

a significant role in the prevention against IP counterfeiting and piracy, and in raising awareness about IP in general.

It is noticeable, on the other hand, that some aspects of IP enforcement nowadays deserve more attention. The newly implemented enforcement provisions, which also provide for more favourable treatment of IP right holders instruments in view of the Directive, may make valuable contributions towards solving currently unsolved problems. *First*, they may help address internet piracy – a phenomenon which is present not only in the Baltic states, but worldwide, and which calls for effectively applied means of enforcement, especially provisional measures, injunctions, and corrective measures. *Further*, more complex application of civil enforcement means in administrative and criminal procedure should be embraced, especially where adjudication of damages is concerned. The same applies to customs and civil enforcement measures. The strict separation of civil, administrative and criminal procedures is considered to be a relic of the Soviet era that needs to be set aside. Combining administrative measures, criminal measures and civil remedies (especially when it concerns collection and presentation of evidence, as well as adjudication of damages) may allow IP right holders to enjoy their rights in more effective manner – particularly when specificity of evidence, substantiation in IP infringement cases and also the principle of economy in procedures, is taken into account.

Moreover, the current civil IP enforcement scheme stemming from the Directive, embodied in the implementation of national legislation, can prompt IP right holders to be more active in initiating, for example, *civil (ex parte) searches*, by not being dependant on police or prosecution offices; and it may also prompt them to consider pursuing enforcement measures and remedies in more complex manner. This study on the implementation of the Enforcement Directive in the Baltic countries, in view of their development of a system for the protection of IP rights, is intended to highlight the main trends of IP litigation in the respective jurisdictions and to help local and foreign IP right holders to anticipate likely outcomes in cases of IP litigation.

B. Further strengthening IP rights enforcement: incentives to innovate and create in the Baltics?

The IP enforcement landscape has certainly changed in the Baltic countries during the last decades and, admittedly, it has not been due only to the harmonization of the laws associated with European-wide legislation, including the Enforcement Directive, but also to other social and economic processes which have been closely intertwined. Additionally, many incentives have been implemented in order to foster local innovations, R&D activities in both public and private companies, and also in educational institutions, through various projects in the Baltic countries.

These factors, together with the fact that, by operating innovation-related projects and businesses in the Baltics, companies, especially foreign ones, took account of the necessity of strengthening the enforcement of IP rights, should be acknowledged as having facilitated positive improvement in the IP regime of the Baltics. It was

mostly foreign IP right holders who were the first to initiate civil cases, and to attend administrative and criminal cases, against IP rights infringers (as observed from the analysed court practise). Although strongly criticised as being over-protective, the initial enforcement practice in the Baltics can be considered as a starting point in naturally evolving IP enforcement practice in general. It can also serve as a successful model of success for fostering local creators and innovators to contemplate and establish their own IP enforcement strategies, by duly maintaining their IP assets. Such examples allow estimating necessary improvements that were highlighted in the process of the implementation of the Directive.

Nevertheless, the current national enforcement of IP rights schemes, which, as mentioned above, are generally in compliance with the harmonized provisions set out in the Enforcement Directive, should be considered more as supporting mechanisms rather than as tools fostering development of IP rights in the Baltic region. More importantly, attention should be directed towards combating the widespread negative social mentality in the Baltics towards IP rights by spreading information about such rights, educating various groups in society, and cooperating with enforcement institutions, agencies, and courts. The Baltic region is still more representative of “consumer societies” than industrial powers; and even with a high demand of IP products being observable, knowledge about IP rights is still tenuous. It is anticipated, however, that future incentives regarding innovation and the research environment in Lithuania, Latvia and Estonia, together with an effectively functioning model for the enforcement of IP rights being put in place, will help to change such perceptions and attitudes in the Baltics.