

# COUNCIL OF EUROPE

## COMMITTEE OF MINISTERS

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RECOMMENDATION No. R (95) 1

### OF THE COMMITTEE OF MINISTERS TO MEMBER STATES ON MEASURES AGAINST SOUND AND AUDIOVISUAL PIRACY

*(Adopted by the Committee of Ministers on 11 January 1995  
at the 525th meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and facilitating their economic and social progress;

Concerned by the resurgence in sound and audiovisual piracy in Europe;

Considering that the resurgence of piracy is due, in particular, to:

- a. the major political, economic and social changes which have occurred in central and eastern Europe as well as the difficult economic situation in many European countries;
- b. technical developments, in particular digitalisation, which facilitate:
  - the reproduction, often of excellent quality, of phonograms, audiovisual works, broadcasts and computer software associated with audiovisual productions (in particular, the so-called multimedia and video games);
  - the manufacture of decoding equipment and other similar means used for protecting access to works and other protected contributions;

Noting that piracy prejudices the rights and interests of authors, producers of audiovisual works, performers, producers of phonograms and broadcasting organisations as well as the cultural professions and related industries in general and the public at large;

Noting the increasing international character of sound and audiovisual piracy;

Recognising that action at the level of legislation and awareness is necessary for combating effectively all forms of sound and audiovisual piracy;

Resolved to promote effective action in this area;

Convinced that any such action must be based on the adoption of appropriate measures at national level as well as on international co-operation;

Bearing in mind the work carried out or being carried out on the strengthening of the protection of rights within other fora, in particular within the framework of the European Union, Unesco, and the World Intellectual Property Organization;

Bearing in mind also the work carried out or being carried out within other fora with respect to enforcement of rights, in particular the Agreement on Trade-Related Aspects of Intellectual Property Rights, including Trade in Counterfeit Goods (TRIPS Agreement) concluded within the framework of

GATT and the European Union regulations outlining border measures on the importation of counterfeit products;

Noting in this respect the need for effective implementation of the existing recommendations which it has already adopted in this area:

- Recommendation No. R (88) 2 on measures to combat piracy in the field of copyright and neighbouring rights;
- Recommendation No. R (91) 14 on the legal protection of encrypted television services, and
- Recommendation No. R (94) 3 on the promotion of education and awareness in the area of copyright and neighbouring rights concerning creativity;

Bearing in mind the need to address continuously and in an appropriate manner the issue of sound and audiovisual piracy, in particular the forms of piracy, in a rapidly evolving technological context;

Noting therefore that, in addition to the implementation of the above-mentioned recommendations, a number of considerations should be borne in mind in pursuing effective action against piracy,

Recommends that the governments of member states:

- step up their action against sound and audiovisual piracy;
- to this end, ensure speedy and more effective action at national and international levels against the forms of sound and audiovisual piracy mentioned in the appendix to this recommendation;
- take account of the considerations in the appendix to this recommendation when developing their anti-piracy policies.

#### Appendix to Recommendation No. R (95) 1

1. There is a resurgence in Europe of various forms of sound and audiovisual piracy, such as:
  - a. the unauthorised fixation of live performances for commercial purposes and the unauthorised reproduction and distribution for commercial purposes of such fixations;
  - b. the reproduction, distribution and communication to the public of phonograms in violation of the relevant existing rights of right holders and for commercial purposes;
  - c. the reproduction, distribution and communication to the public of audiovisual works in violation of the exclusive rights of right holders and for commercial purposes;
  - d. the unlawful retransmission, cable distribution, fixation and reproduction of broadcasts for commercial purposes and the unauthorised distribution for commercial purposes of copies of broadcasts;
  - e. the unauthorised manufacture and distribution for commercial purposes of decoding equipment and other similar means enabling unlawful access to works and other protected contributions;
  - f. the unauthorised reproduction and distribution for commercial purposes of computer software associated with audiovisual productions, in particular the so-called multimedia and video games;
2. These new challenges may require a continuing examination of the scope of sound and audiovisual piracy offences.
3. A number of member states have successfully introduced in their fight against sound and audiovisual piracy:
  - anti-piracy units, composed of officers specialised in the fight against sound and audiovisual piracy;
  - special chambers within criminal courts and tribunals which are competent to deal with issues relating to sound and audiovisual piracy.
4. As a complement to the existing legal framework for dealing with sound and audiovisual piracy offences, the introduction of technical anti-piracy devices may increase the security and protection of works and other contributions against the threat of sound and audiovisual piracy.

5. An awareness campaign directed at judicial and administrative authorities on the need to act decisively against sound and audiovisual piracy may also be useful, as would the promotion of awareness among the public at large of the importance of the seriousness of sound and audiovisual piracy offences and of the need to respect the rights of holders of copyright and neighbouring rights in works and other protected contributions.
6. Co-ordination at international level is important so as to facilitate:
  - legal proceedings involving sound and audiovisual piracy offences;
  - exchanges of information between bodies in each member state responsible for combating sound and audiovisual piracy.
7. The exchange of information between professional bodies involved in the fight against piracy is also important for effectively combating piracy.