harm his or her good name;
- 2) use the artistic performance and have the right of disposition of the rights thereto within the following fields of exploitation:
 - a) within the scope of fixing and reproduction – production of copies of artistic performance with the use of specific technology, including magnetic fixing and digital technology;
 - b) within the scope of trading the copies on which the artistic performance was fixed – introduction to trade, letting for use or rental of the copies.;

- c) within the scope of dissemination of artistic performance in a form different from that defined in letter b – broadcast, rebroadcast and presentation, unless made with the use of a copy introduced to the market, or making available to the public any fixing of artistic performance in such a way as to allow anyone to access it at a place and time selected by them.

Artistic performers shall have the right to remuneration for the use of the artistic performance or for disposition of rights thereto as provided in a contract or granted by the provisions of the Act on Copyright and Related Rights. In case of broadcast, rebroadcast or presentation of an artistic performance with the use of a copy introduced to the market, the artistic performer shall have the right to appropriate remuneration.

- **Producers of sound and video recordings rights (Article 94 of the Act on Copyright and Related Rights)**

Without detriment to the rights of the authors or artistic performers, the producer of a phonogram or videogram shall have the exclusive right to manage of and to use the phonogram or videogram within the scope of:

- 1) reproduction by a specific technique;
- 2) marketing;
- 3) rental or letting copies for use;
- 4) making a phonogram or a videogram available to the public in a form permitting anyone to have access thereto at the place and time chosen by them.

In the event of broadcast, rebroadcast or presentation of a phonogram or videogram already on the market, the producer shall have the right to proper remuneration.

- **Broadcasting organizations rights (Article 97 of the Act on Copyright and Related Rights):**

Without detriment to the rights of the authors, artistic performers, producers of phonograms and videograms, radio or television broadcasting organizations shall have the exclusive right to manage and use their broadcast programmes within the scope of:

- 1) fixation;
- 2) reproduction by specific technique;
- 3) broadcast by another radio or television broadcasting organization;
- 4) rebroadcast;
- 5) introduction of their fixations to the market;
- 6) presentation at locations accessible for an entrance fee;
- 7) providing access to fixations thereof in a form allowing anyone to access them at a place and time chosen thereby.

- *Exceptions and limitations to copyright / Permitted Acts in relation to copyright works*

Limitations to exclusive rights of copyright holders are provided in Articles 23 to 35 of the Act on Copyright and related Rights.

- a. **personal use** - It shall be permitted to use free of charge the work having been already disseminated for purposes of personal use without the permission of the author. This provision shall not authorize to build constructions according to other authors' architectural works as well as architectural and urban planning works and to use electronic data bases possessing the features of a piece of work unless this applies to one's own scientific use not connected with any profit-gaining purposes. The scope of personal use shall include use of single copies of works by a circle of people having personal relationships, and in particular any consanguinity, affinity or social relationship

- b. transitory or incidental reproduction of works** - No author's permission shall be required for transitory or incidental reproduction of works, such reproduction having no independent economic significance but constituting an integral and fundamental part of a manufacturing process the sole purpose of which is to enable:
- transmission of work through the data transmission system between third parties by an intermediary; or
 - the use of work in compliance with law.
- c. dissemination through a group antenna or cable network** - It shall be permitted to disseminate through a group antenna or cable network the works broadcast by another radio or television broadcasting organization through satellite or terrestrial networks if it is done within the framework of concurrent, integral and free dissemination of radio and television programmes and is designed for a specific group of receivers living in either a single apartment building or single family houses including up to 50 households. Owners of devices used for receiving radio or television programme may receive by means of such devices broadcast works even if such devices are located in a public place, provided that it is not connected with the obtaining of material benefits.
- d. broadcasting through the press, radio and television** - It shall be permitted, for informative purposes, to broadcast through the press, radio and television the materials:
- 1) having been already broadcast:
 - a. reports on current events;
 - b. current articles on political, economic or religious issues, unless there is a clear provision that any further dissemination thereof is prohibited;
 - c. current comments made and photographs taken by reporters;
 - 2) short excerpts from reports and articles, specified in subparagraph 1(a) and (b);
 - 3) reviews of publications and disseminated works;
 - 4) speeches delivered at public meetings and proceedings; this, however, shall not authorize to publish collections of speeches of a single person;
 - 5) short summaries of a disseminated work.
- The author shall have the right to remuneration for the use of the works specified above. Dissemination of the works specified shall be allowed both in the original and in translation thereof. Provisions shall respectively apply to making works available to the public in such a manner which permits everyone to access them at a place and time selected by any such person, provided that if the remuneration is not paid on the basis of an agreement with the right holder, the remuneration shall be paid through the organization for collective copyright and related rights management.
- e. quote** - It shall be permitted to quote, in the reports of current events, the works made available in the course of such events, however, within the limits justified by the purpose of the information.
- f. teaching purposes** - Research and educational institutions shall be allowed, for teaching purposes or in order to conduct their own research, to use disseminated works in original and in translation, and to make copies of fragments of the disseminated work.
- g. rights of libraries** - Libraries, archives and schools shall be allowed:
- to provide free access to copies of disseminated works within the scope of their tasks as stated under statute;
 - to make or mandate making copies of disseminated works in order to supplement them, maintain or protect one's own collections;

- to make the collection available for research or learning purposes through information technology system terminals (endings) located at the premises of those entities.
- h. critical analysis** - It shall be permitted to quote, in works constituting an independent whole, fragments of disseminated works or minor works in full, within the scope justified by explanation, critical analysis, teaching or the rights governing a given kind of creative activity. For teaching and research reasons it is permissible to include disseminated minor works or excerpts from larger works in textbooks and reading books. It shall be permissible to include in anthologies, for teaching or research purposes, minor works or fragments or larger works which have already been disseminated. In the events specified the author shall have the right to remuneration.
- i. religious ceremonies, school and academic events** - It shall be permitted to gratuitously perform in public any disseminated works during religious ceremonies, school and academic events or official state ceremonies, provided that it is not, directly or indirectly, connected with any material benefits and the artists do not receive any remuneration, except for any advertising, promotional or election events.
- j. handicapped** - It shall be permitted to use the already disseminated works for the benefit of the handicapped, provided that such use is directly related to their handicap, that it is not a profit-gaining activity and that it is proportionate to the nature of the handicap.
- k. dissemination** - It shall be allowed to disseminate:
- the works permanently exhibited on commonly accessible public roads, streets, squares or gardens, although not for the same use;
 - the works exhibited in commonly accessible public collections such as museums, galleries, and exhibition halls, though only in catalogues and printed publications for promotion of such works and also in press and television current event reports within the limits justified by information purposes;
 - in encyclopaedias and atlases – printed artistic and photographic works if it is difficult to get into contact with the author. In such case, the author shall have the right to remuneration.
- l. public security** - It shall be permitted to use works for the purposes of public security or for the purposes of administrative, court or legislative proceedings and any reports thereof.
- m. advertising, a public exhibition or a public sale of works** - For the purposes of advertising, a public exhibition or a public sale of works it shall be permitted to use copies of already disseminated works, within the scope justified by the promotion of an exhibition or sale, excluding any other commercial use.
- n. reconstruction or repair of equipment and building** - It shall be permissible to use a piece of work such as a building structure, its drawing, plan or other assessment, for the purposes of reconstruction or repair of a building structure as well as it shall be permitted to use works in relation to any presentation or repair of equipment.
- o. Public exhibition of artistic works** - The owner of a copy of the artistic work may exhibit it publicly if no material benefit is intended to be gained provided specific conditions are met.

The exercise of the rights in artistic performances, phonograms, videograms and programme broadcasts, first editions or scientific and critical editions, shall be subject to the restrictions referred to in Articles 23-35, respectively (Article 100 of the Act on Copyright and Related rights).

Excluded from copyright protection are legislative acts and their official drafts; official documents, materials, logos and symbols; published patent specifications and industrial design specifications; simple press information (Article 4 of the Act on Copyright and Related Rights).

- *Protection of foreign works*

In addition to works whose author or co-author is a Polish citizen, the Copyright Act shall apply to works, whose author is a citizen of the European Union Member State or Member States of the European Free Trade Agreement (EFTA) – parties to the Agreement on the European Economic Area; works which have been published for the first time on the territory of the Republic of Poland or simultaneously on this territory and abroad; or which have been published for the first time in the Polish language; or which are protected under international agreements within the scope of protection provided therein (Article 5 of the Act on Copyright and Related Rights).

The Act on Copyright and Related Rights applies to artistic performances which (Article 90 of the Act on Copyright and Related Rights):

- have been made by a Polish citizen or a person residing on the territory of the Republic of Poland;
- have been made by a citizen of a European Union Member State, or Member States of the European Free Trade Agreement (EFTA) – parties to the Agreement on the European Economic Area; or
- have been established for the first time on the territory of the Republic of Poland; or
- have been published for the first time on the territory of the Republic of Poland; or
- shall be protected under international agreements within the scope in which such protection results from those agreements.

The Act on Copyright and Related Rights applies to phonograms and videograms (Article 96 of the Act on Copyright and Related Rights):

- whose producer has its residence or seat on the territory of the Republic of Poland; or
- whose producer has its place of residence or seat on the territory of the European Economic Area; or
- which are protected on the basis of international agreements, within the scope of protection which results from such agreements.

The Act on Copyright and Related Rights applies to broadcasting programmes (Article 99 of the Act on Copyright and Related Rights):

- of radio and television broadcasting organizations having their seat on the territory of the Republic of Poland or
- of radio and television broadcasting organizations having their seat on the territory of the European Economic Area;
- which are protected by international agreements, within the scope of protection resulting from such agreements.

- *Period of copyright protection*

Authors' Economic Rights

The authors' economic rights are protected for 70 years (Articles 36, 37 and 39 of the Act on Copyright and Related Rights) :

- from the death of the author, and in case of joint works – from the death of the co-author who has survived the others;
- in the case of a piece of work the author of which is not known – from the date of the first dissemination, unless the pseudonym does not raise any doubts as to author's identity or if the author disclosed his/her or her identity;
- in the case of a piece of work with respect to which the author's economic rights are, under statutory law, enjoyed by a person other than the author – from the date of dissemination of the work and if the work has not been disseminated from the date of establishment thereof;
- in the case of an audio-visual work – from the death of the last of the following: the main director, the author of screenplay, author of dialogues, composer of music written for the audio-visual work.

Performers rights:

The performers' rights are protected 50 years following the year in which a given artistic performance was established. However, if within such time a fixation of such performance was published or was publicly presented, the period of protection shall be calculated from such events and if both of them occurred from the one which happened earlier (Article 89 of the Act on Copyright and Related Rights).

Producers of sound and video recordings rights:

The producers of sounds and video recording rights are protected 50 years following the year in which the phonogram or videogram was made; or 50 years following the year in which the phonogram or videogram was published if the phonogram was published in the period referred to above; or fifty years following the year in which the phonogram or videogram was disseminated if the phonogram was not published in the period referred to above and if in that period it was disseminated; or if a videogram was published or disseminated in the period referred to above the protection lasts for fifty years following the year in which the first of those events had occurred (Article 95 of the Act on Copyright and Related Rights).

Broadcasting organizations rights:

The broadcasting organization rights are protected 50 years following the year of the first broadcast of the program (Article 98 of the Act on Copyright and Related Rights).

- *Registration*

The registration of a work is not mandatory to claim protection in Poland.

5. International treaties

Poland is a member of the following International Convention and Treaties on Copyright and Related Rights

- [Berne Convention on the Protection of Literary and Artistic Works](#), in force since January 28, 1920.

- [Universal Copyright Convention](#), accession on December 9, 1976 to UCC of 1952 and UCC of 1971.
- [Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations](#), in force since June 13, 1997.
- [WTO Agreement on Trade Related Aspects of Intellectual Property Rights](#) (TRIPS), since July 1, 1995.
- [WIPO Copyright Treaty](#) (WCT), in force since March 23, 2004.
- [WIPO Performances and Phonograms Treaty](#) (WPPT), in force since October 21, 2003.

II. Measures and Remedies

1. Copyright infringement

The law does not specifically provide for the definition of infringement. However it does provide for actions considered to be infringing by their nature.

The following acts are penalized (articles 115-119 of the Act on Copyright and Related Rights):

- usurping the authorship or misleading others as to the authorship of a whole or a part of another person's work or another person's artistic performance;
- disseminating, without indicating the name or the pseudonym of the author, other persons' work in the original or derivative version, or publicly disfigures such work, artistic performance, phonogram, videogram or broadcast;
- violating other persons' copyright or related rights, in order to gain material benefits in a manner other than specified above;
- disseminating other persons' work, artistic performance, phonogram, videogram or broadcast in the original or derivative version, without authorization or against its terms and conditions;
- fixing or reproducing other persons' work in its original versions or in the form of derivative version, artistic performance, phonogram, videogram or broadcast for the purposes of its dissemination and gives his/her consent to its dissemination without the authorization or against the conditions specified therein;
- purchasing, assisting in the sale of, accepting or assisting in concealing objects being carriers of a piece of work, artistic performance, phonogram, videogram disseminated or reproduced without authorization or against the conditions specified therein, in order to gain material benefit;
- manufacturing any equipment or components thereof designated for illegal removal or circumvention of effective technological protection measures preventing from presentation, recording or reproducing works or objects of related rights, or trading in such equipment or components thereof or advertising them for sale or rental;
- possessing, keeping or using any equipment or components thereof as referred to above;
- preventing or hindering the exercise of a right to control the use of a piece of work, artistic performance, a phonogram or a videogram or refusing to give information on benefits arising from use of work.

2. Remedies to protect copyright holders

Pre-trial measures (Article 80 of the Act on Copyright and Related Rights):

- securing evidence and securing claims;

- obliging infringer to provide information being material to the claims referred to above;
- obliging other persons to provide information on the origin, distribution networks, volume and price of goods or services which infringe the right holder's economic rights.

Civil Remedies (Article 79 of the Act on Copyright and Related Rights)

- to cease the infringement
- to eliminate the consequences of the infringement
- to pay damages
- to render the acquired benefits
- to publish announcements in the press or to publish the court judgment
- to make payment in favour of the Fund for Promotion of Creative Activity

Article 79 para. 3 and 4 of the Act on Copyright and Related Rights stipulates the following:

"3. A person who breached the author's economic rights may be instructed by the court, at such person's request and with the right holder's consent, if the breach is non-culpable, to pay a relevant sum to the right holder if discontinuance of the breach or elimination of the consequences of the breach would have been excessively onerous for the offender.

4. When issuing its decision on breach of law the court may adjudge, at the right holder's request, on illegally produced objects and means and materials used to produce them and in particular, the court may adjudge on their withdrawal from trading, on assigning them to the right holder as part of damages or on their destruction. While issuing its decision the court shall take into account the weight of the breach and third party interests."

Criminal Penalties (Articles 115 to 119 of the Act on Copyright and Related Rights)

- fine
- restriction of liberty
- imprisonment up to 5 years

3. Provisional measures

The Courts may secure a claim if an interim order is issued (Article 730 §1, §2, §3 of the Civil Procedure Code) and may secure the evidence if there is a fear that its taking can become impossible or excessively difficult, or if, for other reasons, a need arises to confirm the fact (Article 310 of the Civil Procedure Code).

4. Penalties for copyright infringement

- *In civil cases* (Articles 79 and 80 of the Act on Copyright and Related Rights)
 - Damages
 - Payment in favour of the Fund for Promotion of Creative Activity
- *For criminal offence in copyright cases* (Articles 115 to 119 of the Act on Copyright and Related Rights)
 - Fine
 - Restriction of liberty
 - Imprisonment up to 5 years
 - Damages

- *Seizure, confiscation, forfeiture and destruction of all infringing copies*

The Court may order the seizure, confiscation, forfeiture and/ or the destruction of all infringing copies and all equipments or devices used in the manufacture of the infringing copies(Article 121 of the Act on Copyright and Related Rights).

5. Requirements for foreign persons

Foreign persons are not required to obtain any special approvals, engage any special agents, or present any special documentation in order to gain access to national courts, customs officials, or police officials, or police officials to obtain enforcement of their copyright in Poland.

III. Enforcement

1. Enforcement authorities

a) Authorities responsible for enforcing the copyright law

The competent authorities are the Police, the public prosecutors' office, the Border Guards and the Custom Services.

b) Enforcement bodies entitles to act ex-officio in copyright infringement cases

The enforcement bodies are entitled to act ex-officio in the following copyright infringement cases (Article 122 of the Act on Copyright and Related Rights):

- usurping the authorship or misleading others as to the authorship of a whole or a part of another person's work or another person's artistic performance;
- disseminating, without indicating the name or the pseudonym of the author, other persons' work in the original or derivative version, or publicly disfigures such work, artistic performance, phonogram, videogram or broadcast;
- violating other persons' copyright or related rights, in order to gain material benefits in a manner other than specified above;
- disseminating other persons' work, artistic performance, phonogram, videogram or broadcast in the original or derivative version, without authorization or against its terms and conditions – when the offender makes it a regular source of income or organizes or manages a criminal activity;
- fixing or reproducing other persons' work in its original versions or in the form of derivative version, artistic performance, phonogram, videogram or broadcast for the purposes of its dissemination and gives his/her consent to its dissemination without the authorization or against the conditions specified therein – when the offender makes it a regular source of income or organizes or manages a criminal activity;
- purchasing, assisting in the sale of, accepting or assisting in concealing objects being carriers of a piece of work, artistic performance, phonogram, videogram disseminated or reproduced without authorization or against the conditions specified therein, in order to gain material benefit – when the offender makes it a regular source of income or organizes or

manages a criminal activity or when based on concurrent events the offender of this crime should and might have assumed that an item was received in result of an illicit action.

c) Courts dealing with copyright cases

There are no specialized courts dealing with copyright in civil cases.

In criminal cases the Minister of Justice, by regulation, appoints district courts competent to hear cases of offences against copyright and related rights within the area of competence of a given circuit court (Article 123 of the Act on Copyright and Related Rights).

2. Enforcement at the border

- *Competent authority responsible for administering applications for copyright infringements at borders:*

The Customs Services are the competent authorities responsible for administering applications for copyright infringements at borders.

- *Security/equivalent assurance imposed by the competent authorities to protect the defendant and prevent abuse:*

The Customs Authorities impose security to protect the defendant and prevent abuse. Article 6.1 of the Council Regulation (EC) No 1383/03 of 22 July 2003 concerning customs action against goods suspected of infringing certain intellectual property rights and the measures to be taken against goods found to have infringed such rights applies. It states that:

“Applications for action shall be accompanied by a declaration from the right holder, which may be submitted either in writing or electronically, in accordance with national legislation, accepting liability towards the persons involved in a situation referred to in Article 1(1) in the event that a procedure initiated pursuant to Article 9(1) is discontinued owing to an act or omission by the right-holder or in the event that the goods in question are subsequently found not to infringe an intellectual property right. In that declaration the right-holder shall also agree to bear all costs incurred under this Regulation in keeping goods under customs control pursuant to Article 9 and, where applicable, Article 11.”

- *Time limit for the suspension of the goods by customs authorities:*

The Customs Authorities may, according to article 4.1 of the Council Regulation 1383/03, “where the customs authorities, in the course of action in one of the situations referred to in Article 1(1) and before an application has been lodged by a right-holder or granted, have sufficient grounds for suspecting that goods infringe an intellectual property right, they suspend the release of the goods or detain them for a period of three working days from the moment of receipt of the notification by the right-holder and by the declarant or holder of the goods, if the latter are known, in order to enable the right-holder to submit an application for action in accordance with Article 5.”

- *Destruction or disposal of infringing goods:*

The Customs Authorities may order the destruction or disposal of infringing goods.

Accordingly, article 11.1 of the Council Regulation 1383/03 states:

“Where customs authorities have detained or suspended the release of goods which are suspected of infringing an intellectual property right in one of the situations covered by Article 1(1), the Member States may provide, in accordance with their national legislation,

for a simplified procedure, to be used with the right holder's agreement, which enables customs authorities to have such goods abandoned for destruction under customs control, without there being any need to determine whether an intellectual property right has been infringed under national law. To this end, Member States shall, in accordance with their national legislation, apply the following conditions:

- that the right holder inform the customs authorities in writing within 10 working days, or three working days in the case of perishable goods, of receipt of the notification provided for in Article 9, that the goods concerned by the procedure infringe an intellectual property right referred to in Article 2(1) and provide those authorities with the written agreement of the declarant, the holder or the owner of the goods to abandon the goods for destruction. With the agreement of the customs authorities, this information may be provided directly to customs by the declarant, the holder or the owner of the goods. This agreement shall be presumed to be accepted when the declarant, the holder or the owner of the goods has not specifically opposed destruction within the prescribed period. This period may be extended by a further ten working days where circumstances warrant it;
- that destruction be carried out, unless otherwise specified in national legislation, at the expense and under the responsibility of the right holder, and be systematically preceded by the taking of samples for keeping by the customs authorities in such conditions that they constitute evidence admissible in legal proceedings in the Member State in which they might be needed."

Article 17 states:

1. Without prejudice to the other legal remedies open to the right holder, Member States shall adopt the measures necessary to allow the competent authorities:

(a) in accordance with the relevant provisions of national law, to destroy goods found to infringe an intellectual property right or dispose of them outside commercial channels in such a way as to preclude injury to the right holder, without compensation of any sort and, unless otherwise specified in national legislation, at no cost to the exchequer;

(b) to take, in respect of such goods, any other measures effectively depriving the persons concerned of any economic gains from the transaction. Save in exceptional cases, simply removing the trademarks which have been affixed to counterfeit goods without authorisation shall not be regarded as effectively depriving the persons concerned of any economic gains from the transaction.

2. Goods found to infringe an intellectual property right may be forfeited to the exchequer. In that event, paragraph 1(a) shall apply.

- *Customs authorities acting ex-officio in copyright infringement cases:*

The Customs Authorities are entitled to act ex-officio in copyright infringement cases.

- *Minimis import exception :*

Article 3.2 of the Council Regulation 1383/03 provides that, in the travelers' personal luggage, goods of a non-commercial nature, within the limits of the duty-free allowance and if there are no material indications to suggest that they are part of commercial traffic, shall be considered to be outside the scope of this Regulation."

IV. Public Awareness

1. Awareness campaigns and actions

Public awareness campaigns are being organized by NGOs, often with the support of public authorities.

2. Promotion of legal exploitation

Competitions, seminars and conferences aimed at promoting legal exploitation of protected material are being organized by the Patent Office and the Ministry of Finance with the support of the Ministry of Culture and National Heritage.

3. Associations and organizations with awareness-raising purpose

Public awareness campaigns are being organized by NGOs, often with the support of public authorities.

4. Best practices

In 2000, the Team for the Protection of Copyright and Certain Related Rights was created. In 2008, the Patent Office, the Ministry of Culture and National Heritage and the Ministry of Finance merged their databases to provide information for enforcement authorities.

V. Capacity-building

1. Training

Regular anti-piracy trainings are being undertaken by the Police, public prosecutor's office, Border Guards and Customs Service.

- Professional trainings of prosecutors and judges:

2007:

- Three editions of a training course on the topic "*Intellectual property law*" were organized in May 2007 and attended by approximately 200 judges.
- Two editions of a training course on the topic "*Protection of copyright and related rights, as well as industrial property rights. Substantive law and evidence issues*" were organized in March and May 2007 and attended by 163 prosecutors and assistant judges at the prosecutor's offices.

2008:

- A training course on the topic "*Methodology of conducting criminal proceedings concerning crimes under Copyright and Related Rights Act, as well as Industrial Property Law*" was conducted in September 2008 and attended by 59 prosecutors.

2009:

- Two editions of a training course on the topic "*Intellectual Property Law: Crimes and minor offences infringing property protected by copyright, industrial property law and provisions on fighting unfair competition*" were organized in March and October 2009 and attended by 141 judges.
 - A one-year postgraduate course concerning "*Intellectual and industrial property law*" have been organized in cooperation with the Jagiellonian University Intellectual Property Law Institute in Kraków. And with the participation of 60 judges. Studies were planned to start in December 2009.
- Training of the Polish Border Guard

In December 2009, Border Guard officers participated to a conference organized by the Ministry of the Interior and Administration and devoted to problems related to the protection of copyright and related rights. The main objective of the conference was to develop a model of cooperation between all participants to preparatory proceedings in cases concerning infringements of intellectual property rights.

- Training of the Customs Service

- On 20-21 May 2009, Customs administration in cooperation with the Jagiellonian University in Kraków organized an international conference entitled "*The role of the Customs Service in combating infringements of intellectual property rights*".

Conference participants included the representatives of authorities of the European Union, World Customs Organization (WCO), Polish government administration, scientific environments, organizations uniting holders of intellectual property rights (Anti-Hacker Coalition, Patpol, ProMarka, Polish Chamber of Patent Attorneys (PIRP), Polish Crop Protection Association (PSOR), American Chamber of Commerce), lawyer's offices and rights holders.

The conference created a forum for the exchange of information and discussions on topics concerning the most important aspects of combating infringements of intellectual property rights. Within the framework of discussion panels the following topics were raised:

- the role of customs administration in combating infringements of intellectual property rights – previous experiences and the best solutions for the future;
- EU strategy within the framework of combating infringements of intellectual property rights;
- combating intellectual property rights within the framework of international, EU and national law;
- cooperation of customs administration of the EU Member States exemplified by implemented programmes;
- cooperation between the Polish customs administration and ministries implementing policy aimed at the protection of intellectual property rights;
- cooperation in terms of combating infringements of intellectual property rights – exchange of information, joint activities.

- As requested by the representatives of the owners of rights and at their expense, one central training course was organized; its participants included 30 customs officers from southern and central regions of Poland. The Customs Service organized 4 additional training courses within the framework of functionality and development of the system for the protection of intellectual property rights "*Leonardo da Vinci*" (VINCI).

- In all customs chambers, training courses were organized and conducted by regional coordinators for intellectual property, was still continued. In several cases, training courses were conducted by owners of intellectual property rights.

2. Establishment of specialized units and intersectoral groups

- Establishment of specialized intellectual property/ copyright units within the enforcement bodies (police, customs, etc.);

The specialized “Internet Group” has been created to analyze the threats in the field of infringement of - first of all – copyright and related rights, development of methodology for detection and combating crime against intellectual property in the Internet and coordination of cooperation on combating piracy between law enforcement bodies and organizations involved in collective management of copyright and related rights and other social partners protecting copyright and related rights supporting the Police.

- Creation of copyright or intellectual property associations/ organizations/ bodies; Right holders may be represented by collective management societies.

3. Best practices

The Team for Protection of Copyright and Certain Related Rights

The Team was established on the basis of Decree No. 83 of the President of the Council of Ministers of November 9, 2000 (*Monitor Polski* – Polish Official Gazette No, 36, item 727).

The Chairman of the Team is the Minister of Culture and National Heritage and members of the Team are the representatives of ministries and institutions engaged in the protection of intellectual properties. These include the Ministry of Interior and Administration, the Ministry of Finance (Customs Service of the Republic of Poland), the Ministry of Justice, the Ministry of National Education, the Ministry of Science and Higher Education, the Police and Border Guards of the Republic of Poland.

The Chairman of the Team usually invites representatives of copyright and related rights collecting societies as well as of the National Broadcasting Council to participate in its work. Efforts are made to include copyright users among the Team’s members.

The tasks of the Team shall include the preparation of applications and proposals to improve the coordination of the measures of governmental administration bodies in order to effectively combat the infringement of copyright and related rights. In particular, those tasks shall include:

- 1) presentation of a current analysis of the observance of the copyright and related rights law in the form of an annual Report on the Observance of the Law on Copyright and Related Rights in Poland to the Chairman of the Council of Ministers,
- 2) the presentation of proposed measures to prevent the infringements of copyright and related rights and the combating of infringements in the form of an Action Strategy to Protect Copyright and Related Rights in Poland (also prepared annually),
- 3) the development of the proposals of legislative amendments leading to more effective enforcement of copyright and related rights law,
- 4) Periodic progress reports on the measures taken to combat infringements of copyright and related rights.

Documents of the Team

Since 2001 the document entitled “*Report on the protection of copyright and related rights in Poland*” is prepared by the members of the Team twice a year. This document is submitted to the President of the Council of Ministers.

The document previously entitled “*Strategy of action for the protection of intellectual property rights in Poland*” used to be prepared every year since 2003 and adopted by the Committee of the Council of Ministers and after its acceptance, submitted to the President of the Council of Ministers. In 2008 the Team decided that the „Strategy” would be prepared every three years.

The Team also includes the Warsaw Group whose goal is to monitor and coordinate efforts to prevent and combat intellectual-property offences in the Capital city’s bazaars and markets. The expansion of its activities to include large retail facilities located along the country’s western border is now being considered.

The Internet Group

In the light of the absence of effective methods for detection and processing of cases related to Internet, the level of exposure of persons infringing copyright and related rights in the net is still insignificant. The scale of this phenomenon remains undefined, as there is a lack of systematic research that would allow judging it. In order to change this state of affairs, the Internet Working Group within the Team was established in 2005.

The members of the Working Group include:

- representatives of collective copyright and related rights management organizations and other social partners involved in the protection of copyright and related rights (experts, specialists on engineering and architecture of ICT system and legal affairs);
- a representative of a Warsaw District Prosecutor’s Office;
- experts from the Criminal Office, Department for Combating Economic Crime of the Chief Police Headquarters and Police Academy in Szczytno;
- a representative of the Customs Service of the Republic of Poland;
- representatives of the Ministry of Culture and National Heritage;
- representatives of internet providers.

The task of the group is to analyze the threats in the field of infringement of - first of all – copyright and related rights, development of methodology for detection and combating crime against intellectual property in the Internet and coordination of cooperation on combating piracy between law enforcement bodies and organizations involved in collective management of copyright and related rights and other social partners protecting copyright and related rights supporting the Police. One of the primary tasks of the Internet Group was to develop effective methods of limiting internet piracy.

Among measurable achievements of the Internet Group are:

- The creation, under the supervision of experts from the Higher Police School in Szczytno, of a complex IT communication tool connected with a discussion platform, the so called **Dedicated Portal for Knowledge Management**, used by the members of the Group to solve problems and to quickly transfer information about infringements, new technologies, etc.
- The development of effective methods of conduct aimed at reducing piracy on the web in the form of a document entitled “*Methodology of police work in disclosing and combating intellectual piracy on the Internet*”. This document has been implemented by the Police and

handed over to the Ministry of Justice to assist prosecutors and judges involved in the fight against piracy.

The register of optical discs

The register of optical discs has been created in the Department of Law and Legislation of the Ministry of Culture and National Heritage pursuant to the regulation of the Minister of Culture of 30 April 2004 on the register of information on the register of production of optical discs and types of identification codes (Journal of Laws 2004, No. 124, item 1301). The regulation came into force on 2 June 2004.

The Ministry of Culture and National Heritage collects and analyzes data submitted by the manufacturers of optical discs. The entrepreneur running businesses in question are obliged to apply identification codes to all equipment and item in the process of optical discs manufacturing.

On-going tasks of the Ministry of Culture and National Heritage include keeping the register of optical discs both in the electronic and traditional form – on paper, as well as preparing current analysis necessary for law enforcement purposes and for the use of entities entitled to copyright or related rights. Information included in the register constitutes a system for verification of manufacturers and are used for verification of data and as evidence in cases of infringements found, such as not having full rights for a commissioned item.

On 29 June 2009 the Commander-in-Chief of the Police and the Ministry of Culture and National Heritage signed an agreement of cooperation within the framework of mechanoscopic examination of secured evidence materials, collected during controls of entrepreneurs manufacturing and copying optical discs.

vi. Other

1. TPM/DRM

Article 118(1) of the Act on Copyright and Related Rights criminalizes certain actions against TPMs.

2. Licensing Schemes

3. Optical Discs

The Ministry of Culture and National Heritage holds the register on optical discs production.

4. Hotlines

5. Contact details

- Ministry of Culture and National Heritage; ul. Krakowskie Przedmieście 15/17; 00-071 Warszawa; Poland; <http://www.mkidn.gov.pl> ; ☎: +48 22 42 10 100; Fax: +48 22 42 10 131;
- Ministry of the Interior and Administration; ul. Stefana Batorego 5; 02-591 Warszawa; Poland; <http://www.mswia.gov.pl> ; ☎: +48 22 621 20 20; Fax: +48 22 60 143 66;
- Ministry of Finance; ul. Świętokrzyska 12; 00-916 Warszawa, Poland; <http://www.mofnet.gov.pl/?const=2> ; ☎: +48 22 694 55 55;

- Ministry of Justice; Al. Ujazdowskie 11; 00-950 Warszawa; Poland; www.ms.gov.pl; ☎: +48 22 521 28 88;
- National Prosecution Service; ul. Barska 28/30; 02-315 Warszawa, Poland; <http://www.pk.gov.pl>; ☎: +48 22 521 28 88;
- Ministry of National Education; al. J. Ch. Szucha 25, 00-918 Warszawa; Poland; <http://www.men.gov.pl>; ☎: +48 22 34-74-100
- Ministry of Science and Higher Education; ul. Hoża 20; ul. Wspólna 1/3; 00-529 Warszawa; Poland; <http://www.mnisw.gov.pl/> ; ☎: +48 22 529 27 18; Fax (22) 628 09 22;
- The Chancellery of the President of the Council of Ministers; Al. Ujazdowskie 1/3; 00-583 Warszawa; Poland; <http://www.kprm.gov.pl> ; ☎: +48 22 694 60 00;
- Ministry of Foreign Affairs of the Republic of Poland; Al. J. Ch. Szucha 23, 00-580 Warszawa, Poland; <http://www.msz.gov.pl/> ; ☎: +48 22 523 90 00;
- The Polish National Police (Headquarters); ul. Puławska 148/150; 02-624 Warszawa; Poland; <http://www.policja.pl> ; ☎: +48 22 621-02-51;
- The Border Guard of the Republic of Poland (Headquarters); Al. Niepodległości 100; 02-514 Warszawa; <http://www.strazgraniczna.pl/wps/portal> ; ☎: +48 22 500 40 00;
- The Patent Office of the Republic of Poland; Al. Niepodległości 188; 00 - 950 Warszawa, Poland; <http://www.uprp.gov.pl> ; ☎: +48 22 579 00 00; Fax: +48 22 579 00 01;
- The National Broadcasting Council; Skwer Księdza Kardynała Stefana Wyszyńskiego Prymasa Polski 9; 01-015 Warszawa; <http://www.krrit.gov.pl> ; ☎: +48 22 597 30 00; Fax: +48 22 597 31 80;
- Business Software Alliance (BSA), http://www.bsa.org/country.aspx?sc_lang=pl-PL
- Foundation for the Protection of Audiovisual Works (Fundacja Ochrony Twórczości Audiowizualnej – FOTA), ul. Wołodyjowskiego 61, 02-724 Warszawa; Poland; <http://www.fota.net.pl> ; ☎: +48 22 847-98-98; Fax. +48 22 847-98-97;
- Polish Society of the Phonographic Industry (Związek Producentów Audio Video – ZPAV) ul. Kruczkowskiego 12 m 2; 00-380 Warszawa; Poland; <http://www.zpav.pl>; <mailto:biuro@zpav.pl>; ☎: +48 22 622 92 19; 625 69 66; Fax: +48.22 625 16 61;
- The Authors' Association (Stowarzyszenie Autorów – ZAiKS); ul. Hipoteczna 2; 00-092 Warszawa; Poland; <http://www.zaiks.pl> ; <mailto:zaiks@zaiks.org.pl> ☎: +48 22 827 60 61...69; Fax: +48 22 828 92 04;
- The Association of Polish Artists and Designers (Związek Polskich Artystów Plastyków – ZPAP); ul. Nowy Świat 7/6; 00-496 Warszawa; Poland; <http://www.zpap.pl> ; <mailto:biuro@zpap.pl> ; ☎: +48 22 621 01 37; Fax: +48 22 621 13 65;
- The Association of Polish Photographers (Związek Polskich Artystów Fotografików – ZPAF); Plac Zamkowy 8, 00-277 Warszawa; Poland; <http://www.zpaf.pl>; ☎: /fax. +48 22 831 03 86, +48 22 635 47 83;
- The Polish Filmmakers Association (Stowarzyszenie Filmowców Polskich – SFP); Krakowskie Przedmieście 7; 00-068 Warszawa; Poland; <http://www.sfp.org.pl>; <mailto:biuro@sfp.org.pl>; ☎: +48

22 556 54 40, +48 22 845 51 32; Fax: +48 22 845 39 08;

- Polish Musical Performing Artists' Society (Stowarzyszenie Artystów Wykonawców Utworów Muzycznych i Słowno-Muzycznych - SAWP), ul. Tagore 3, 02-647 Warszawa; Poland; <http://www.sawp.pl> ; <mailto:biuro@sawp.pl>; ☐: +48 22 654-81-22;
- Association of Polish Architects (Stowarzyszenie Architektów Polskich – SARP); ul. ul. Foksal 2; 00-950 Warszawa; Poland; <http://www.sarp.org.pl>; <mailto:zg@sarp.org.pl>; ☐: +48 22 827 87 12; Fax: +48 22 827 87 13;
- Authors and Artists' Association (Stowarzyszenie Autorów i Wydawców "Polska Książka"); ul. Mikołajska 26/4; 31-027 Kraków; Poland; <http://www.polskaksiazka.pl> ; <mailto:biuro@polskaksiazka.pl>; ☐: +48 12 429 39 29; Fax: +48 12 429 39 38;
- Union of Performing Artists (Związek Artystów Wykonawców – STOART); ul. Nowy Świat 64; 00-357 Warszawa; Poland; <http://www.stoart.org.pl> ; <mailto:stoart@stoart.org.pl> ; ☐/Fax: +48 22 827 83 71; 629 28 54.
- The Polish Association of Branded Goods Manufacturers ProMarka (Polskie Stowarzyszenie Wytwórców Produktów Markowych PRO - MARKA); Al. Ujazdowskie 6A; 00-461 Warszawa; Poland; <http://www.promarka.pl>; <mailto:promarka@promarka.pl>; ☐: +48 22 622 49 54, + 48 22 622 39 38; Fax: +48 22 622 94 82;
- The Polish Chamber of Information Technology and Telecommunication (Polska Izba Informatyki i Telekomunikacji); ul. Koszykowa 54; 00-675 Warszawa; Poland; (enter B, office no. 03 230 - 3rd floor); <http://www.piit.org.pl>; <mailto:biuro@piit.org.pl>; ☐: +48 22 628 22 60; +48 22 628 24 06; +48 22 691 119 555; Fax: +48 22 628 55 36.