STANDARD SUMMARY PROJECT FICHE

1. Basic Information
1.1 Désirée Number: CZ01-04-04
1.2 Title: Enforcement of Intellectual Property Rights
1.3 Sector: Internal Market
1.4 Location: Industrial Property Office

2. Objectives
2.1 Overall Objectives:

• Existence of functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the Union.

• Implementation of the Government decision Nr. 330, dated 14.4.1999 on the Conception of the fight against the criminality in the field of intellectual property.

2.2 Project purpose:
To achieve the protection and enforcement of intellectual property rights level (including at the borders) similar to that of EU member states by:

• development of IT system

• training programmes (using of the information system and practical cases of enforcement of rights)

2.3 Accession Partnership and NPAA priority

Accession Partnership

In the part dedicated to the intellectual and industrial property the aim of strengthening of administrative and juridical enforcement of rights including the protection at the border is mentioned. Measures concerning the fulfilment of this aim are mentioned in the performance of the Conception of the fight against the criminality in the field of intellectual property (Decision of the Government Nr. 330/1999, dated 14.4.1999).

Position paper of the Czech Republic shows that CR accepts and is ready to implement (see chapter 24 "Co-operation in the fields of Justice and Home Affairs; Schengen) all necessary duties in this field. The Regular Report 2000 from the Commission on the Czech Republic evaluates progress made in the field of protection of IPR and states need of another institutional building to reach targets

NPAA 2000

The Government of the Czech Republic approved a revised version of the National Programme of Preparation of CR for Membership of the EU on 31 May 2000. In this document in Chapters:

3.2.1.14 Industrial Property
3.2.1.21 Intellectual Property
3.2.1.28 Enforcement of Industrial and Intellectual Property Rights

are described legislative, systematic and organisational measures; Short and Medium Priorities for all relevant institutions are stated and among them priority creating an
interdepartmental information system and its putting in practice, and practical assistance in the field of enforcement of rights arising from intellectual property.

International co-operation in this field takes place among others in the framework of the Regional Industrial Property Programme (RIPP) as a preparation for admission of the Czech Republic in the European Patent Organisation, which is intended to occur on July 1, 2002. When negotiating Phare RIPP programme — that means assistance to the countries of the Central and Eastern Europe in the course of incorporation into the European patent region – priority focused on professional preparation of bodies dealing with control and enforcement of Intellectual Property Rights was formulated for the Czech Republic as absolute necessity.

3. Description

3.1 Background and justification:

The Czech Republic faces a threat to be classified into a "SPECIAL 301 WATCH LIST", where countries, signatories of the TRIPS Treaty (Enclosure 1C of the Treaty on Establishment of the World Trade Organisation (WTO) concerning trade aspects to Intellectual Property Rights), are classed, in which the protection of the Intellectual Property Rights is insufficient. The Czech Republic must also react to lectures of EU concerning insufficient protection of the intellectual property, coming out within the framework of negotiations taking place during preparation of the Czech Republic for admission to EU.

To those fields a great internationally juridical, commercial as well as economical importance is generally attributed. Criminal activities affect in this field the total evaluation of the Czech Republic. In the evolution of criminality in this field is obvious, that the offenders will focus their interest not only on classic piracy in commodities such as musical MC and CD carriers, film and television production, software, textile branded articles and the like. Orientation to fields of computer art, lottery and entertainment industry, industrial and foodstuff production can be expected, too.¹

In November 1997 the Czech Republic took part in check-ups held in WTO premises and concerning national rules of law in the field of enforcement Intellectual Property Rights. There it demonstrated maturity of the national rule of law and compatibility thereof with international agreements and conventions.

Provisions of TRIPS are reflected in a novel law concerning measures taken on borders, in the novel Copyright law and in amendatory act to the Patent and Mark Law (in May 2000 was signed Memorandum of Understanding between Industrial Property Office of the Czech Republic and the Office for Harmonisation in the Internal Market (Trade Marks and Designs)). By adoption of the law concerning measures taken on borders the Czech Republic has achieved a full compatibility of its rule of law in the field of control of business with counterfeits and unlawful imitations with the EU right. However, the problem still resides in consistent enforcement of Intellectual Property Rights inside the country including unambiguous possibility to seize and destruction of surreptitious goods.

¹ According to analysis of 1998 the number of economic delinquency increased by 20 % (if compared with that of 1997); in the field of copyright the increase was 2.5 multiple; in the field of trademark rights the increase was by 94%; in the field of other industrial rights the increase was 4.8 multiple. Damages caused by economic delinquency increased by 22%; damages in the field of copyrights increased actually 422 multiple (affected by a case with extraordinary high damage exceeding 3 billions of CZK) and damages in the field of protected signs increased by 26%.
Convention on Establishment of Intellectual Property Organisation of 1967 determines, that intellectual property comprises rights to:

- Literary, artistic and scientific works
- performances of performing artists, phonograms, broadcasts
- inventions
- scientific discoveries
- industrial designs
- trademarks, trade names and designations.

In addition thereto it comprises protection against unfair competition and other rights, resulting from intellectual activity in the field of industry, science, literature or art.

The above indicated enumeration shows, that the intellectual right object can be either ideas implemented in the field of economy (industrial property) or interpretation of ideas that is artistic, literary, or technical works. These rights are based on territorality principle; i.e. the rights determined by law of a certain state are protected on the territory of that state. The task of international agreements is to labour for achievement of protection in all the states, where the work can be used and if possible in such a manner that the protection is identical or similar as far as the contents is concerned.

- **Industrial rights**
  As rights to results of creative activity lacking individual nature we distinguish:
  
  a/ **patent rights** (Industrial Property Office confers a patent to invention)
  b/ **industrial design rights** (Industrial Property Office delivers a certificate)
  c/ **utility model rights** (Industrial Property Office brings out a certificate)
  d/ **semiconductor topography protection rights** (Industrial Property Office delivers a certificate)

- **Designation rights** are the following:
  
  a/ **trade name rights** (registration in Trade Register)
  b/ **trademark rights** (Industrial Property Office keeps in a Register)
  c/ **right to designation of origin of goods** (Industrial Property Office keeps in a Register)

- **Copyright**
  Object of protection according to copyright are literary, artistic and scientific works resulting from creative activity of author such as:
  
  a/ literary works – written, verbal – recorded in various manner (audio, video)
  b/ dramatic works
  c/ musical works
  d/ artistic works
  e/ movies
  f/ photographic works
  g/ cartographic works
  h/ computer programs

  The copyright also controls protection of rights relative to the copyright such as:
  a/ rights of performing artists
  b/ rights of sound record producers
  c/ right of broadcasting and television organisations
3.2 Linked activities:

Through a Decision of October 29, 1997 No. 673 the Czech Republic Government entrusted Ministry of Interior with elaboration of "Conception of the struggle against business with false and surreptitious goods". After finish of interdepartmental procedure of comments, this conception became a base for the Decision of the Government of the Czech Republic No. 330, dated 14.4.1999, which already contains concrete measures in struggle against this kind of delinquency as well as tasks for individual central government authorities. Protection against these undesired phenomena must be carried out in comprehensive manner. In July 1997 there was signed an Agreement on Cooperation (extended in June 1998 by other participants) among:

- Czech Trade Inspection (CTI)
- Police of the Czech Republic (PCR)
- Ministry of Finance – General Directorate of Customs (GDC); Central Directorate of Taxes
- Industrial Property Office (IPO)
- Ministry of Industry and Trade – trade department (MIT)
- Ministry of Culture (MC)

One of the first outputs of the team was the establishment of Principles of Cooperation in Protection of Internal Market determining procedures, information flows, contact places so, that all ascertained infringements of rules could be qualified either as administrative delinquency or criminal act. Based on these agreements, training of CTI in recognition of genuineness of textile goods of the famous trademarks is just under way.

Another agreement was concluded between CTI and MIT with respect to mutual provision of information relay.

A platform on which interdepartmental co-operation takes place is also the Interdepartmental Advisory Commission grounded in 1997 in Ministry of Industry and Trade of the Czech Republic. In work of this commission participate representatives of Ministry of Culture, Interior, Justice, Finance, Agriculture, Foreign Affairs, Industry and Trade, Office for Protection of Economic Competition, Supreme and Upper Courts, Industrial Property Office, Czech Trade Inspection, General Directorate of Customs and Police of the Czech Republic. Negotiations of this body are attended also by non-governmental subjects acting in the field of protection of intellectual property (such as patent offices, Performing Rights Society, International Federation of Photographic Industry and the like).

3.3 Results:

- Information centre created, where information needful for enforcement of rights in the field of intellectual property were collected, converted, classified and filed.
- Staff trained and capable to apply legislation and information from the system.
- Functional information system as a part of system of intellectual property rights protection comparable with the level in EU, contributing particularly to quick exchange of information and herewith improving conditions for “outdoor” acting authorities (on border, customs, in market halls, shops, during inspections carried out at producers and the like, including training programs and practical assistance established.
• Statistics of criminal acts, offences and other administrative delinquencies in this sphere as a basis for consistent methodology for detection and investigation of unlawful acts prepared.

• Legal certainty of owners of the trademarks, applied according to the Madrid Agreement Concerning the International Registration of Marks, strengthened.

These results can be more specified as following:

- in the sphere of further education to contribute to a proposal and implementation of educational projects, common for the Police of the Czech Republic, state attorneys, judges, CTI employees, the MIT trade department, trade licensing offices, revenue departments and customs authorities
- to analyse situation in the field of infringement of Intellectual Property Rights, to analyse mutual possibilities and needs for assuring information flow among subjects acting in the sphere of protection of Intellectual Property Rights,
- to determine concrete criteria and to regularly evaluate according to those criteria the work of individual bodies in struggle against illegal activity in the sphere of Intellectual Property Rights – trade licensing offices, CTI, Police of the Czech Republic, Custom General Directorate,
- to participate in projects of preventive safety actions aimed at combating criminality in this sphere,
- to contribute to elaboration of consistent methodology of detection and investigation of facts of the cases of criminal acts, offences and other administrative delinquencies as well as a consistent methodology of sanctioning,
- to contribute to co-ordination of activity of CTI and trade licensing offices
- to monitor all cases of criminality against Intellectual Property Rights and thus to contribute to greater efficiency of struggle of the state authorities against this kind of unlawful activity
- by establishment of the Steering Committee to contribute to better interdepartmental co-ordination of activities concentrated on struggle against unlawful actions infringing Intellectual Property Rights
- by employing foreign experience in the sphere of struggle against illegal actions in the field of the Intellectual Property Rights to contribute to increase efficiency of such struggle in the Czech Republic

3.4 Activities:

• Training programmes:
  1. Creation of methodology of training programme for IPR (specific for the Czech Republic) and for exploitation of information system
  2. Elaboration of materials for training to be carried out in organisations concerned,
  3. Training of staff concerned (Trade Inspection, Police, Directorate of Customs, Taxes, Industrial Property Office, Ministry of Industry and Trade, of Culture, Courts and other governmental and non-governmental subjects, for enforcement of intellectual property rights and work with the information system (staff trained yearly – 500 persons),
  4. Periodical evaluation of responsible personnel by making use of information system outputs.

This part of the project is a practical tuition and assistance in enforcing rights. After establishment a methodology of the own enforcement of Intellectual Property
Rights an educational programme will be prepared for all subjects concerned, which programme will comprise conferences, workshops, training blocks (also outdoors), panel discussions, consultation services. Also issue of professional publications, manuals, CD-ROMs, videocassettes and DVD-ROMs is connected therewith.

Among others the training will be provided in the form of:

a/ a workshop for staff of criminal police, border police, customs offices, and CTI focused on recognition of counterfeits and unlawful reproductions

b/ workshop for judges concerning "Foreign practice in decision on cases of Intellectual Property Right infringement and accounting damages caused by such infringement"

c/ workshop for examiners of the Police of the Czech Republic and state attorneys "Proof of criminal activity directed against intellectual property"

d/ workshop on Internet and digital piracy.

to focused on following matters

- Overview of the legal framework for enforcement Industrial Property Right (IPR)
- Customs legislation and procedures in Czech Republic
- Best practice for Customs and business within EU Customs / border
- Trends, routs and methods how to identify suspect consignment from commercial documentation / information
- How to differentiate genuine product from counterfeit goods
- After detection, what next, who does what?
- Minimum Standards in supporting of Customs action, i.e. When they will follow-up, prosecute etc.
- Role of the Police
- Police / Customs partnership issues and opportunities
- Enforcement driven by rights holders – an introduction to REACT
- Case studies, involving Customs seizure in the region
- Risk analysis
- Identifying the key points which should be included in a National Action Plan for improving IP protection

- **Purchase of IT equipment** – a server - to Information centre (by the end of 2001 year). The server, being accessible all over 24 hours end exhibiting adequate technical reliability, database storage area, data archive and relevant software developed for this purpose. Individual authorities concerned will have their own data box. Access rights of the individual authorities will define the range of dealing with information present in the boxes. (National Co-financing of Project comprises the purchase database storage area and data archive.)

- **Development of special SW and conversion modules** (data conversion), ensuring safety of information system, acquisition of SW licences. (National Co-financing of Project: hardware and software support, administration of the information system, processing of the data increase, Internet connection.)

After analyses were carried out by individual subjects of both governmental and non-governmental spheres and after final discussion on the main contemplation and aim of information flow, there was elaborated a draft project of **interdepartmental (inter-ministerial) information system** contributing particularly to quick exchange of
information among participating subjects for carrying out analyses of the state of Intellectual Property Rights and to higher efficiency of the right enforcement. This draft emanates from needs of individual subjects of protection of the Intellectual Property Rights and from needs of implementation of collaboration among supervisory bodies. The content of individual chapters is adapted to needs as well as possibilities of the individual authorities given particularly by competencies to control.

The system can be considered as open, it means that other bodies, such as public prosecutor offices, courts and the like can enter it after mutual agreement of parties concerned and definition of access rights. Also the proposed content of the data boxes is to be considered as an open matter, that will be on the base of practical needs and knowledge gained from application of supervision, operatively adapted to needs of collaboration of the individual authorities.

The draft project assumes establishment of one centre, where information, needful for enforcement of rights in the field of intellectual property will be collected, converted, classified and filed. This centre will be equipped with a server of requisite capacity, being accessible all over 24 hours end exhibiting adequate technical reliability. The server will be located in the Industrial Property Office, which is from the point of information provision for enforcement of Intellectual Property Rights, the basic information source for the appropriate supervisory bodies. In this main server the individual authorities concerned will have their own data box, which will serve for needs of the co-operating authorities, too. Each authority will fill its own information box with required data and arrange for continuous updating thereof. The boxes of other authorities will be available for them to look in or optionally select must data for his own activity. Access rights of the individual authorities will define the range of dealing with information present in the boxes.

Operating the interdepartmental information system requires a special software application including conversion program units for the data conversion. The members of the interdepartmental information system and the basic scope of the information provided are stated in the Annex 6.

Building-up of a fully functional system in the aforementioned scope will be through following steps:

- Analysis of actual situation, development of Internet application, development of conversion modules, acquisition of SW licenses and ensuring safety of the information system.

Assessment of Enforcement Practises\(^2\) is needed to have an overview of the existing possibilities and practice of enforcement in the country. The assessment particularly

\(^2\) CUSTOMS PROTECTION

1. Is there a customs procedure in place according to TRIPS or EU regulation 3295/94?
   
   If yes, then:
   - How does one apply for customs protection?
   - What are the requirements of companies (documents, fees, and guaranties)?
   - What are the powers of customs (with regard to passing information onto right owners, holding the products, initiating administrative procedures)?
   - Can goods in transit, export or in free zones be stopped?
   - Which are the bodies within customs dealing with the applications and is there a centralisation of the notifications?
   
   If not, then:
   - Is there an alternative way to stop counterfeit products at the frontier?

2. How does one follow up detentions by customs officers?
   - Is there an administrative procedure?
   - Can the goods be seized through a criminal complaint or civil action and what type of criminal or civil measure is required?
   - Who takes care of the storage and destruction of goods?
   - What is the current practice with regard to customs protection: any obstacles?
focuses on customs protection, as this is the most effective tool in the anti-counterfeiting fight. Moreover, customs protection can in general be improved more easily and rapidly than civil and criminal sanctions.

- Acquisition of central data and application system server.
- Acquisition of database deposit.
- Acquisition of data archives – basic information of organisational structure, competencies, contact places of individual participants of the information system and their allocation in the server, conversion of the existing data.
- Data conversion and deposition of signal information for co-operating authorities in individual boxes.

4. Institutional Framework

Institutional responsibilities are given by the Decision of the Government of the Czech Republic No. 330, dated 14.4.1999 on the Conception of the struggle against the criminal acts in the field of intellectual property.

Steering Committee - will be established in the course of the implementation of the project. It consists of representatives of following institutions:

- Industrial Property Office
- Ministry of Industry and Trade
- Ministry of Finance – Directorate General of Customs
- Ministry of Culture
- Ministry of Internal Affairs
- Ministry of Justice
- Police of the Czech Republic
- Czech Trade Inspection
- Czech Agriculture and Foodstuff Inspection

The Steering Committee will be headed by Mr. Josef Kratochvíl, Deputy President of The Industrial Property Office, Antoníněa Cermáka 2a, 160 68 Praha 6, Czech Republic, phone: +420-2-20383272, fax: +420-2-20383229, e-mail: jkratochvil@upv.cz.
5. Detailed Budget in M €

<table>
<thead>
<tr>
<th>Project Components</th>
<th>Phare</th>
<th>Support</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Investment Support</td>
<td>Institution Building</td>
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<tr>
<td>Contract (1) supply of HW</td>
<td>0.09</td>
<td>0.09</td>
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<td>Contract (2) supply of HW</td>
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<td>Contract (3) Supply of SW</td>
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<td>0.58</td>
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<tr>
<td>Contract (4) Supply of SW</td>
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<tr>
<td>Contract (5) TA</td>
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<td>0.43</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>0.67</strong></td>
<td><strong>0.43</strong></td>
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<table>
<thead>
<tr>
<th>Phare</th>
<th>Support</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Phare (=I+IB)</td>
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</tr>
<tr>
<td>National Cofinancing</td>
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</tr>
<tr>
<td>IFI</td>
<td></td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>1.70</strong></td>
</tr>
</tbody>
</table>

6. Implementation Arrangements

6.1. Implementing Agency

The CFCU is the Implementing Agency responsible for tendering, contracting and accounting. The beneficiary is responsible for technical preparation and control. Steering Committee mentioned above is involved in control activities.

The Contact Person for this Project is Mr. Ludek Churácek, Head of Financial Division of The Industrial Property Office, Antonína Cermáka 2a, 160 68 Praha 6, Czech Republic, phone: +420-2-20383522, fax: +420-2-24324718, e-mail: lchuracek@upv.cz.

6.2. Twinning

N/A

6.3. Non-standard aspects

The "Practical Guide to Phare, Ispa & Sapard contract procedures" shall be followed.

6.4. Contracts

3 contracts will follow:
- Contract (1) – Supply of HW – 0.09 M €
- Contract (3) – Supply of SW – 0.58 M €
- Contract (5) – Technical Assistance – 0.43 M €

7. Implementation Schedule

7.1. Start of tendering/call for proposals 1Q / 2002

7.2. Start of project activity 2Q / 2002
7.3. Project Completion 2Q / 2004

8. Equal Opportunity
Equal opportunity principles and practices in ensuring equitable gender participation in the project will be guaranteed.

9. Environment N/A
10. Rates of Return N/A
11. Investment criteria N/A

12. Conditionality and sequencing
The following assumptions are made:
- Continued commitment of the Government towards the struggle against the criminal acts in the field of intellectual property
- Continued commitment of other state (and non-state) organisations and their regional and local actors
- Sufficient technical/expert capacity of the Industrial Property Office to maintain the IS
- Availability of qualified staff from all institutions involved
- Well-functioning co-operation between the IA, Industrial Property Office and the Steering Committee

Actions supported through this IS need to be co-ordinated by IA with the actions supported through the corresponding Czech programmes and other Phare programmes in support struggle against the crime in this field.

ANNEXES TO PROJECT FICHE
1. Logical framework matrix in standard format
2. Detailed implementation chart
3. Contracting and disbursement schedule by quarter for full duration of programme
4. List of relevant Laws and Regulations
5. Subjects acting in the field of protection of the Intellectual Property Rights
6. The members of the interdepartmental information system and the basic scope of the information provided
**LOGFRAME PLANNING MATRIX FOR**

<table>
<thead>
<tr>
<th>Project</th>
<th>Enforcement of intellectual property rights</th>
<th>Contracting period expires: 31/10/2003</th>
<th>Disbursement period expires: 31/10/2004</th>
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<tbody>
<tr>
<td>Programme name and number:</td>
<td>1.1 CZ01-04-04</td>
<td>Total Budget: 1.7 MEUR</td>
<td>Phare contribution: 1.1 MEUR</td>
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</table>

**Overall objective**

- Existence of functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the Union;
- Implementation of the Government decision Nr. 330, dated 14.4.1999 on the Conception of the fight against the criminality in the field of intellectual property.

<table>
<thead>
<tr>
<th>Objectively verifiable indicators</th>
<th>Sources of verification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acknowledgement by the European Commission.</td>
<td>EC Regular Report</td>
</tr>
</tbody>
</table>

**Project purpose**

- To achieve the protection and enforcement of intellectual property rights level (including at the borders) similar to that of EU member states by:
  - development of IT system
  - training programmes (using of the information system and practical cases of enforcement of rights)

<table>
<thead>
<tr>
<th>Objectively verifiable indicators</th>
<th>Sources of verification</th>
<th>Assumptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stabilisation of economical environment</td>
<td>National statistic</td>
<td>Continuation in fulfilment of the Government decision Nr. 330, dated 14.4.1999 on the Conception of the fight against the criminality in the field of intellectual property;</td>
</tr>
<tr>
<td>Reduction in number of false imitations articles put on the market</td>
<td>Statistics of international organisations;</td>
<td></td>
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<tr>
<td>Reduction of the scope of illegal goods passing the border;</td>
<td>Analytical and comparison studies</td>
<td>Other parts of acquis implemented</td>
</tr>
<tr>
<td>Increase in number of detected and clarified criminal acts at least on 30%</td>
<td>Reports on project course</td>
<td></td>
</tr>
<tr>
<td>Increase in number of offenders investigated and convicted</td>
<td>Annual reports of individual subjects;</td>
<td></td>
</tr>
<tr>
<td>Information flows among subjects concerned (state and non-governmental)</td>
<td>Collection of laws</td>
<td></td>
</tr>
<tr>
<td></td>
<td>National statistics/reports</td>
<td></td>
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<td></td>
<td>International business reports</td>
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</tbody>
</table>

**Results**

- Information centre created, where information needful for enforcement of rights in the field of intellectual property were collected, converted, classified and filed

<table>
<thead>
<tr>
<th>Objectively verifiable indicators</th>
<th>Sources of verification</th>
<th>Assumptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of detected delinquencies and that with completed investigation</td>
<td>National statistics</td>
<td>Continuation of International co-operation in this field;</td>
</tr>
<tr>
<td>Number of accused and convicted offenders</td>
<td>Reports on project course</td>
<td>Qualified staff available</td>
</tr>
<tr>
<td>Number of accesses to individual</td>
<td>Reports of DEC</td>
<td>Legislation continuously answer to rapidly developing technical progress e.g. in the field of computers and Internet trade</td>
</tr>
<tr>
<td></td>
<td>Court, customs and police statistics and reports</td>
<td>Sufficient co-ordination of individual subjects</td>
</tr>
</tbody>
</table>
- Staff trained and capable to apply legislation and information from the system
- Functional information system as a part of system of intellectual property rights protection comparable with the level in EU, contributing particularly to quick exchange of information and herewith improving conditions for “outdoor” acting authorities (on border, customs, in market halls, shops, during inspections carried out at producers and the like, including training programs and practical assistance established
- Statistics of criminal acts, offences and other administrative delinquencies in this sphere as a basis for consistent methodology for detection and investigation of unlawful acts prepared
- Legal certainty of owners of the trademarks, applied according to the Madrid Agreement Concerning the International Registration of Marks, strengthened

<table>
<thead>
<tr>
<th>Activities</th>
<th>Means</th>
</tr>
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<tbody>
<tr>
<td>boxes of the information system server</td>
<td>Restriction of illegal sales</td>
</tr>
<tr>
<td></td>
<td>Restriction of the area for corruption</td>
</tr>
<tr>
<td></td>
<td>Restriction of illegal import of goods imitation</td>
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<td></td>
<td>Increasing number of detected cases of illegal audio-record, video-record and software copies</td>
</tr>
<tr>
<td></td>
<td>Decrease of loss of the intellectual property right owners on the level usual in the EU MS</td>
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<tr>
<td></td>
<td>Increase in professional level of personnel inspecting “outdoor” legitimacy in protection of intellectual property rights</td>
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<tr>
<td></td>
<td>Decrease of number of future disputes between the owners of national and community trademarks</td>
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<tr>
<td></td>
<td>All 500 staff from relevant organisations (yearly) received training on practical enforcement of intellectual property rights</td>
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</tbody>
</table>

Assumptions
• Training of staff:
  − **Creation of methodology** of training programme for IPR (specific for the Czech Republic) and for exploitation of information system
  − **Elaboration of materials** for training to be carried out in organisations **concerned**
  − **Training of staff** concerned (Trade Inspection, Police, Directorate of Customs, Taxes, Industrial Property Office, Ministry of Industry and Trade, of Culture, Courts and other governmental and non-governmental subjects, for enforcement of intellectual property rights and work with the information system (staff trained yearly – 500 persons)
  − Periodical evaluation of responsible personnel by making use of information system outputs
• **Purchase of IT equipment** – a server - to Information centre (by the end of 2001 year). The server, being accessible all over 24 hours end exhibiting adequate technical reliability, database storage area, data archive and relevant software developed for this purpose. Individual authorities concerned will have their own data box. Access rights of the individual authorities will define the range of dealing with information present in the boxes
• **Development of special SW and**

• **TA contract for Services** provided (from 01/2002 to 06/2003) by specialist firm(s) in the field of intellectual property rights, provided via training seminars, consultations with intellectual property rights experts from EU Member States (Training programs: training of the employees of police, state attorneys, judges, trade inspection, agricultural and foodstuff inspection, trade licensing offices, revenue departments and customs authorities - including training materials). For the purpose of TA services the special knowledge of the Office for Harmonisation in the Internal Market (OHIM), European Patent Office (EPO) and the Permanent Committee for Enforcement of Intellectual Property Rights (WIPO) can be used. Foreseen costs for the TA services and the training programs are 0,43 MEUR. (Service contract - Open tender)
• **TA contract for Supply of equipment** – a server; foreseen costs of the contract 0,09 MEUR (Supply contract - Open tender)
• **TA contract for Development of SW for Information system + data conversion**; foreseen costs of the contract 0,58 MEUR (Service contract – Open tender)

Three TA contracts are foreseen.

• **Co-financing from State budget**
• **Creation of Information centre with skilled staff by IPO;**
• **Installation of Database deposit**
• **Basic information of organisational structure, competencies, contact places of individual participants etc. are collected and available in IPO**
Preconditions

- A dynamic system of co-operation between the state authorities and non-governmental organisations dealing with the area of copyright and relative rights protection created (e.g. INTERGRAM – Independent Society of Effective Artists and Producers of Audio and Audio-Video Records, International Federation of Phonographic Industry (IFPI), Czech Anti-Piracy Union (CPU), Business Software Alliance (BSA));
### Detailed Implementation Chart for the Project:

#### Enforcement of Intellectual Property Rights

<table>
<thead>
<tr>
<th>Year</th>
<th>Detailed Project Implementation</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Start: Signing of Financing</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>Memorandum of the Program Phare 2001</td>
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</tr>
<tr>
<td></td>
<td><strong>a) Supply of equipment - server</strong></td>
<td></td>
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<tr>
<td></td>
<td>Tendering</td>
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<tr>
<td></td>
<td>Contracting</td>
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<tr>
<td></td>
<td>Installation</td>
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<tr>
<td></td>
<td>Check-out routine</td>
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<td></td>
<td>Handing-over</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td><strong>b) Software development + Data conversion</strong></td>
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</tr>
<tr>
<td></td>
<td>Tendering</td>
<td></td>
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<tr>
<td></td>
<td>Contracting</td>
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<tr>
<td></td>
<td>Elaborating of SW</td>
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<td></td>
<td>Installation</td>
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<td>Check-out routine</td>
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<td>Data conversion</td>
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<tr>
<td></td>
<td>Handing-over</td>
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<td></td>
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<tr>
<td></td>
<td><strong>c) TA + training</strong></td>
<td></td>
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</tr>
<tr>
<td></td>
<td>Tendering</td>
<td></td>
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<tr>
<td></td>
<td>Contracting</td>
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<tr>
<td></td>
<td>Creating of methodology</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>Elaborating of training materials</td>
<td></td>
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<tr>
<td></td>
<td>Training of staff concerned</td>
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<tr>
<td></td>
<td>Final report</td>
<td></td>
<td></td>
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</tbody>
</table>

**Note:** The chart indicates the months where tasks are scheduled to be completed.
Cumulative Contracting and Disbursement Schedule for the Project (MEUR)  

Cumulative Quarterly Contracting Schedule (MEUR)

<table>
<thead>
<tr>
<th>Project</th>
<th>1Q/02</th>
<th>2Q/02</th>
<th>3Q/02</th>
<th>4Q/02</th>
<th>1Q/03</th>
<th>2Q/03</th>
<th>3Q/03</th>
<th>4Q/03</th>
<th>1Q/04</th>
<th>2Q/04</th>
<th>3Q/04</th>
<th>4Q/04</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Enforcement of Intellectual</td>
<td>1,10</td>
<td></td>
<td></td>
<td></td>
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<td></td>
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<td></td>
<td></td>
<td>1,10</td>
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<tr>
<td>Property Rights</td>
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</tr>
</tbody>
</table>

Cumulative Quarterly Disbursement Schedule (MEUR)

<table>
<thead>
<tr>
<th>Project</th>
<th>1Q/02</th>
<th>2Q/02</th>
<th>3Q/02</th>
<th>4Q/02</th>
<th>1Q/03</th>
<th>2Q/03</th>
<th>3Q/03</th>
<th>4Q/03</th>
<th>1Q/04</th>
<th>2Q/04</th>
<th>3Q/04</th>
<th>4Q/04</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Enforcement of Intellectual</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>0,20</td>
<td>0,30</td>
<td>0,40</td>
<td>0,60</td>
<td>0,80</td>
<td>0,90</td>
<td>1,00</td>
<td>1,10</td>
<td>1,10</td>
</tr>
<tr>
<td>Property Rights</td>
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<td></td>
</tr>
</tbody>
</table>

Date of drafting 22. 2. 2001

Project fiche CZ01-04-04
List of relevant Laws and Regulations

INDUSTRIAL RIGHTS

- Law No. 116/2000 Coll., amending some Acts on the Protection of Industrial Property,
- Law No. 159/1973 Coll., concerning the Protection of Appellations of Origin of Products,
- Law No. 132/1989 Coll., on Legal Protection of New Plant Varieties and Breeds of Animals,
- Law No. 207/2000 Coll., of the Protection of Industrial Designs and the Amendment to Act No. 527/1990 of Coll., on Inventions, Industrial Designs and Rationalization Proposals, as amended,
- Law No. 331/1991 Coll., on Certificates for Methods for Prevention, Diagnosis and Treatment of Diseases,
- Law No. 529/1991 Coll., on the Protection of Topographies of Semiconductor Products,
- Law No. 368/1992 Coll., concerning management of charges collected by the administrative authorities of the Czech Republic as amended by regulations modifying an amending thereof,
- Law No. 478/1992 Coll., on Utility Models,
- Law No. 14/1993 Coll., on Measures concerning Industrial Property Protection,
- Law No. 21/1993 Coll., modifying the Law No. 2/1969 Coll., concerning establishment of ministries and other central bodies of the public service of the Czech Republic,
- Law No. 137/1995 Coll., on Trademarks,
- Law No. 513/1991 Coll., Commercial Code as amended by later regulations,
- Decree of the Office of Inventions and Discoveries No. 160/1973 Coll., on the Procedure in respect of Appellations of Origin of Products,
- Decree of the Federal Office for Inventions No. 550/1990 Coll., on the Procedure in Matters of Inventions and Industrial Designs,
- Decree of the Industrial Property Office No. 213/1995 Coll., to implement the Law on Trademarks;
- Paris Convention for the Protection of Industrial Property (Decree No. 64/1975 in the wording of the Decree No. 81/1986),
- Madrid Agreement Concerning the International Registration of Marks (Decree No. 65/1975 in the wording of the Decree No. 78/1985),
- Madrid Agreement for the Repression of False of Deceptive Indications of Source on Goods (Degree No. 68/1975),
- Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks (Decree No. 118/1979 in the wording of the Decree No. 77/1985),
- Lisbon Agreement for the Protection of Appellations of Origin and their International Registration (Decree No. 67/1975 in the wording of the Decree No. 79/1988),
- Locarno Agreement Establishing an International Classification for Industrial Designs (Decree No. 28/1981 in the wording of the Decree No. 85/1985),
- Strasbourg Agreement Concerning the International Patent Classification (Decree No. 110/1978 in the wording of the Decree No. 86/1985),

COPYRIGHT

- Act Nr. 121/2000 Coll., on Copyright, Rights Relating to Copyright and Amendments to Other Acts (Copyright Act),
- Law No. 35/1965 Col., on literary, scientific and artistic works (Copyright Act) as amended by later regulations,
- Decree No. 196/1954 Coll., concerning tariffs of royalties for public non-theatrical performance of musical works as amended by the decree No. 183/1968 Coll.,
- Decree No. 55/1978 Coll., on exceptions from obligation to negotiate written contract for propagation of literary, scientific and artistic works,
- Decree No. 15/1991 Coll., concerning adjustment of fees and indemnification of authorised subjects for use objects of protection according to Copyright Act by making audio and audio-video reproduction and by public lending out photographs for personal use as amended by the Decree No. 520/1992 Coll.,
- Decree No. 116/1991 Coll., concerning adjustment of fee tariffs of effective artists and indemnification of producers of audio and audio-video reproduction records for use the recorded performances or sounds and audio and a audio-video snaps in public performances through mediation of technical equipment,
- Decree No. 117/1991 Coll., concerning organisation of public performances as amended by the Decree No. 165/1992 Coll.,
- Decree No. 241/1991 Coll., concerning exclusive authorisation of some organisations representing authors or effective artists as amended by the Decree No. 165/1992 Coll.,

PENAL LAW SPHERE
- Law No. 140/1961 Coll., Penal Code,
- Law No. 283/1991 Coll., on Police,
- Law No. 200/1990 Coll., on Offences
- Law No. 13/1993 Coll., Tax Law,
- Law No. 102/1992 Coll., on Communities,
- Decree Federal Ministry of Finance No. 61/1986 Coll., concerning provisional administration of national property,
- Law No. 455/91 Coll., Commercial Code,
- Law No. 303/97 Coll., on Consumption Taxes as amended by later regulations,
- Decree No. 337/93 Coll., on periods determined for selection and naturalisation of the Czech Republic to citizens of the Slovak Republic,
- Law No. 563/91 Coll., on Accountancy,
- Law No. 123/92 Coll., on movement of foreigners in the Czech Republic territory,
- Law No. 141/61 Coll., Criminal Procedure Code,
- Law No. 86/1986 Coll., on Czech Trade Inspection,
- Law No. 634/1992 Coll., on Consumer Protection as amended by later regulations,
- Law No. 22/1997 Coll., on Technical Product Requirements,
- Law No. 303/1993 Coll., on Cancellation of the State Tobacco Monopoly and on Measures Connected therewith as amended by later regulations,
- Law No. 136/1994 Coll., on Dyeing and Marking some Hydrocarbon Fuels and Lubricants and of measures connected therewith,
- Decree No. 174/1992 Coll., on pyrotechnical articles,
- Law No. 505/1990 Coll., on Metrology,
- Law No. 37/1989 Coll., on Struggle against Alcoholism and Addiction,
- Decree No. 92/1999 Coll., on Marking of Textile Articles,
- Law No. 110/1997 Coll., on Foodstuffs,
- Law No. 337/1992 Coll., on Tax and Fee Administration.
Subjects acting in the Sphere of Intellectual Right Protection

Governmental Institutions

a) Police of the Czech Republic
   Headquarters: 170 00 Praha 7, Strojnická 27
   Tel.: 02/61421115

b) Customs General Directorate - Ministry of Finance of the Czech Republic
   Headquarter: 140 96 Praha 4, Budejovická 7
   Tel.: 02/61331111

c) Central Directorate of Revenue and Taxes – Ministry of Finance of the Czech Republic
   Headquarter: 118 10 Praha 1, Lazarská 7
   Tel.: 02/5704 1111

d) Czech Trade Inspection
   Headquarter: 110 01 Praha 1, Štepánská 15
   Tel.: 02/96366111

e) Czech Agricultural and Foodstuff Inspection
   Headquarter: 150 00 Praha 5, Jindricha Plachty 16
   Tel.: 02/57321254

f) Ministry of Industry and Trade of the Czech Republic
   Headquarter: 110 00 Praha 1, Na Františku 32
   Tel.: 02/24851111

g) Ministry of Culture of the Czech Republic
   Headquarter: 160 00 Praha 6, Milady Horákové 139
   Tel.: 02/57085111

h) Industrial Property Office
   Headquarter: 160 68 Praha 6, Ant. Cermáka 2a
   Tel.: 02/20383111

Non-governmental organisation

acting in the sphere of the Intellectual Property Right protection:

a) Performing Rights Society (P.R.S)
   Headquarter: 160 56 Praha 6, Cs. armády 20
   Tel.: 02/2431176 - 83

This institution stands up for interests of authors of music and music lyrics during public reproduction thereof, collects royalties from organisers of public musical performances. Based on international agreements concluded with similar institutions abroad it also represents foreign authors of lyrics and composers on the Czech Republic territory. Through the mediation of contractual institutions are our authors (members of the Society) represented abroad. P.R.S. built-up a network of inspectors of public musical performances operating all over the Czech Republic territory. It is authorised to enjoin to the organiser „Prohibition of use of all protected musical works“, so far as the latter infringes the provisions of the Copyright Law. The Police of the Czech Republic employs this „Prohibition“ for providing documentary evidence...
for subjective aspect of the respective criminal act facts of the case according to paragraph No. 152 of the Penal Law.

b) **INTERGRAM** – independent Society of effective artists and producers of audio and audio-video records  
**Headquarter:** 110 00 Praha 1, Na Porící 27  
**Tel.:** 02/ 2311392

Protects interests of effective artists (singers, musicians and producers of audio-video records). Concludes contracts with organisers of public musical performances and collects royalties. Has a network of about 10 inspectors operating all over the Czech Republic territory.

c) **International Federation of Phonographic Industry (IFPI)**  
**Headquarter:** 112 82 Praha 1, Senovážné námestí 23  
**Tel.:** 02/ 2414 2373

It is a national group of IFPI for the Czech Republic. Protects interests of manufacturers of phonographic industry. Its inspectors co-operate in detection and provision of documentary evidence of production, import and distribution of surreptitious carriers, particularly MGF cassettes and compact disks. It is qualified to elaborate and for purposes of criminal proceedings submit opinions on illegitimacy of a record recorded on the carrier. Has representations nearly in all countries of the world and headquarter of the European section is in London.

d) **Theatrical and Literary Agency (DILIA)**  
**Headquarter:** 190 03 Praha 9, Krátkého 1  
**Tel.:** 02/ 826 841 - 8, extension line 102

This Agency protects interests of theatrical, written and graphic work authors. It is authorised to collect fees from sale of reproduction thereof.

e) **Czech Anti-piracy Union (CPU)**  
**Headquarter:** 186 00 Praha 8, Pobrežní 22  
**Tel.:** 02/ 2328762

This Union is active in the sphere of struggle against surreptitious video records. Generally it co-operates also with the national group of IFPI of the Czech Republic. It is qualified to elaborate and for purposes of criminal proceedings submit opinions on illegitimacy of a record recorded on the carrier. Has representations nearly in all countries of the world.

f) **Business Software Alliance (BSA)**  
**Lawyer’s office:** Burns & Schwartz  
**Headquarter:** 110 00 Praha 1, Senovážné nám. 3  
**Tel.:** 02/ 24210270

Stands in for interests of the world producers of software (such as Microsoft, Software 602, Autodesk, Novell and others). Acts preventively in the sphere of suppression of software piracy.

g) **Software and Hardware Protect - SWHW**  
**Headquarter:** 110 00 Praha 1, Valdštejnská 20  
**Tel.:** 02/ 534671

Acts in the field of protection right of minor software producers, particularly those of the Czech republic. Searches for subjects suspected of unlawful use of software.

h) **JRC Interactive**  
**Headquarter:** 150 00 Praha 5, Naskové 3  
**Tel.:** 02/ 57189523

A Society protecting interests of copyright holders to software games. Goods technologists are ready to carry out at any time an expert opinion, optionally to provide needful materials and documentary evidence or indicia.
System participants – managers of individual data boxes:

a/ Industrial Property Office  
b/ Ministry of Culture  
c/ Czech Trade Inspection  
d/ Czech Agricultural and Foodstuff Inspection  
e/ Ministry of Finance – Directorate General of Customs  
f/ Ministry of Finance – Central Directorate of Taxes  
g/ Police of the Czech Republic  
h/ Trade Licensing Offices, Trade department of MIT  
i/ Non-governmental organisations acting in the field of copyright protection  
j/ Other participants according to requirements  
- (CTI)  
- (PCR)  
- (GDC); Central Directorate of Taxes  
- (IPO)  
- Ministry of Industry and Trade – trade department (MIT)  
- (MC)

Basic range of information provided

Industrial Property Office
- competency of the Industrial Property Office  
- organisation chart of the Office and contact places  
- legal regulations relating to protection of industrial property  
- database of administrative decisions – judicial acts  
- Office Bulletin  
- database of trade marks  
- database of utility models  
- database of published patent applications  
- database of patents  
- database of appellations of origin  
- database of industrial designs

Ministry of Culture
- database from the field of copyright protection (co-operation of the Ministry of Culture and non-governmental organisations)  
- legal regulations relating to copyright protection.

Filling-up and updating the databases will be resolved in co-operation with the non-governmental organisations representing appropriate fields of copyright. Such co-operation, respectively involvement of the non-governmental organisations in the suggested system is necessary in view of difference in the form of rise and legal protection of copyrights. Among relevant organisations are such as Intergram, International Federation of Phonographic Industry (IFPI), Business Software Alliance (BSA), Czech Anti-Piracy Union.

Ministry of Finance – Directorate General of Customs
- organisational structure of customs offices  
- competency of customs offices for inspecting, taking measures and charging penalties  
- contact places  
- information of import structure of selected commodities (information range will be provided within legal regulations)
results of inspections (classified according to the object of Intellectual Property Right)
- measures taken and penalties charged (to person inspected)
- knowledge and information for other authorities

**Czech Trade Inspection**
- organisational structure
- contact places
- competency for inspecting, taking measures and charging penalties
- results of inspections (classified according to object of Intellectual Property Right)
- measures taken and penalties charged (to person inspected)
- methodologies
- knowledge and information for co-operating authorities
- miscellaneous

**Czech Agricultural and Foodstuff Inspection**
- organisational structure
- contact places
- competency for inspecting, taking measures and charging penalties
- results of inspections (classified according to the object of Intellectual Property Right)
- measures taken and penalties charged (to person inspected)
- methodologies
- knowledge and information for co-operating authorities
- miscellaneous

**District Trade Licensing Offices - Trade Department of MIT**
- organisational structure
- contact places
- competency for inspecting, taking measures and charging penalties
- results of inspections (classified according to the object of Intellectual Property Right)
- measures taken and penalties charged (to person inspected)
- methodologies
- knowledge and information for co-operating authorities
- miscellaneous

Independently on the proposed information system a **Trade Register** will be utilised. For the relevant co-operating authorities there will be defined concrete access rights to this register, in order to employ data for their supervisory activity.

**Police of the Czech Republic**
- organisational structure
- competency for enforcing right
- contact places
- results of ascertainment infringement of Intellectual Property Rights according to the right object and natural or legal persons
- methodologies
- miscellaneous

**Central Directorate of Taxes**
- organisational structure
- competency
- contact persons
- set of information for co-operating supervisory authorities
- miscellaneous