

# Directive 2004/48/EC on the Enforcement of Intellectual Property Rights Introductory Overview

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# Overview EC initiatives: three levels

- Domestic EU territory: Internal Market initiatives
- External EU borders: Customs initiatives
  - Council Regulation (EC) No 1383/2003 on customs action against (suspected) counterfeited and pirated goods (OJ of 2.8.2003, L 196, p. 7)
- Third countries: inter alia Trade initiatives
  - Strategy for the enforcement of Intellectual Property rights in third countries (10.11.2004)
  - TRIPS (1994), FTA's and multilateral discussions

# Internal Market initiatives

- Directive 2004/48/EC on the enforcement of intellectual property rights (OJ of 2.6.2004, L 157, p. 45)
  - harmonisation of (basically) civil law measures, procedures and remedies
- Proposal on criminal sanctions to combat intellectual property offences
  - amended proposal presented by the Commission on 26 April 2006

# “Enforcement Directive” 2004/48/EC

- Legislative background
  - Presentation proposal Commission 30.1.2003; formal adoption 29.4.2004
  - Transposition deadline 29.4.2006
- Complements substantive IP provisions
- Based on TRIPS and “best practices” in Member States
- “Minimum”: Member States may give IP right holders more protection

# Enforcement Directive (Scope)

- Application to infringement of all IPR (horizontal approach)
  - « IPR rights as provided for by Community law and/or by the law of the MS concerned »
  - Commission published a list of IP rights covered (statement 2005/295/EC, OJ 2005 of 13.4.2005, L 94, p. 37)
- Criminal sanctions excluded

# Transposition Enforcement Directive

- Deadline for transposition: 29.4.2006
- State of play: 24 MS have implemented
- Infringement procedures against defaulting MS (Germany, Luxembourg & Sweden)
- ECJ decisions against:
  - Sweden (C-341/07 of 15/05/08)
  - Germany (C-395/07 of 05/06/08)

# Transposition Enforcement Directive

- Long procedure in all MS with a high number of Authorities involved
- Majority of MS faced with amendments in more than one internal laws



# Transposition Enforcement Directive (Evaluation Report)

- **Article 18:** by 29 April 2009 “...each **Member State** shall submit to the Commission a **report on the implementation** of the Directive.
- On the basis of those reports, the **Commission** shall draw up a **report on the application** of the Directive, including an **assessment of the effectiveness** of the measures taken, as well as an **evaluation of its impact** on innovation and the development of the information society”.



**THANK YOU VERY MUCH FOR YOUR  
ATTENTION!**

**Enforcement of Industrial and Intellectual  
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