**HUNGARY Customs**

**Country Report**

 Name and title of the organization that you are representing (please attach the organizational chart on a separate sheet).

1. **National Tax and Customs Administration**
2. **Hungarian Authority for Consumer Protection**

 Designation and professional responsibilities that you hold in the organization.

1. I am working as expert on the Priority Affairs and Large Taxpayers Customs Directorate, in the Intellectual Property Rights Defence Department. My responsibilities are (mainly):
* to manage the application for action from right holders,
* to organize training for customs,
* to participate in work of NBAC (National Board Against Counterfeiting),
* to organize raiding against counterfeiters, contact with other authorities, especially in EU.
1. As coordinator for international relations at the Department for International and Public Relations I take part in the elaboration and implementation of the international activity of the HACP.

 The Department responsibility is among others:

* to coordinate and direct the EU and international relations of the HACP
* to build and maintain relations with the foreign partner authorities and institutions
* to prepare the international cooperation agreements

 Details of the structures of the organization (e.g. responsibilities, head of the organization, supervisory ministry, numbers and composition of staff members, function and activities, etc.).

The Hungarian Tax and Financial Control Administration and the Hungarian Customs and Finance Guard have merged in one from 1st January 2011. The ***National Tax and Customs Administration*** is an economically independent central budgetary institution supervised and controlled by the Ministry for National Economy. Nowadays the National Tax and Customs Administration (NTCA) bears a more significant part than ever in the economy in the field of control, establishing an up-to-date organization conform to trade market and international requirements and implementing laws harmonized to EU regulations. See attached annex.

**Organization**

National Tax and Customs Administration operates on three organizational levels:

The Central Office leading by the President

Mid-level organizations (Regional Tax and Customs General Directorates, etc),

Low-level organizations (County Tax and Customs Directorates, etc.).

The NTCA has around 23.000 members (6000 Customs officers, civil servants).

**Function and activities**

The Central Office of NTCA with its general departments supervises and controls the operation of mid-level organs. As mid-level organs, the regional directorates carry out tax, customs and excise tasks, and supervise the low-level organs belonging to their competence.

b)

The Hungarian Authority for Consumer Protection is considered to be the general consumer protection authority. The head of the organization is the Director General who is appointed by the Minister for the National Economy. The supervisory ministry is the Ministry for National Economy. The authority employs 155 civil servants.

**Functions and activities**

The HACP is a central and budgetary public administration body with determined scope of duties and authority under the direction of the Minister responsible for the consumer protection designated by the government.

The 20 local inspectorates are integrated in the 19 Government Offices for the County and 1 for the capital. The HACP provides professional direction for the local inspectorates, harmonizes the inspections performed by local inspectorates, elaborates guidelines and rules of procedure of inspections.

The task of the HACP includes ensuring the protection of consumers’ lives, safety and health through active market surveillance of the distribution of non-food products. The authority carries out continuous inspections in the field of commerce as well as in the service sector. The HACP through the local (19 county + 1 capital) inspectorates monitors the compliance with consumer protection legislation.

The activity of the authority includes:

* Participating in the elaboration and assessment of the national consumer protection policy;
* Inspecting compliance with the consumer protection legislation which belongs to its legal competence;
* Inspecting safety of products and services;
* Inspecting quality of chemical consumer products;
* Inspecting services of general interest (including also online commerce and partly the retail electricity and gas sector as well);
* Controlling the compliance with legislation on unfair commercial practices in B2C relationships in case of matters (except for financial matters) which do not affect materially (significantly) the economic competition;
* Controlling the compliance with legislation on business advertising activity;
* Performing tests in the two accredited laboratories complying with European standard requirements, which serve as a background of market surveillance activity;
* Performing duties as the designated national contact point for the RAPEX system;
* Performing duties as the designated single liaison office and main competent authority for CPC (2006/2004/EC) Regulation responsible for the enforcement of 13 directives and regulations.
* Operating the Central Market Surveillance Information System on unsafe consumer goods and making it accessible for partner authorities;
* Concluding cooperation agreements with governmental (public) bodies and as well as NGO-s responsible for consumer protection and market surveillance;
* Supporting the activity of non-governmental consumer protection organisations by providing technical assistance to increase consumer knowledge and awareness,
* Issuing various publications in order to inform consumers adequately. The authority also takes part in secondary and higher education as well as adult education programs;
* Paying special attention to safeguarding the interests of the most vulnerable age groups, the children, youth and elderly people, and also to the inspection of the new patterns of trading.
* Supporting the nationwide network of Consumer Enquiry Offices operated by the local authorities with the involvement of NGO-s
* Performing duties as a designated contact point of IMINET under 2006/123/EC directive
* HACP is entitled to file action popularis (class actions) in case of an infringement against any party causing substantial harm to a wide range of consumers by illegal activities aimed at enforcing the interests of consumers even if the identity of the injured consumers cannot be established.
* Promoting legislation considering consumers’ interests, represents consumers’ interest in the frame of the legislative processes and protects consumers in governmental, social and economic organisations;
* Operating consumer enquiry offices at local level, providing consumers with advice and where consumers can lodge complaints;
* Investigating individual consumer complaints

 What type and extend of Powers does the organization have? What mandate does the organization have, what procedures are applied?

1. Main competences of the IPR Department as IPR authority in NTCA: grant, registration, renewal, revocation, cancellation of application of action. See answer 2 and 3.

In according to IPR National Tax and Customs Administration has right to control the traffic of export-import and transit begins criminal procedures against counterfeited good and its holder.

1. Competent authority for certain IP related administrative offences (false marking of goods).

 Relation/ co-operation with other law enforcement agencies.

1. National Tax and Customs Administration has power to make investigation in all IPR cases from 1st of January 2011 in Hungary. Nevertheless, the NTCA co-operates with other law enforcement agencies and shares information.
2. **The HACP is taking part in** the common platform of governmental and non-governmental organizations, **the National Board Against Counterfeiting** **(NBAC).**

 The main responsibilities of the NBAC are the following:

* To work out a national strategy and an action plan against counterfeiting,
* To initiate and coordinate awareness raising campaigns related to the protection of intellectual property,
* To organize training programs for the authorities having competence in the field of anti-counterfeiting,
* To put forward proposals to the competent minister for the elaboration of laws in order to support the effective enforcement of IPRs.

 Outline and activities of governmental agencies and private entities engaged in the enforcement of intellectual property rights in your country (e.g. IP office, police, judiciary, rights holders, associations, etc.).

**National Tax and Customs Administration**: law enforcement agency, *investigation authority* in the IP related crimes (False marking of goods; Infringement; Infringement of Copyright and Rights Related to Copyright; Circumvention of Technological Measures for the Protection of Copyright and Rights Related to Copyright; Falsifying Rights Management Information; Infringement of Industrial Property Right); competent authority to implement customs action against goods suspected of infringing certain intellectual property rights according to Council Regulation (EC) No 1383/2003;

**Police:** law enforcement agency, *investigation authority* in the IP related crimes (False marking of goods; Infringement; Infringement of Copyright and Rights Related to Copyright; Circumvention of Technological Measures for the Protection of Copyright and Rights Related to Copyright; Falsifying Rights Management Information; Infringement of Industrial Property Right); Cyber Crime Unit

**Hungarian Intellectual Property Office (HIPO)**: IP office; competent authority for provision of official examinations and conducting procedures in the field of industrial property, performance of certain duties concerning copyright and rights related to copyright; support of the enforcement activity of other authorities (information, training, coordination);

**Hungarian Authority for Consumer Protection:** competent authority for certain IP related administrative offences (False marking of goods);

**Notary:** competent authority for certain IP related administrative offences (False marking of goods; Infringement of Industrial Property Right);

**Central Agricultural Office:** competent authority for controls of products under geographical indication protection;

**Prosecutors:** investigation authority in all the IP related crimes;

**Courts:** competent authority for civil and criminal procedures, as well as for action under competition law.

 Information on border enforcement:

In Hungary procedures are free of charge, the IPR Defence Department is nominated to grant the applications for customs procedures. The applicants can fill in the applications for customs procedures electronically.

Customs officers are helped in their work of goods identification by an intranet database which contains information about original and counterfeit products to recognize them properly. The officers are also trained two or three times a year by the right holders or by their representatives.

Right holders exploit the possibility of simplified procedures, and there is also possibility to initiate civil or criminal procedures with the help of customs authority. The duration of procedures can be from a few months to 1-3 years (civil or criminal procedures).

The costs of transportation, storage and destruction are mainly borne by the right holders. The possibility of environmentally friendly destruction also exists in Hungary. If customs authorities have sufficient grounds for suspecting that goods infringe an intellectual property right, they may suspend the release of the goods or detain them.

The NTCA has also the right to control the goods in transit.

 Information on market surveillance:

There are 14 agencies involved in market surveillance on the domestic market as follows:

* Hungarian Authority for Consumer Protection
* National Media and Info-communications Authority
* National Transport Authority
* Hungarian Competition Authority
* Hungarian Trade Licensing Office
* Hungarian Police
* Hungarian Energy Office
* Office of Health Authorization and Administrative Procedures
* National Public Health and Medical Officer Service (NPHMOS)
* Hungarian Office for Mining and Geology
* Hungarian Labour Inspectorate
* National Directorate General for Disaster Management, Ministry of Internal Affairs
* National Tax and Customs Administration
* National Institute of Chemical Safety

The HACP has concluded with most of them cooperation agreements. False products may be of interest for the market surveillance, since such products are often so poor quality that causes safety problems, and in such case, the market surveillance authorities should be involved. However, it is not impossible that the fake products have the same security level as the original (or even higher). In this case, the market surveillance authorities shall not take measures against the product for security reasons, but it is rather the task of Customs authorities to take steps against these products on the bases of protection of the intellectual property rights (IPR) of the Commission.

 Information on counterfeiting and piracy over the internet.

There are some possibilities to remove/to make inaccessible the infringing materials on the Internet, which are determinate in which country is, situated the infringed materials supplier server and the percipient person or organisation:

* If the content provider and the percipient person or organisation are in the same country the removal procedure is quick and efficient.
* If the content provider and the percipient are not in the same country, but the two countries are EU member states, the removing procedure can come true on EU criminal co-operation mechanisms.
* If the content provider is not in MS, the remove of the infringing materials is difficult and slow. In some cases in the percipient country the action against the infringing content is difficult or impossible because of the other country’s different law system (the content is not considered infringement), or the lack of capacity of the other countries’ enforcement organs.

 Information on consumer motivations on counterfeiting and piracy.

In 2011 (previously in 2009 and 2010) the National Board Against Counterfeiting (NBAC) in a representative survey tried to find out how people think about counterfeiting. The most important result of the research is that, compared with last year, the number of people who buy counterfeit products without hesitation has decreased. At the same time the proportion of those who ponder shopping has increased. It is a positive change that, when they are asked about actual shopping, it turned out that the proportion of buyers of any kinds of counterfeit products has decreased. However, the majority of people think that because of the economic crisis a great number of people are pressed to purchase fake products.

Almost 60% of people realize that due to counterfeiting the budget is losing serious revenue, and almost 50% know that because of counterfeiting some jobs had ceased. More than half of the interviewees think that those who sell fake products commit crime and would deserve more severe punishment than the present one. The willingness to buy counterfeit products is greatly influenced by the age of people, i. e. while 42% of youngsters, only 18% of elderly people would purchase counterfeit goods.

 Applicable legal framework pertaining to the enforcement of IP rights. Please provide information on recent amendments to the legal framework.

***Civil law:*** the relevant IP acts: Act XXXIII of 1995 on the Protection of Inventions by Patents, Act XI of 1997 on the Protection of Trademarks and Geographical Indications, Act XLVIII of 2001 on the Legal Protection of Designs, Act XXXVIII of 1991 on the Protection of Utility Models, Act LXXVI of 1999 on Copyright, Act LVII of 1996 on the Prohibition of Unfair and Restrictive Market Practices, Code on Civil Procedure (Act III of 1952); Hungarian Civil Code (Act No. IV of 1959); Act LIII of 1994 on Judicial Execution;

***Criminal law:*** Hungarian Criminal Code (Act IV of 1978). The Directive 2004/48/EC on the enforcement of intellectual property rights has been fully implemented into the national law.

***Customs action:*** Government Decree No. 371/2004 on customs actions infringing certain intellectual property rights are applied together with the relevant Community legislation such as Council Regulation (EC) No 1383/2003 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, Commission Regulation (EC) No 1891/2004 laying down provisions for the implementation of Council Regulation (EC) No 1383/2003 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 right.

 Court structure within which the issues are dealt with, as well as the volume of
IP-related investigations and litigation – distinguishing between civil, criminal and administrative measures and remedies.

***Civil:*** infringement of industrial property rights: *Metropolitan Court of Budapest*, infringement of copyright: *county courts*; action under competition law: *county courts*

***Criminal:*** competent local courts

 Indication of the agencies involved in the above, and highlight existing strategic cooperation mechanisms (formal or informal) between them, as well as with the private sector.

A common platform of governmental and non-governmental organizations, the ***National Board Against Counterfeiting*** (NBAC) was set up in 2008 in order to promote effective cooperation between public bodies and social and economic interest organizations in the field of intellectual property protection and gain efficiency in the fight against counterfeiting. Members of the NBAC are on the one hand of the representatives of public organizations with intellectual property related tasks and powers, e.g.: competent ministries and the law enforcement agencies, and, on the other hand, professional and business organizations representing social and economic interests which are involved in the protection of intellectual property.

On the other hand National Tax and Customs Administration have a lot MOU with internal authorizations, right holders, etc.

 Description of any obstacles or hurdles to the effective enforcement of IP rights; sharing case law developments and success stories.

* lack of effective methods against Internet Piracy – technical, IT knowledge is required to such cases – involvement of an external expert is necessary that increases costs and duration of the procedure;
* there are difficulties in determining the value of products infringing IP rights;
* delays of the courts
* uninterested right holders
* effective information sharing with other authorizations (in EU)

 Statistics (including data within the past 3 years):

* + The number of applications by rights holders, seizures, and other relevant figures regarding border control of IP infringements.

 Application by right holders in 2008: national: 118; community application: 403.

Application by right holders in 2009: national: 101; community application: 412.

Application by right holders in 2010: national: 124; community application: 678.

Result of control of traffic (export-import):

2008 - 1.515.341 pieces / 9.526.629 EUR

2009 - 1.211.346 pieces / 5.596.068 EUR

2010 - 551.745 pieces / 12.072.284 EUR

 Database information:

* + If there is an online database regarding IP court cases that is available to the public, please provide the name and address of the website.

 There is no special online database regarding IP court cases, but court decision can be found at the website of the courts (<http://www.birosag.hu/engine.aspx?page=anonim>) where cases can be searched (only in Hungarian) according to keywords.

**SUBMISSION DEADLINE AND CONTACT PERSON:**

The reports are to be submitted by August 31 at the latest to:

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Please send the report by e-mail

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