

# Office for Harmonisation in the Internal Market (Trade Marks and Designs): tasks related to the protection of intellectual property rights

2011/0135(COD) - 14/02/2012 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 569 votes to 15 with 71 abstentions a legislative resolution on the proposal for a regulation of the European Parliament and of the Council on entrusting the Office for Harmonisation in the Internal Market (Trade Marks and Designs) with certain tasks related to the protection of intellectual property rights, including the assembling of public and private sector representatives as a European Observatory on Counterfeiting and Piracy

Parliament adopted its position on first reading following the ordinary legislative procedure. The amendments adopted in plenary are the result of an agreement negotiated between Parliament and Council. The main amendments are as follows:

**Subject matter and scope:** in accordance with Members' requirements, it is stipulated the Regulation entrusts the Office for Harmonisation in the Internal Market (Trade Marks and Designs) with tasks aimed at facilitating and supporting the activities of national authorities, the private sector and the Union institutions in the fight against infringements of the intellectual property rights covered by Directive 2004/48/EC.

In carrying out these tasks the Office shall organise, administer and support the gathering of experts, authorities and stakeholders assembled under the name 'European Observatory on Infringements of Intellectual Property Rights'.

**Tasks and activities:** the tasks and activities of the Office under the Regulation do not extend to participation in individual operations or investigations carried out by the competent authorities.

The Office shall have the following tasks:

- improving understanding of the value of intellectual property;
- improving understanding of the scope and impact of infringements of intellectual property rights;
- assisting in raising citizens' awareness of the impact of infringements of intellectual property rights;
- enhancing knowledge of the technical tools needed to prevent and tackle infringements of intellectual property rights, including tracking and tracing systems which help to distinguish genuine products from counterfeit ones
- providing mechanisms which help to improve the online exchange, between Member States' authorities working in the field of intellectual property rights, of information relating to the enforcement of such rights, and fostering cooperation with and between those authorities;

- working, in consultation with Member States, to foster international cooperation with intellectual property offices in third countries so as to build strategies and develop techniques for the enforcement of intellectual property rights, skills and tools.

In the fulfilment of these tasks, the Office shall carry out the following **activities**:

- establishing a transparent methodology for the collection, analysis and reporting of independent, objective, comparable and reliable data relating to infringements of intellectual property rights;
- providing regular assessments and specific reports by economic sector, geographic area and type of intellectual property right infringed, which evaluate, inter alia, the impact of infringements of intellectual property rights on society and the economy, including an assessment of the effects on small and medium-sized enterprises, as well as on health, the environment, safety and security;
- collecting, analysing and disseminating information regarding best practices between the representatives meeting as the Observatory, and, if applicable, making recommendations for strategies based on such practices;
- assisting national and Europe-wide actions, including online and offline campaigns, principally by providing data and information;
- monitoring the development of new competitive business models which enlarge the legal offer of cultural and creative content, and encouraging the exchange of information and raising consumer awareness in this respect;
- organising ad hoc meetings of experts, including academic experts and relevant representatives of civil society, to support its work under this Regulation;
- identifying and promoting technical tools for professionals and benchmark techniques, including tracking and tracing systems which help to distinguish genuine products from counterfeit ones;
- working with national authorities and the Commission to develop an online network facilitating the exchange of information on infringements of intellectual property rights between public administrations, bodies and organisations in the Member States dealing with the protection and enforcement of those rights.

In carrying out these tasks and activities, the Office shall comply with existing provisions of Union law on data protection.

**Meetings of the Observatory:** in order to carry out the activities the Office shall at least once per year invite to meetings of the Observatory representatives from public administrations, bodies and organisations in the Member States dealing with intellectual property rights and representatives from the private sector. Representatives meeting as the Observatory invited from the private sector shall include a broad, representative and balanced range of Union and national bodies representing the different economic sectors, including the creative industries.

Consumer organisations, small and medium-sized enterprises, authors and other creators shall be properly represented.

In addition to these meetings, the Office shall organise meetings consisting of: (i) representatives from the public administrations, bodies and organisations in the Member States, or (ii) private sector representatives.

Members or other representatives of the European Parliament and representatives from the Commission shall be invited to any of the meetings, either as participants or observers, as appropriate.

The names of the representatives attending, the agenda and the minutes shall be published on the Office's website.

**Information obligations:** without prejudice to the law governing the processing of personal data and to the protection of confidential information, private-sector representatives meeting as the Observatory shall, when possible, at the request of the Office:

- inform the Office of policies and strategies in their field of activity on the enforcement of intellectual property rights and any changes thereto,
- provide statistical data on infringements of intellectual property rights in their field of activity.

**Content of the work programme and of the management report:** the Office shall draw up an annual work programme that appropriately prioritises the activities under this Regulation and for the meetings of the Observatory, in line with the Union's policies and priorities in the field of protection of intellectual property rights and in cooperation with the at the Observatory. The activity report shall contain (a) observations on the enforcement of intellectual property rights and potential future policies and strategies, including on how to enhance effective cooperation with and between Member States; (b) an overall assessment of the proper representation in the Observatory of all the actors. Lastly, before submitting the management report to the European Parliament, the Commission and the Administrative Board, the President of the Office shall consult the on the relevant parts of the report.