Counterfeiting and piracy: the Commission proposes European criminal-law provisions to combat infringements of intellectual property rights

Today the European Commission adopted proposals for a directive and for a framework decision to combat infringements of intellectual property rights. The purpose of the proposed measures is to align national criminal law and improve European cooperation so as to deal effectively with counterfeiting and piracy activities, which are often carried out by criminal organisations. Counterfeiting and piracy, and infringements of intellectual property in general, have increased significantly in recent years and seriously undermine several sectors of the European economy.

Franco Frattini, Vice-President of the European Commission responsible for Justice, Freedom and Security, remarked that the new measures proposed by the Commission form the criminal law front to the fight against counterfeiting and piracy in Europe. Effective alignment of national criminal law in this domain, he declared, “forms a basic platform underpinning our joint efforts to eradicate these phenomena which are undermining the economy”. Criminal organisations are now investing in these activities which are often more lucrative than other types of trafficking and still carry light penalties. Counterfeiters and pirates jeopardise legitimate businesses and threaten innovation. Furthermore, in many cases, counterfeit goods pose a real danger to public health and safety.

The proposed measures apply to all types of infringements of intellectual property rights. Under the proposal for a directive, all intentional infringements of an intellectual property right on a commercial scale, and attempting, aiding or abetting and inciting such infringements are treated as criminal offences.

The proposal for a framework decision sets a threshold for criminal penalties applicable to the perpetrators of these offences: at least four years' imprisonment if the offence involves a criminal organisation or if it jeopardises public health and safety. The applicable fine must be at least EUR 100 000 to EUR 300 000 for cases involving criminal organisations or posing a risk to public health and safety. The proposal allows Member States to apply tougher penalties.

The Commission hopes that this clear political signal reflecting the determination to combat piracy and counterfeiting will be supported by concerted, long-term information campaigns by national and regional authorities and other interested parties to raise awareness, not only among key players in the fight against counterfeiting and piracy but also amongst the wider public as a whole.