



Conseil de l'Union européenne  
Secrétariat général

**Bruxelles, 20 janvier 2022**

**WK 653/2022 INIT**

**LIMITE**

**PI  
AUDIO**

*Ceci est un document destiné à une communauté spécifique de destinataires. La manipulation et la distribution ultérieure sont sous la seule responsabilité des membres de la communauté.*

## **INFORMATION**

De:	Commission
A:	Groupe "Propriété intellectuelle" (Droit d'auteur)
N° doc. prec.:	WK 15684/2021
Sujet:	"Lutter contre le piratage des contenus sportifs en ligne", Etude de l'Observatoire européen de l'audiovisuel

Les délégations trouveront ci-joint une présentation PowerPoint (en anglais) sur le sujet susmentionné, fournie par les services de la Commission lors du groupe de travail sur la propriété intellectuelle (droit d'auteur) le 20 janvier 2022.

# Enforcement of rights in the digital environment: the specific challenges for live content, including sport

**Copyright Council Working Party**  
**20 January 2022**

# Structure of the presentation

- Introduction
- Presentation of the EAO “Mapping report of national remedies against online piracy of sport content”
- State of play and next steps

# Introduction



- Political context:
  - Commission's declaration on sport event organisers (2019)
  - IP Action Plan (November 2020)
  - Media and Audiovisual Action Plan (December 2020)
  - EP resolution of 19 May 2021 on challenges of live sports events organisers in the digital environment, asking COM to submit a legislative proposal, in particular to ensure effective remedies against online piracy of live sport events

# Commission's reply to EP resolution

- COM will complete its assessment of the challenges of sport event organisers
  - Building on the European Audiovisual Observatory (EAO) mapping study on the existing remedies against online piracy of sport content
- First half of 2022: COM will set out the actions to address online piracy of live content, including live sport events
- Important to ensure that actions proposed build on and complement the Digital Services Act in a coherent manner

# Structure of the presentation

- Introduction
- Presentation of the EAO “Mapping report of national remedies against online piracy of sport content”
- State of play and next steps

# European Audiovisual Observatory study

**“Mapping report of national remedies against online piracy of sport content”**

- Published on 17 December 2021
- Scope: EU Member States + UK
- Methodology
- Content:
  - ✓ Comparative analysis on the scope of protection of sports events and the existing enforcement remedies
  - ✓ Thematic case studies
  - ✓ Detailed country reports

# Scope of protection of sports events

## Copyright and related rights

- Sport events as such are excluded from copyright protection
- Audiovisual recordings and broadcasting of sport events can be protected by:
  - copyright (if original)
  - related rights:
    - producers of an audiovisual works for the first fixation of the work
    - broadcasters for the broadcasting signal



# Scope of protection of sports events

## Other forms of protection

- Specific regulation assigning exploitation or audiovisual rights of sport events to sport event organisers
  - Bulgaria, France, Greece, Hungary, Italy, Romania, Slovakia, Spain
- Domiciliary rights granting owners/tenants of a sport venue access control: sport events organisers can grant permission to film/broadcast and can prohibit unauthorised activities (e.g. unauthorised recording)
  - e.g. Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, Germany, Hungary, Luxembourg, Malta, Netherlands, Slovenia, Sweden

# Scope of protection of sports events

## Entitlement to take legal action

- Rightholders and licensees are entitled to take legal action in case of unauthorized recording or transmission of sport events
- Different legal basis, e.g. infringement of:
  - copyright and related rights (including the licensees)
  - domiciliary rights (unauthorised access to the premises)
  - contractual obligations (e.g. unauthorised recording)
  - specific rights granted to sport event organisers by the national law

# Legal remedies against online piracy of sports content

## Notice and action

- Different approaches in MS:
  - Notice and action measures regulated in some MS (special administrative procedures in certain MS)
  - No statutory provisions in other MS (guidelines for the procedure developed in case law e.g. in Belgium)
  - Different requirements as regards the content of the notice and the conditions to establish actual knowledge of the infringing activity

# Legal remedies against online piracy of sports content

## Removal and blocking injunctions

- Legal basis in EU law: Article 8(3) InfoSoc Directive and Articles 9 and 11 IPRED
- Injunctions most frequently addressed to Internet Service Providers (ISP) rather than directly to infringers
- Measures adopted: blocking of IP addresses or of certain URLs (most often found in case law) or removal of the illegal content
- Measures applied by courts in light of proportionality principle

# Legal remedies against online piracy of sports content

## Dynamic and live blocking injunctions

- Dynamic injunctions: allowing prevention of repeated infringement of the same protected content → extended scope to similar websites/other domain names/IP/URL
  - rightholders notify the infringing websites in time frame set out by courts
  - mainly applied in 12 MS
- Live blocking injunctions: allowing the blocking of illegal live transmissions
  - The order applies only when the live event is being broadcast, throughout e.g an entire sport season
  - Mainly used in 5 MS

# Legal remedies against online piracy of sports content

## Administrative authorities

- Administrative authorities with specific powers in relation to copyright infringement in some MS:
  - E.g. France, Greece, Italy, Lithuania, Spain - administrative authorities recently created or empowered with specific competences in relation to copyright infringement /blocking orders
  - Other authorities in Belgium, Bulgaria, Estonia, Latvia, Portugal, Slovakia; competence for e.g. out of court dispute settlement, monitoring compliance, imposition of administrative fines.

# Legal remedies against online piracy of sports content

## Voluntary forms of cooperation

- Codes of conduct or MoU identified in a few MS:
  - ✓ **MoUs:** Latvia, Poland, Portugal, Czech Republic, Slovakia
  - ✓ **Codes of conduct:** Denmark, France, Netherlands, Spain
  - ✓ **Recommendations/guidelines:** Germany, Hungary, Romania, Slovakia
- Aim: to facilitate common understanding and cooperation between various stakeholders regarding online infringements
- European MoU on online advertising and IP rights (2018)

# Structure of the presentation

- Introduction
- Presentation of the EAO “Mapping report of national remedies against online piracy of sport content”
- State of play and next steps



# State of play

- Ongoing assessment of the actions to be taken at EU level
- Contact committee meeting on 17 December 2021:
  - Several MS shared information and experience on national remedies used to fight online piracy (injunctions, administrative orders, codes of conduct and MoU)
  - Cross-border cooperation: currently limited; different views on the need to reinforce cooperation
  - Clear interest from certain MS to further discuss how to better address online piracy of live content, taking account of the DSA

# Next steps

- Further evidence to be collected in H1 2022 through meetings with stakeholders and Member States
- Three main areas of focus:
  - ✓ prompt removal of illegal content
  - ✓ injunctions
  - ✓ cooperation between the national authorities as well as private parties

# Thank you

PUBLIC



© European Union 2021

Unless otherwise noted the reuse of this presentation is authorised under the [CC BY 4.0](#) license. For any use or reproduction of elements that are not owned by the EU, permission may need to be sought directly from the respective right holders.

Slide xx: element concerned, source: e.g. Fotolia.com; Slide xx: element concerned, source: e.g. iStock.com