

EU ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS: OVERALL RESULTS OF DETENTIONS, 2019



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Foreword

This new report, combining information about the enforcement of IP rights (IPR) based on detentions in the EU internal market in 2019 with the study on 2019 detentions at the EU border, published by DG TAXUD, helps to build an overall view of detentions in the EU needed to support coordinated action.

Combining the separately published data on border detentions from DG TAXUD, based on the content of the European Commission's centralised database, with that extracted from the IP Enforcement Portal on detentions within the EU is another positive step towards providing IP stakeholders, researchers, and policymakers with a more comprehensive picture, available in a single report.

The EUIPO would like to thank, once again, the enforcement authorities at national and EU level for their invaluable assistance and express its gratitude for all their efforts to maintain and improve the quality and usefulness of these exchanges.



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Acknowledgements

This report was prepared by the European Observatory on Infringements of Intellectual Property Rights at the EUIPO in Alicante.

It has been produced thanks to the EU national enforcement authorities' commitment, on the one hand, to collect and transmit to the European Commission, through its EU centralised database⁽¹⁾, relevant information concerning customs enforcement of IPR at the EU external border; and, on the other hand, to develop and feed with data on detentions of goods infringing IPR within their national markets⁽²⁾, the IP Enforcement Portal⁽³⁾, thus launching the 'IP Enforcement Portal community'.

The authors are also grateful to the European Commission — Directorate-General for Taxation and Customs Union, Unit A5 'Protection of citizens and enforcement of IPR', whose staff provided the data corresponding to the detentions at the EU border during 2019. This data could, therefore, also be integrated into the IP Enforcement Portal, allowing the overall analysis included in section 4.

This gratitude is further increased considering that the collection and transmission of data were done during a period in which communication and coordination have been very difficult due to the health crisis ongoing since March 2020.

⁽¹⁾ In accordance with the relevant EU customs legislation (and, in particular, Articles 31 and 32 of [Regulation \(EU\) No 608/2013 of 12 June 2013](#)), the EU Commission established a central database, named COPIS, containing all applications for action and all detentions at the EU border.

⁽²⁾ To be succinct, the part of the EU internal market corresponding to a Member State will be referred to, throughout the report, as the Member State's national market.

⁽³⁾ The IP Enforcement Platform contains, inter alia, the former ACIST database, which was launched in 2013 when, in line with the mandate of the European Observatory on Infringements of Intellectual Property Rights, the EUIPO made the database available to law enforcement authorities in all EU Member States.

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Executive Summary

Following the publication, in December 2020, of the reports of DG TAXUD and the EUIPO on the detention of goods infringing IP rights at the EU border⁽⁴⁾ and in the EU internal market⁽⁵⁾ respectively, this report allows an overarching view of the overall detentions of fake products in 2019 as reported by EU Member States⁽⁶⁾.

- Approximately 72 million fake items were detained in the EU in 2019. This implies a reduction of almost 21 % in the number of items reported as detained, compared to 2018 (91 million items). Almost 56 % of those items were detained in the EU internal market, and the rest at the EU border.
- Despite the large reduction in the number of fake items detained in the EU, their estimated value, amounting to some EUR 2.4 billion, represents almost no decrease compared to the previous year. What at first glance may appear to be a contradiction is caused by the detentions in the EU internal market. As explained in the December 2020 report on detentions, in this instance it is due to the shift in the composition of the 'basket' of products detained, from cheaper products in 2018 (*toys, packaging material*) to more expensive ones in 2019 (*clothing, clothing accessories, non-sport shoes*), as well as the increase in the estimated unitary value of some products. Almost 73 % of the total value of detained items reported corresponded to detentions in the EU internal market, while the remainder resulted from detentions at the EU border.
- The 10 Member States with the highest number of reported detentions accounted for around 90 % of the volume and 92 % of the estimated value of the items. Italy recorded the highest

⁽⁴⁾ [DG TAXUD \(2020\): Report on the EU customs enforcement of intellectual property rights. Results at the EU border, 2019](#)

⁽⁵⁾ [EUIPO \(2020\): Report on the EU internal market enforcement of intellectual property rights: results of detentions in EU Member States, 2019](#)

⁽⁶⁾ As the report refers to the detentions made during 2019 and as Brexit took effect on 01/02/2020, the United Kingdom is still referred to, throughout this report, as an EU Member State.

individual figures, with over 41 % of the total detentions by volume and more than 48 % by estimated value. However, it should be recalled that no data is currently available for national market detentions in one of the larger Member States – Germany – or, partially, in the United Kingdom.

- The four most common subcategories⁽⁷⁾ of identified detained products, in terms of the number of items detained, were *toys*, *cigarettes*, *clothing accessories* and *clothing*. These accounted for almost 41 % of the products recorded. The volume of unidentified products, classified as *other goods*, is still important, accounting for around 19 % of all the goods detained during 2019.
- In terms of estimated value of the items reported, the top four subcategories of products identified were led, by far, by *clothing accessories*, followed by *clothing*, *watches* and *non-sport shoes*. These four represented almost 61 % of the estimated value of detentions reported during 2019.
- The predominant categories of goods detained at the EU border during 2019 were not the same as those predominant in the detentions in the EU internal market. In terms of the quantity of items detained during 2019, the subcategory *packaging material* was much more predominant in the detentions at the EU border than in the EU internal market, whereas that of *clothing accessories* was much more predominant in the latter than in the former. In terms of their estimated value and during the same period, the subcategory *clothing* was much more predominant in the detentions at the EU border than in the EU internal market, whereas that of *clothing accessories* was even more predominant in the latter than in the former.
- The distribution of IP rights allegedly infringed at the time of detention shows that trade marks predominate, as has historically been the case. Trade mark infringement accounted for almost 90 % by number of items, and close to 96 % by estimated value of aggregated detentions at the EU border and in the EU internal market.

⁽⁷⁾ See the classification of products used in this report in Annex C and Annex D.

Report Content

1 Introduction

For about 20 years DG TAXUD has published annual reports containing yearly facts and figures in relation to the detentions of goods infringing IP rights at the EU border. On 17 December 2020, DG TAXUD published its latest [Report on the EU customs enforcement of intellectual property rights: Results at the EU border, 2019](#).

After 9 years of collecting data from internal market enforcers in EU Member States, the EUIPO published, on the same date, its first [Report on the EU internal market enforcement of intellectual property rights: results of detentions in EU Member States, 2019](#), which contained a parallel analysis of the detentions carried out by the EU internal market enforcers within many Member States⁽⁸⁾, of the same types of goods, during the same period. This latter publication provided an enrichment of knowledge, with information on what was happening within the internal market.

Moreover, in September 2019, the EUIPO published its [Report on the EU enforcement of intellectual property rights: results at EU borders and in Member States 2013-2017](#), reviewing trends in detentions in these two scenarios, and analysing how EU border and internal market enforcement actions complemented each other during that period. As a follow up, the EUIPO is now publishing this first issue of a series of annual reports containing the aggregated data on overall detentions of goods infringing IPR both at the EU border and within the EU internal market.

Therefore, this report on *EU enforcement of intellectual property rights: Overall results of detentions, 2019* has been produced from the overall analysis of the data on the detentions at the EU border, reported through COPIS by all the Member States' customs authorities, and on the detentions within their national markets, reported through the IP Enforcement Portal by those of the 25 Member States'

⁽⁸⁾ See footnote 6.

enforcement authorities usually participating in the detentions data gathering section of the Portal⁽⁹⁾ that were able to do it in 2019. It should be read in conjunction with the two reports published in December 2020 and, like them, it should provide useful information to support the analysis of IPR infringements in the EU and the development, by the relevant enforcement authorities, of appropriate countermeasures. On a broader scale, it aims to provide EU policymakers with data to develop an evidence base for priorities and policies.

Unfortunately, for various reasons, some data on detentions in some national markets is missing. In some cases, none of the Member State's enforcement authorities had shared their data with the IP Enforcement Portal community, while others had not provided full data sets. Limitations in the availability of data on the EU internal market detentions, sometimes due to the impact of the COVID-19 pandemic and the consequent lockdown, may partly affect the results of the analysis in this report.

⁽⁹⁾ Records on national markets' detentions from the Austrian, Swedish and German enforcement authorities are historically not reported in the Portal: the first because of the nature of their regulations; the second because there are currently no statistics regarding inland detentions; and the third because they have not yet joined the data provision network.

2 Communication between enforcers and rights holders through the IP Enforcement Portal

Close cooperation between rights holders and enforcers, and the quality of the information shared, are of key importance for the latter's enforcement work, both at the EU border and in the EU internal market. A constant, effective and fluent use of appropriate and secure bidirectional communication channels contributes to the necessary sharing of information between the two sets of actors.

The IP Enforcement Portal has been developed as a two-way communication system between enforcers and IP rights holders. One of its functions is to offer the latter a system for sending alerts on potential infringements securely to enforcers, and in particular to police forces. This system complements the customs system that requires a formal request from rights holders through Application for Actions; these formal requests are, as a result of the cooperation between DG TAXUD and EUIPO, now also available as an e-tool through the Portal.

In 2018, a total of 1 793 alerts on potential infringements were sent by IP rights holders through the IP Enforcement Portal and were received by 59 EU internal market or EU border enforcement authorities with a mandate to detain counterfeit products. In 2019, as a consequence of the EUIPO's training activities, the quality of the potential infringement notifications to enforcers significantly improved, while the total number decreased; throughout the year, 974 notifications of potential infringements were sent by IP rights holders and were received by 65 enforcement authorities.

The IP Enforcement Portal also offers the possibility for enforcers to communicate securely with IP rights holders about suspicions of potential infringements of their rights. In 2018, six suspicious cases were communicated by five enforcement authorities from both the EU border and national markets. In 2019, 153 suspicious cases were communicated by 12 enforcement authorities from the same scenarios, representing a large increase in the use of this function.

3 Data range and limitations

The following information about available data ranges and limitations in their use needs to be taken into consideration for a correct interpretation of the analysis contained in this report. More explanations about available data ranges and limitations in their use can be found in Annex B.

- The analysis, including the graphs, tables and rankings, presented in section 4 has been produced on the basis of data contained in and published on the IP Enforcement Portal for 2019 detentions. Data concerning detentions at the EU border have been collated in the Portal based on data received in COPIS from the 28 Member States. Data concerning the detentions in the EU internal market have been provided directly to the Portal by the national enforcement authorities of 25 Member States.
- All data available in the IP Enforcement Portal have been published online, either directly by the data owners (the respective enforcement authority), or by the national offices in charge of coordinating the provision of the data at national level⁽¹⁰⁾.
- The quality of the results of the analysis, as well as of any data, graphs, tables and rankings presented in this report, is conditioned by the quality of the data published on the IP Enforcement Portal by, or on behalf of, the different reporting authorities.
- In the same way as DG TAXUD's reporting system, the IP Enforcement Portal collects data on the infringement of physical goods. Therefore, no data is provided on infringements related to intangible goods, such as online piracy, and it was not possible to incorporate this kind of infringement into the report.
- DG TAXUD systematically collects, through the EU Commission's centralised database (see footnote 1), and reports on, the estimated total values of detentions at the EU border of goods infringing IP rights. The standard value for reporting by Member States is the domestic retail value (DRV), which is the retail price at which the goods would have been sold on the Member

⁽¹⁰⁾ In some cases, the data have been published indirectly by the EUIPO on their behalf and with their written approval.

State's market, had they been genuine. For reasons of consistency, the reporting in the IP Enforcement Portal of the estimated value of items detained in the EU internal market is also based on the estimated retail value of the genuine product, as reported by the corresponding reporting authorities.

Consequently, the products' estimated retail values may vary from one Member State to another or from one moment in time to another. Therefore, the collected estimated retail values assigned to the detained products are influenced and conditioned by the characteristics of the equivalent genuine products.

Moreover, the DRV method, particularly in the subcategories of luxury products, may lead to inflated estimated values of the goods detained, compared to alternative methods for valuing them. Indeed, in these subcategories (e.g. luxury watches), the retail price of the genuine good is much higher than that of, for instance, the fake product in the secondary markets⁽¹¹⁾ or than, alternatively, its cost. These are two alternative valuing methods that could also have been chosen.

However, the estimated value per item is not a mandatory field to be recorded in the IP Enforcement Portal by EU internal market enforcement authorities. Where no estimated value per item is provided, figures on the economic value of the fake goods are estimated, based on 'economic indicators'. These economic indicators are calculated based on the 'value per item' of similar products contained in the DG TAXUD annual EU border detentions data. Assigning an estimated value to a detention on the basis of economic indicators introduces an additional limitation to the accuracy of the data concerning detentions in the EU internal market and, hence, in the overall detentions.

- The universe of detentions at the EU border used for the analysis in section 4, and recorded in the IP Enforcement Portal, does not coincide exactly with that used for the analysis in DG TAXUD's December 2020 report on detentions of goods infringing IP rights at the EU border, which are contained in COPIS. Indeed, after suspending the release of items suspected of

⁽¹¹⁾ Markets in which the buyers are completely aware that the products are counterfeits and in which they would therefore never pay the DRV.

infringing IP rights, customs authorities can either release them later, have them destroyed, or keep them under supervision for as long as the procedures for determining the infringement run. Only the last two situations, which both result in the goods very likely to be 'fake', are reported in the IP Enforcement Portal. Since the IP Enforcement Portal simply contains a subset of COPIS data, the number of procedures registered in the IP Enforcement Portal is lower than those registered in COPIS by Member States' customs authorities. Since 2013, the ratio between the subset of procedures at the EU border recorded in the IP Enforcement Portal and those recorded in the COPIS database has remained stable, ranging from 90 % to 92 % of the detentions (90 % in 2018 and 91 % in 2019). This ratio would be an indicator of the minimum level of effectiveness of customs controls, meaning that, in 91 % of detention procedures, the identification of suspected goods by customs (together with the IP rights holders) was confirmed.

Moreover, the fields recorded in COPIS for a detention procedure referring to the itinerary of the goods detained (countries of provenance and destination, etc.) and to the result of the detention (destruction under standard procedure or procedure for small consignments, release, etc.) have not been systematically stored in the IP Enforcement Portal. This is because the equivalent information for detentions in the EU internal market is rarely, if ever, available (see section B.2 in Annex B), or the information is too specific to detentions at the EU border.

Finally, as far as the data on detentions of fakes in the EU internal market are concerned, the IP Enforcement Portal is a living and dynamic tool, into which IP rights enforcers may upload data in several bulks, and may further update the information, since the Portal is used by a number of them as their own reporting tool. Consequently, an EU internal market enforcement authority could continue to load marginal bulks of detention data or to enter updates after the extraction for the analysis of a certain period has been done. This was the case of Belgium for 2019 detentions in their national market data, where additional data on this set of detentions were uploaded after the data had been extracted for the analysis of the EUIPO's December 2020 report. However, these additional data have been extracted and included in the current report.

As a result, the data on overall detentions of fake goods presented in this report do not coincide with the exact sum of the data on detentions at the EU border in the DG TAXUD December 2020 report plus those on detentions in the EU internal market described in the parallel EUIPO report.

- Besides the usual data availability issues, the exceptional situation of the COVID-19 pandemic and its consequences throughout the first half of 2020 have conditioned the availability of data sets on detentions in the EU internal market and, hence, on overall detentions. Logically, national market enforcement authorities had to prioritise duties other than those in the field of intellectual property, and some were not able to report their detentions carried out in 2019. Other customs authorities, with jurisdiction in their national market, were blocked by the lockdown, with a similar effect on their reporting tasks. As explained in the EUIPO's December 2020 report, these gaps in information were estimated at around 5 million items (not) reported as detained, within a global reduction of 30 million fewer items reported as detained in the EU internal market in 2019, compared to the previous year.
- Only two common parameters, used by all the EU internal market reporting enforcement authorities, can be exploited for analysis and comparison in the overall results: the number of detained items, and their estimated value. The number of cases and the number of procedures are not parameters that can be used in the analysis of the set of overall data since, in many cases, EU internal market reporting enforcement authorities aggregate the results of several procedures or cases into one record in their reports.
- Finally, due to the unavailability of values in some fields in the data of the detentions in Member States' national markets, an analysis from some angles, in particular those related to routes and transport, cannot be done for the overall detentions.

4 Overall results

The IP Enforcement Portal provides an overview of the reported detentions of fake products by EU Member States: both those made by the customs authorities at the EU border, and those made within the EU by the competent law enforcement authorities ⁽¹²⁾.

4.1 Overall results: number of items and estimated value

Although the number of items reported as detained because of alleged infringement of IP rights ⁽¹³⁾ differed a lot depending on the subcategory of products (which vary greatly in size and weight), the measurement of the fake goods detained gives an idea of the results of the effort made by the different EU enforcement authorities.

The number of fake goods detained in the EU during 2019 was around 72 million, showing a significant decrease (-21 %) in comparison with the 2018 figures (around 91 million; see Figure 4-1 below). Moreover, as already explained in the EUIPO's December 2020 report ⁽¹⁴⁾, the fact that fewer national market enforcement authorities reported detentions, compared to 2018, does not explain this significant reduction.

Besides, the proportion of fake goods detained in the EU internal market in 2019 reached around 56 % of the total, while the share of border detentions accounted for the remaining 44 %. In 2018, the proportion of fake goods detained in the EU national markets represented almost 80 % of all IP crime detentions. As can be easily inferred from the December 2020 reports, the reason for the severe decrease of this share is twofold: the number of fake goods detained at the EU border during 2019 increased by more than 50 %, while those detained in the EU internal market during the same period decreased by more than 40 % (in both cases compared with the previous year).

⁽¹²⁾ To understand some of the limitations on the analysis, caused by the availability of data, please see section 3 Data range and limitations.

⁽¹³⁾ Hereinafter 'fake goods detained'.

⁽¹⁴⁾ See page 13 of [EUIPO \(2020\): Report on the EU internal market enforcement of intellectual property rights: results of detentions in EU Member States, 2019](#).

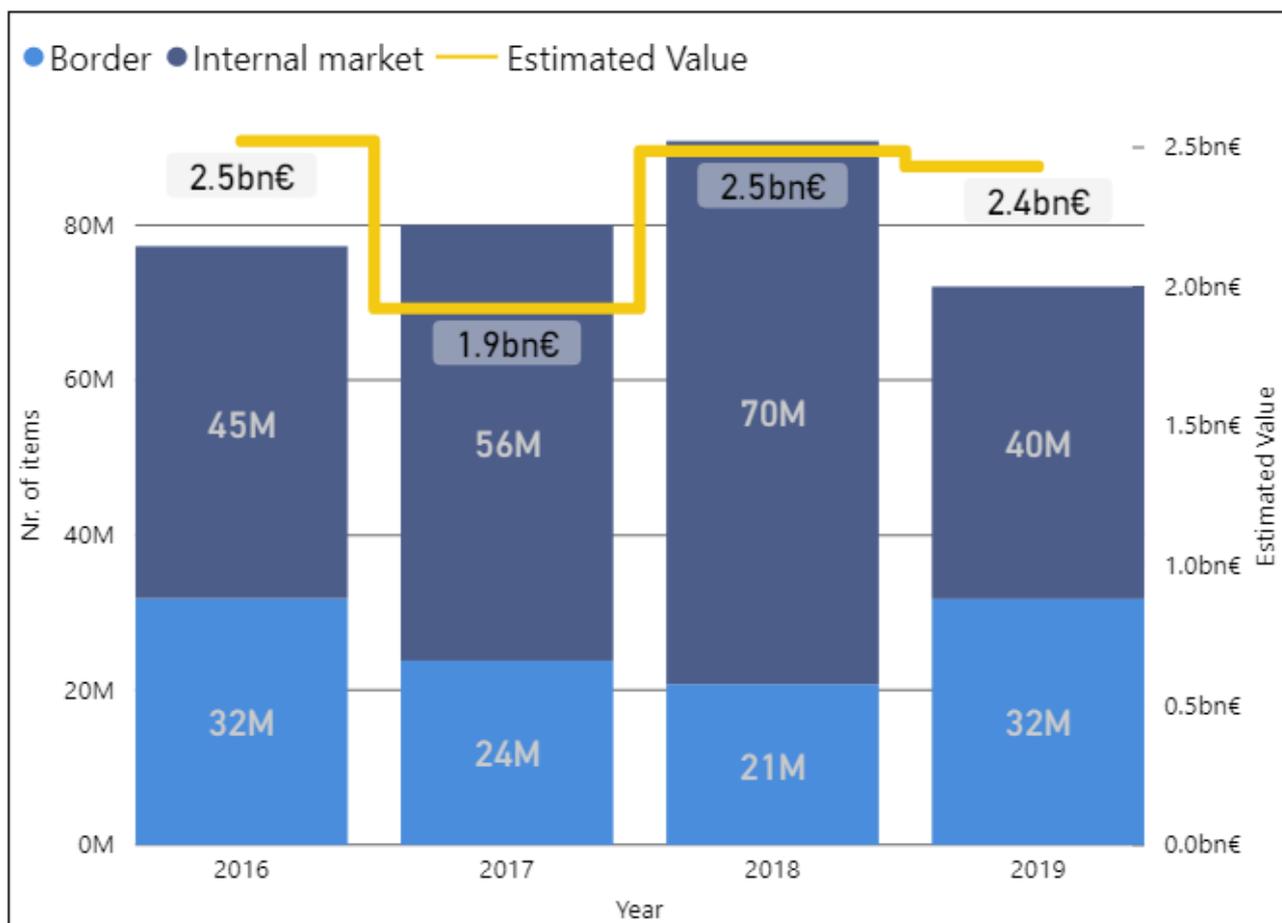


Figure 4-1: Reported quantity and estimated value of items detained.

The estimated value of the fake goods detained in the EU in 2019 was some EUR 2.4 billion (see Figure 4-1 above). Despite the large reduction in the number of fake goods detained in the EU, this estimated value represents a very slight decrease (around 2 %) compared to the previous year.

What at first glance may appear to be a contradiction is caused, in particular, by the detentions in the EU internal market. As explained in the EUIPO’s December 2020 report on detentions in this geographical scenario, this is due to the shift in the composition of the ‘basket’ of products detained, from cheaper products in 2018 (*toys, packaging material*) to more expensive ones in 2019 (*clothing, clothing accessories, non-sport shoes*), as well as to the increase in the estimated unitary value of some products (see section 4.3).

The fake goods detained in the EU internal market represented almost 73 % of the estimated value of the overall items detained, with the remaining 27 % corresponding to fake goods detained at the EU border. This distribution was 74 % – 26 % in 2018.

4.2 Data per Member State

The distribution by Member State of the share of fake goods detained in 2019, in terms of the number of articles detained, can be seen in Figure 4-2 below. The same distribution, but in terms of the estimated value of the detentions, is shown in Figure 4-3.

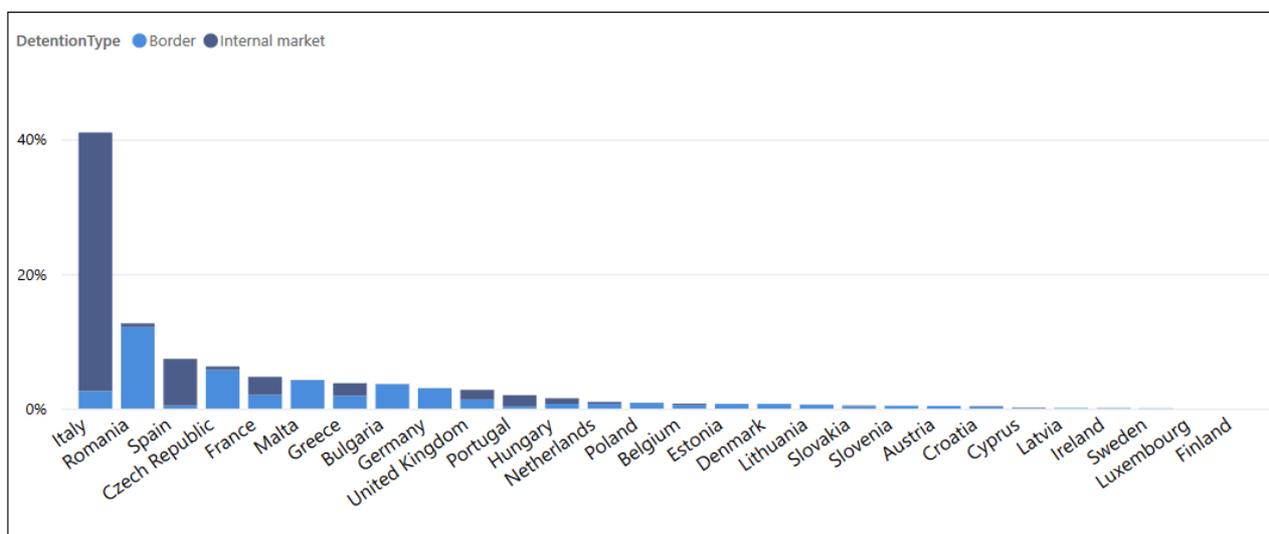


Figure 4-2: Share of reported detentions by Member State (number of reported items detained) in 2019.

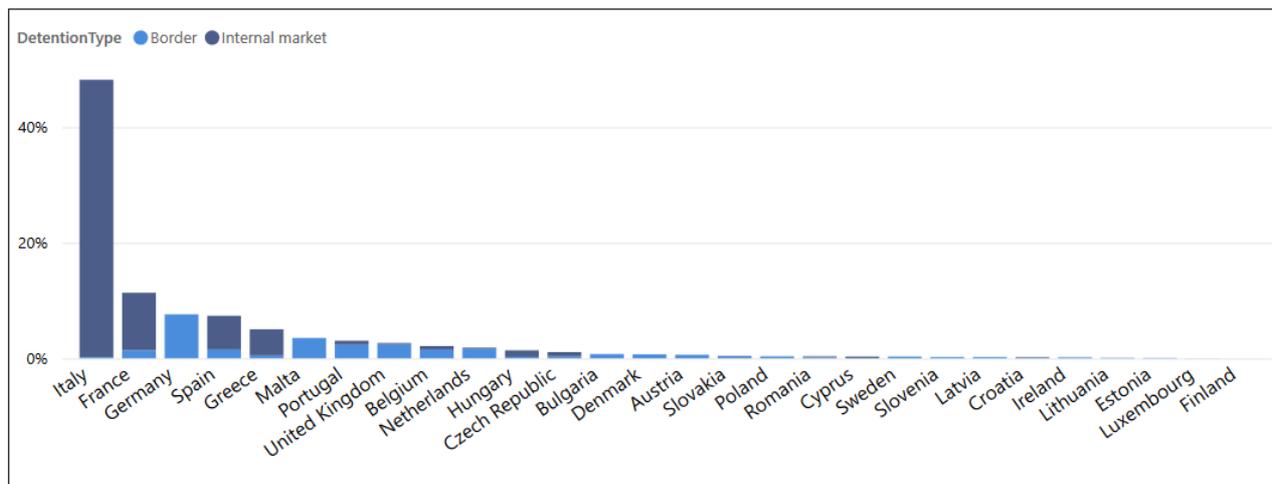


Figure 4-3: Share of reported detentions by Member State (estimated value of reported items detained) in 2019.

The cumulated share of fake goods detained by the top 10 Member States in 2019 corresponds to almost 90 % of the articles detained and over 92 % of their estimated value.

Furthermore, as shown in Figure 4-2 and Figure 4-3 above, just one Italian enforcement authority⁽¹⁵⁾ reported over 41 % of the articles detained and more than 48 % of their total value.

Moreover, worthy of mention is the presence among the top 10 Member States of Malta, a Member State that can objectively be classified as small from different perspectives (surface, population, GDP, etc.).

Finally, only Italy, France and Spain remain in the 2019 top five, from both the perspective of number of items and that of estimated value. Additionally, Romania and the Czech Republic are included in the top five from the perspective of the number of items and Greece and Germany from that of value⁽¹⁶⁾.

⁽¹⁵⁾ While only one of the various Italian bodies responsible for EU internal market infringements was able to provide data for 2019, historically, this authority alone has reported more than 85 % of the total detentions in Italy in earlier years.

⁽¹⁶⁾ It should, however, be remembered that no data is currently available for national market detentions in one of the larger Member States, Germany, and, partially, in the United Kingdom.

4.3 Data per product subcategory

Data on the share of the number of items detained by subcategory of products (see Figure 4-4 below) show that the top five subcategories identified in terms of the number of items in 2019 are *toys*, *cigarettes*, *clothing accessories*, *clothing* and *packaging materials*⁽¹⁷⁾.

Exactly the same subcategories appeared in the top five in 2018, the only variation being the order of their positions. *Toys*, *clothing accessories* and *clothing* appeared quite consistently in previous annual top rankings per number of items.

Moreover, the recurrent appearance in the top 10 subcategories (in terms of quantity) of two specific product subcategories – *packaging material* (5th among identified subcategories) and *labels, tags, stickers* (8th) – must be highlighted, since they have the effect of enabling the production of more fake products and, consequently, have the capacity to cause additional harm. These categories already occupied the 2nd and 6th positions in the ranking of subcategories identified in 2018.

The volume of unidentified products – classified as *other goods* – is still important, making up around 19 % of all the goods detained during 2019⁽¹⁸⁾.

Finally, in comparison with the 2018 figures, not many changes appear in the top 14 subcategories per number of detained items. There is some movement up or down, but no different subcategories. However, these changes in the ranking of the types of products detained, combined with the changes in their estimated unitary value, are behind the abovementioned negligible reduction of the estimated value of items detained in the EU in 2019 compared to that of 2018 (section 4.1).

⁽¹⁷⁾ The term '*remaining subcategories*' refers to all the subcategories mentioned in Annex C and Annex D that are not specifically mentioned in the chart.

⁽¹⁸⁾ However, as reported by DG TAXUD in their December 2020 report, in 2019 there was a singularity within the goods detained at the EU border and classified under the *other goods* category, related to the exceptionally large quantity of matches detained, which represented 90% of the *other goods* category items.

Indeed, the causes of this apparently contradictory reduction in the estimated value of the items detained in 2019 vis-à-vis the reduction of 21 % in the number of items detained (in both cases compared to the data of 2018), are twofold:

1. the shift in the composition of the basket of products detained from cheaper products in 2018 to more expensive ones in 2019⁽¹⁹⁾;
2. the increase in the estimated unitary value of some of the more abundantly detained products⁽²⁰⁾ and of some of the more expensive products⁽²¹⁾.

The first of these causes contributed by two thirds to the near neutralisation of the otherwise expected interannual decrease in the estimated value of the detained products.

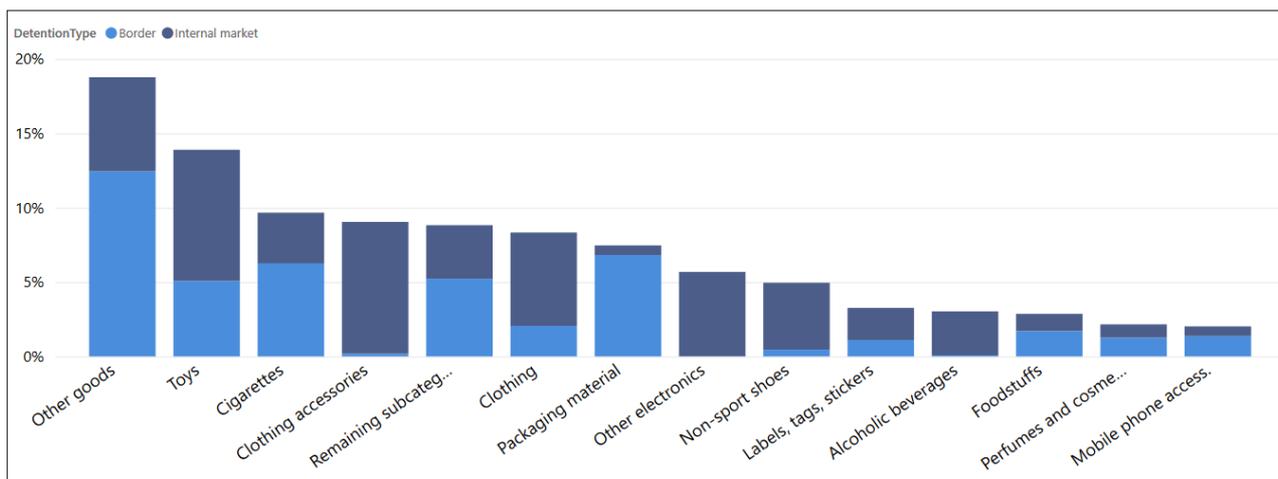


Figure 4-4: Subcategories of products reported as detained during 2019 (share of number of items).

Data on the share of the estimated value of items detained by subcategory of products (see Figure 4-5 below) show *clothing accessories*, *clothing*, *watches*, *non-sport shoes* and *bags, wallets, purses* as the top five subcategories identified in 2019⁽¹⁷⁾.

⁽¹⁹⁾ e.g. in 2019 more *clothing accessories* - estimated value ±EUR 80/unit -, more *non-sport shoes* - estimated value ±EUR 83/unit-, more *clothing* - estimated value ±EUR 52/unit - but fewer *toys* at ±EUR 6/unit and fewer *packaging materials* at ±EUR 1/unit.

⁽²⁰⁾ e.g. *clothing accessories*: unit value ↑ 17 %; *clothing*: ↑ 30 %.

⁽²¹⁾ e.g. *mobile phones*: unit value ↑ 72 %; *jewellery*: ↑ 152 %.

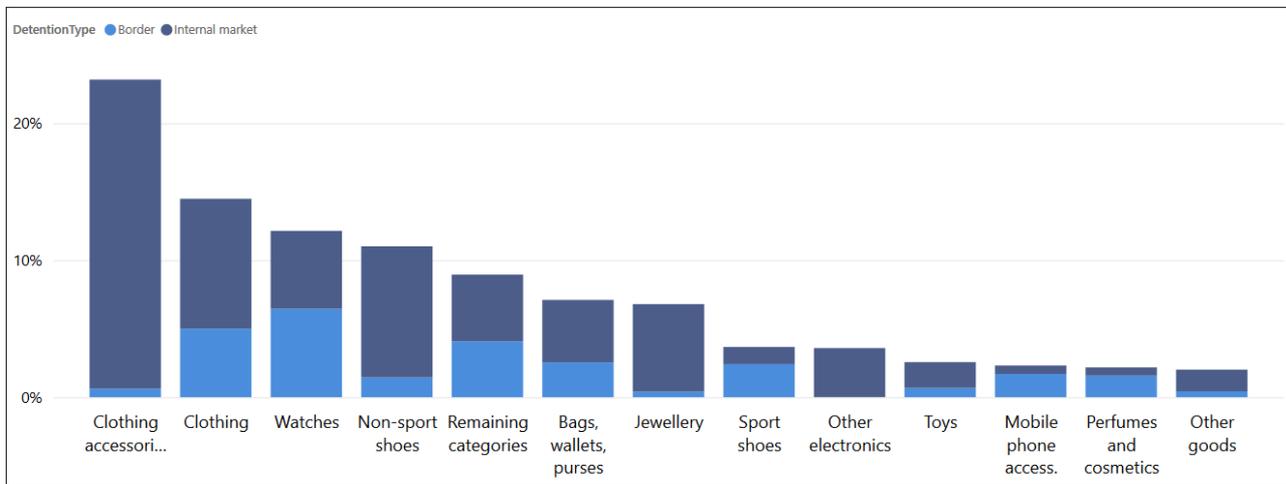


Figure 4-5: Subcategories of products reported as detained during 2019 (share of estimated value of the items).

From those top five subcategories, *watches*; *non-sport shoes* and *bags, wallets, purses* belong to the type of subcategory with a high value per unit, which would explain their appearance on the list, while *clothing* and *clothing accessories* are there because of the high number of items detained, as shown in the previous figure (see Figure 4-4 above).

Finally, the subcategories of *clothing accessories*, *watches* and *bags, wallets, purses* appear quite consistently in the annual top rankings by estimated value.

4.4 Data per allegedly infringed IP right

The 2019 distribution of the allegedly infringed⁽²²⁾ IP rights at the time of detention shows that trade marks continue to be the predominant right infringed. In 2019, almost 90 % of fake goods detained corresponded to detentions where at least one trade mark was infringed. This was followed by designs and, far behind, by patents and copyright (see Figure 4-6 below⁽²³⁾).

⁽²²⁾ Hereinafter 'infringed'.

⁽²³⁾ Percentages total more than 100 % because, both in COPIS and on the IP Enforcement Platform, there can be several infringed IP rights in the same record.

A similar trend appeared in terms of the estimated value of items: in 2019 close to 96 % of this value related to detentions where at least one trade mark was infringed, again followed by designs and, far behind, by copyright and patents (see Figure 4-7 below ⁽²³⁾).

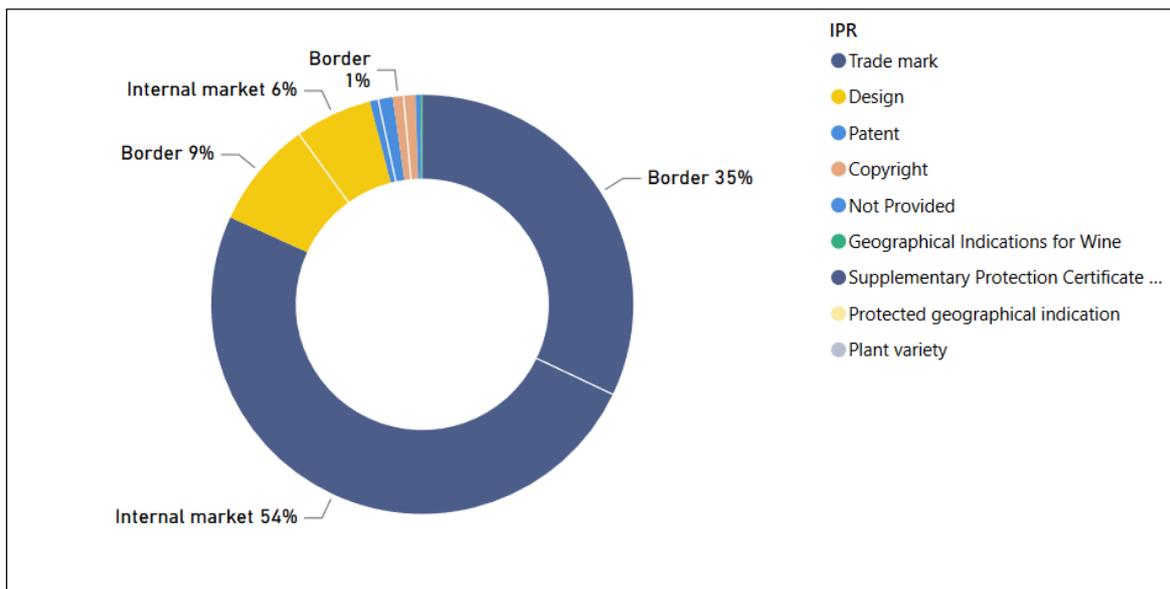


Figure 4-6: Ratio of quantity of items detained during 2019 by type of IP right and by type of detention.

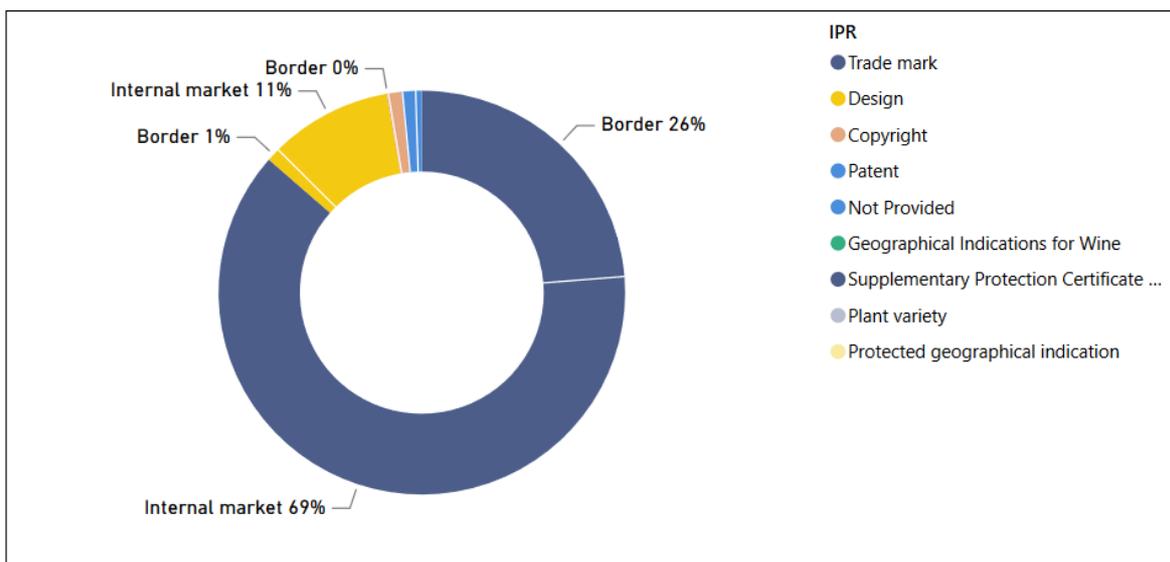


Figure 4-7: Ratio of estimated value of items detained during 2019 by type of IP right and by type of detention.

The share of detentions failing to report at least one IP right as a basis for its enforcement (which reached significant values during the period 2013-2017) has clearly decreased over the years, being negligible (less than 0.4 %) in 2019. This increase in precision, concentrated in the data on detentions in the EU internal market, allowed for a better quality analysis.

Moreover, in 2019, the 'weight' of designs as infringed IPR was higher in terms of the number of items detained than in terms of estimated value, contrary to the trend in previous years. This is because, among the goods for which design plays an important role, the number of detained products with a higher unit value (normally related to luxury: *jewellery, non-sport shoes*) decreased in 2019 compared to 2018. They were replaced by products with a lower unit value (*packaging materials*). Indeed, the weight of designs as infringed IPR in 2019 was among the highest in the product subcategories of *packaging materials, mobile phones* and *audio/video apparatus*. Copyright appears to be mostly infringed in *recorded CDs/DVDs*, whereas patents are mostly declared as infringed IPR in the subcategories of *memory card/sticks* and *medicines*. However, in all these subcategories, with the exception of *recorded CDs/DVDs*, trade marks are still the predominant IPR infringed.

4.5 Comparison of detentions at the EU border and in the EU internal market

Although in the previous sections the breakdown between detentions at the EU border and in the EU internal market was shown for some characteristics⁽²⁴⁾, the comparison of the number of detentions carried out at the EU border and in the EU internal market deserves a deeper analysis, in particular per subcategory of products and per Member State.

⁽²⁴⁾ See section 4.1 for overall detention figures and sections 4.2, 4.3 and 4.4 for figures by, respectively, Member State, subcategory of products and type of infringed IP right.

4.5.1 Per subcategory of products

The purpose of this section is to highlight the main differences existing in the subcategories of products predominantly detained in the two different scenarios of action of the IP rights enforcement authorities in the EU.

The methodology used, described in detail in Annex E, was based on the gap between the share that a subcategory of products represented in the detentions at the EU border and the share that the same products represented in detentions in the EU internal market. The shares were calculated for a comparable subset of Member States in which the two sets of data were solidly available in 2019⁽²⁵⁾. This gap, or delta, is called ‘ Δ Share’. The bigger the delta, the larger the difference in the results of detentions of such products at the EU border versus in the EU internal market for the selected subset. Positive gaps or deltas mean that the share of detentions of those subcategories of goods is higher at the EU border than in the EU internal market, and vice versa.

The subcategories for which these deltas were higher than 2 % in 2019 are shown below. Figure 4-8 shows data by number of items and Figure 4-9 by estimated value.

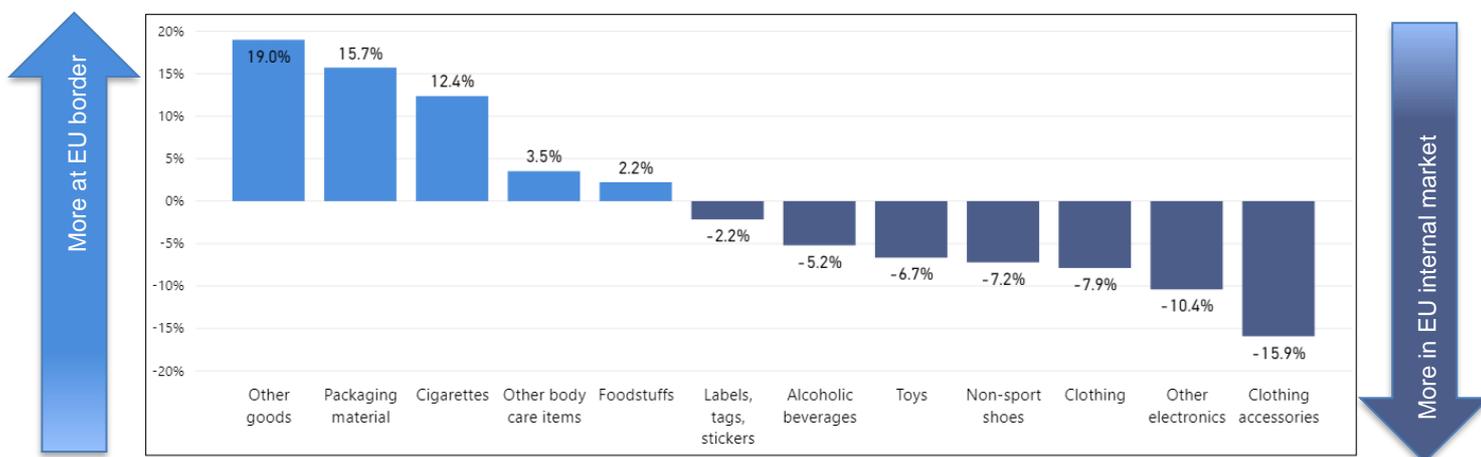


Figure 4-8: Difference in the share of detentions at the EU border versus in the EU internal market by number of items for the selected subset.

⁽²⁵⁾ This subset contains detentions in 2019 in all the EU Member States except Austria, Finland, Germany, Luxembourg, Sweden and the United Kingdom.

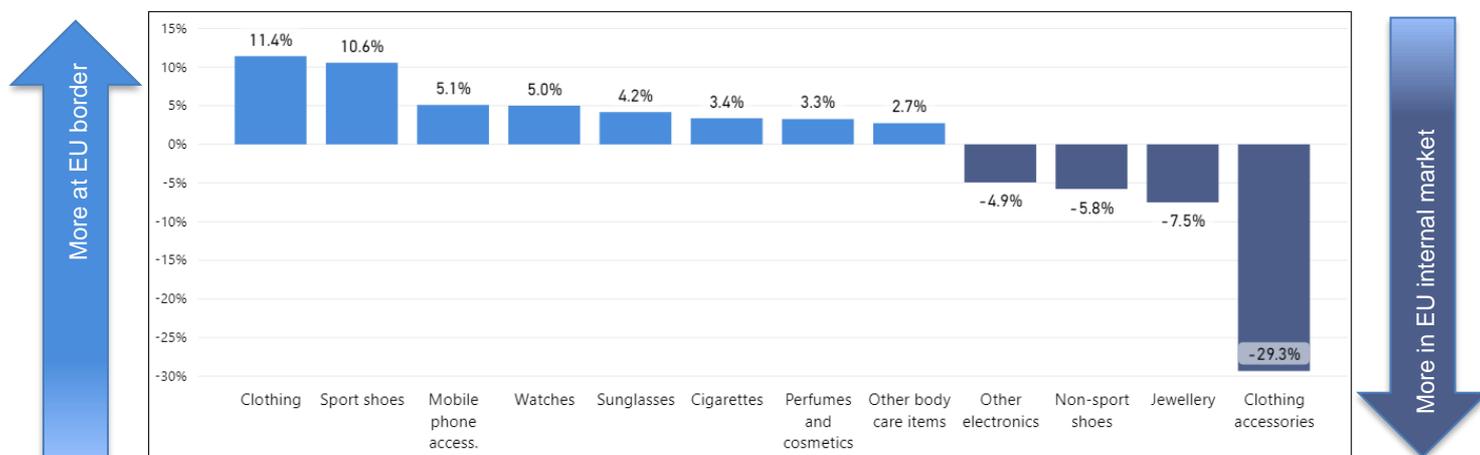


Figure 4-9: Difference in the share of detentions at the EU border versus in the EU internal market by estimated value of items for the selected subset.

The analysis of this delta by subcategory of products, in terms of both quantity of items and their estimated value, shows that the enforcement authorities acting in the EU internal market and those acting at the EU border detain different types of goods.

The combination of both figures indicates that there was a relative predominance of detentions at the EU border of goods belonging to the subcategories *packaging materials* and *clothing*, whereas the relative predominance of detentions in the EU internal market was of goods belonging to the subcategory *clothing accessories*.

An analysis by some Member States confirmed the existence of even bigger differences in share between the types of goods detained at a Member State’s EU border and in its national market, thus confirming increasing national gaps between the predominant categories of products detained in each scenario. For instance, detentions during 2019 of *other body care items* represented a share of 37 % more at France’s EU border than in its national market. Detentions of *toys* represented a share of 54 % more at Italy’s EU border than in its national market. Conversely, the detentions during 2019 of *alcoholic beverages* in Spain’s national market represented a share of 42 % more than at Spain’s EU border.

4.5.2 Per Member State

The purpose of this section is to delve deeper into the main differences in the volumes and estimated value of the detentions in the two different scenarios of the enforcement authorities' action (the national market and the EU border) in each Member State.

Figure 4-2 and Figure 4-3 in section 4.2 already indicate that there is a set of Member States in which, during 2019, the volume and estimated value of the detentions in their national markets largely exceeded those at their corresponding part of the EU border. This was a constant pattern in past years.

As described under the methodology applied in the previous section, any deeper analysis of these differences should be done using a comparable subset of Member States and years in which the sets of data on detentions in the two scenarios were solidly available ⁽²⁶⁾.

Results of the analysis show that, although Italy is clearly the main driving force behind the preponderance of detentions in the EU internal market over those at the EU border, other Member States also contribute to this preponderance, both in terms of quantity of items detained and of their estimated value.

Indeed, as shown in Figure 4-10 and Figure 4-11 below, which correspond to the aggregated detentions during the period 2016-2019 in each of the 17 Member States referred to in footnote 26, besides Italy, Spain, France and Cyprus contribute to the historical preponderance of detentions in the internal market, both in terms of quantity and estimated value of items detained. Moreover, Bulgaria, Ireland and Portugal also show this preponderance in terms of quantity of items detained and the Czech Republic, Greece and Croatia in terms of their estimated value.

A detailed year-by-year analysis from 2016 to 2019 shows that the pattern described above is constant over the years.

⁽²⁶⁾ This subset contains detentions in 2016, 2017, 2018 and 2019 in the following 17 EU Member States: Belgium, Bulgaria, Czech Republic, Denmark, Ireland, Greece, Spain, France, Croatia, Italy, Cyprus, Latvia, Lithuania, Portugal, Romania, Slovenia and Slovakia.

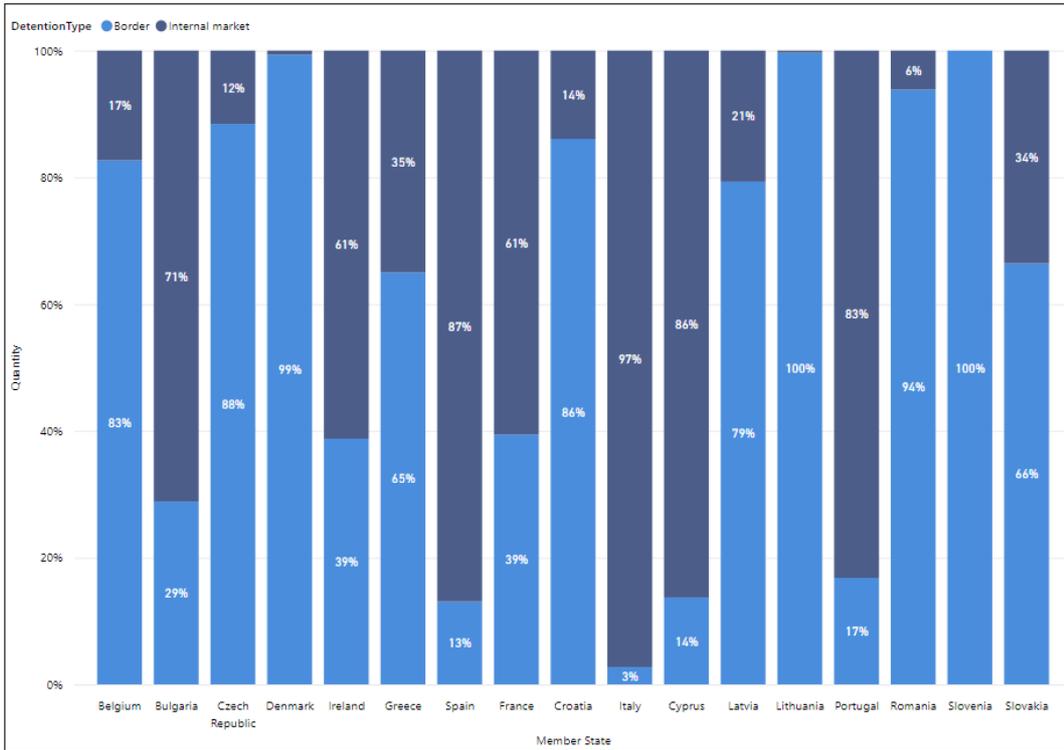


Figure 4-10: Share of the quantity of items detained at the EU border and in the EU internal market. Period 2016-2019.

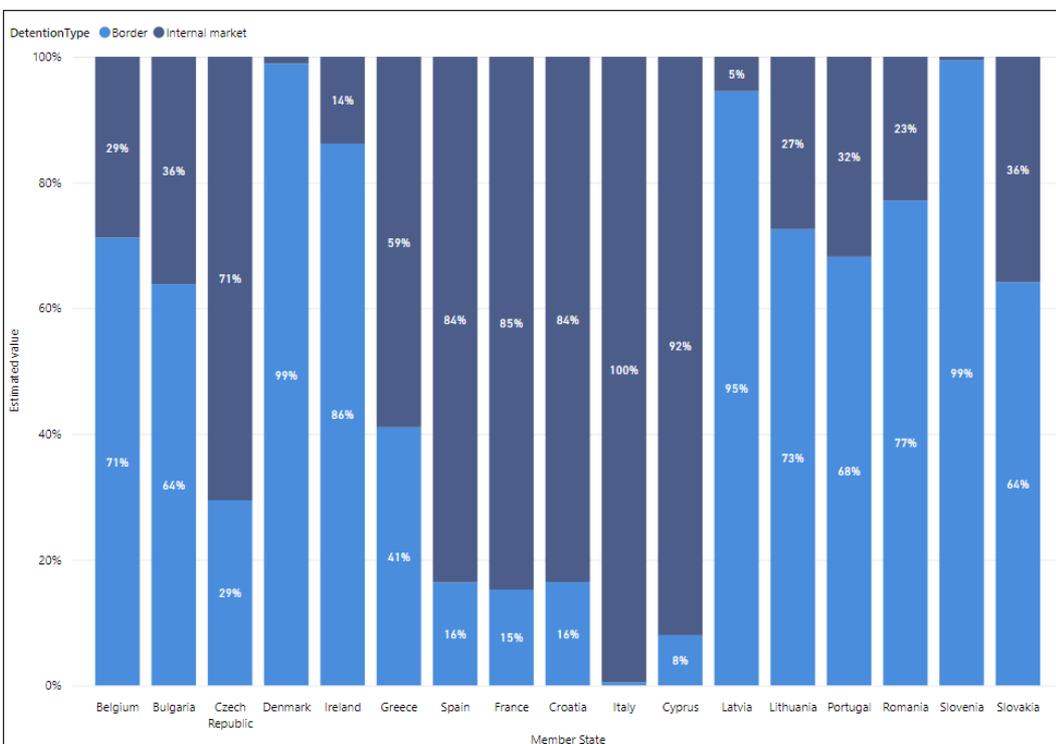


Figure 4-11: Share of the value of items detained at the EU border and in the EU internal market. Period 2016-2019.

5 Conclusions

Aggregating the data on detentions of fake goods both at the EU border and in the EU internal market makes it possible to understand the overarching dimension of the phenomenon of detentions of goods infringing IP rights in the EU as a whole.

- Overall detentions of fake goods by EU enforcers showed a downward trend: from volumes of detentions of around 100 million items during the period 2012-2015⁽²⁷⁾ to some 70-80 million items during the period 2016-2019⁽²⁸⁾. Overall volumes of items detained in 2019 showed a sharp decrease compared to the previous year (from 91 million items to 72 million).
- In terms of estimated value, however, overall detentions showed a rather stable pattern over the past years, particularly during the years covered by this report (2019 compared to 2018, both showing an overall estimated value of detentions of around EUR 2.45 billion). However, there were previous higher peaks in the estimated value of fake goods detained, which were clearly reached at the beginning of the available historical series (around EUR 3-3.5 billion per year in the period 2012-2014).

The fact that the estimated value did not decrease in 2019 in the same proportion as the number of items – compared to 2018 – was the result of a steady increase in the average estimated value per unit during that period. As seen in section 4.3, this increase was more due to a reshaping of the basket of detained products towards more expensive ones than to the mere increase in the estimated unit value of each product.

The breakdowns of overall detentions showed a rather constant pattern during the period 2018-2019. When looking at:

- the Member States, Italy consistently appeared in the top position (around 40 % of the overall detentions);

⁽²⁷⁾ With the singularity of 80 million items in 2014.

⁽²⁸⁾ With 2018 as an exceptional year reaching 90 million items.

-
- the categories of products, *toys*, *clothing accessories* and *clothing* (consistently cumulating more than 30 % of the overall detentions) maintained the top positions, accompanied in 2019 by *cigarettes* (with an additional 10 %); and
 - the infringed IP rights, trade marks took the biggest share (around 90 %).

As seen in the analysis, this recurrence was closely related to the overwhelming share that detentions in the EU internal market and, in particular, in Italy's national market, took of the total.

On the other hand, maintaining the breakdown of the overall figures by the two scenarios of detentions (at the EU border and in the EU internal market), allows for a comparison between the results of the enforcement authorities in these two scenarios, which showed very different behaviours in 2019.

In terms of volumes of fake goods detained:

- the EU internal market suffered a significant decrease in 2019 (falling to 40 million items detained) after 3 years of constant increases;
- the EU border showed, conversely, a sharp increase in 2019 (reaching 32 million items detained) after a downward trend for 3 consecutive years.

Whereas in terms of estimated value:

- detentions at the EU border showed a rather modestly increasing pattern, always around EUR 0.55-0.65 billion each year during the period 2017-2019, which is consistent with the corresponding pattern of the number of items detained;
- the fake goods detained at the EU internal market, in contrast, showed a stable pattern that did not correspond to that of the number of items detained, remaining at around EUR 1.8 billion.

Despite the variations described in the previous paragraphs, reported detentions of fake goods in the EU internal market, even with their limitations in terms of availability and quality of data, have been historically more voluminous and of higher estimated values than those at the EU border. This was still the case in 2018 and in 2019. As seen in the analysis of the detentions in a subset of Member States and years⁽²⁹⁾, it was due to the overwhelming preponderance of detentions in the Italian national market over the detentions at its corresponding part of the EU border. Other Member States however, such as Bulgaria, Czech Republic, Ireland, Greece, Spain, France, Croatia, Cyprus and Portugal contributed – although to a lesser extent than Italy – to this preponderance of detentions in the EU internal market, in terms of quantity and estimated value of the items, over those at the EU border.

Moreover, in terms of the types of goods detained in one or the other enforcement scenarios, the data from 2019 in a subset of Member States⁽³⁰⁾ continued to show that the efforts of the corresponding enforcers gave better results in different categories of goods. The top detained products at the EU border of those Member States were not the same as in their corresponding part of the EU internal market, and vice versa. *Packaging materials* and *clothing* at their EU border and *clothing accessories* in their national markets were the categories showing larger gaps of predominance between the two scenarios in these Member States.

However, as previously mentioned, there was almost no difference in the overwhelming predominance in both scenarios of trade marks as the main IP right infringed. This was true both in 2018 and in 2019⁽³¹⁾, although with a sharper predominance in the EU internal market⁽³²⁾.

⁽²⁹⁾ As mentioned in footnote 25, in 2019 the subset of Member States reporting solid figures of detentions in the two scenarios did not include Austria, Finland, Germany, Luxembourg, Sweden nor the United Kingdom.

⁽³⁰⁾ As mentioned in footnote 26, the subset of Member States reporting solid figures of detentions in the two scenarios during the period 2016-2019 included Belgium, Bulgaria, Czech Republic, Denmark, Ireland, Greece, Spain, France, Croatia, Italy, Cyprus, Latvia, Lithuania, Portugal, Romania, Slovenia and Slovakia.

⁽³¹⁾ Over 79 % of the cases in both, whether by number of items or by estimated value.

⁽³²⁾ Over 95 % of the cases, again whether by number of items or by estimated value.

6 Way forward

The EUIPO's December 2020 report on detentions of goods infringing IP rights in the EU internal market during 2019 mentioned a set of activities aimed at advancing towards its mandate to produce evidence-based materials to help IPR enforcement authorities in their efforts and to inform policymakers about the results of those efforts in this particular universe of detentions. These activities were:

- to facilitate a proper dialogue between the two main sets of actors (enforcement authorities and rights holders), so as to increase their cooperation and the sharing of information in the scenario of the EU internal market, systematising, whenever possible, information sharing through the existing tools and, particularly with regard to internal market data, through the IP Enforcement Portal;
- to increase information and training on IP rights that are more difficult to understand than trade marks and designs, in order to help enforcement authorities to become accustomed to identifying the remaining, not always so evident, infringed IP rights;
- to improve the quantity of data reported, whether by transferring all data already available in other existing sources to the Portal, or by increasing the data collected at these sources;
- to improve the quality of data reported, whether by providing new training resources for the enforcers belonging to the IP Enforcement Portal community, or by expanding the choice of values used by the enforcers for tracking the different aspects of a detention.

An interesting additional dimension could make the analysis of results more useful for policy decisions by relating the volumes of the detentions of fake products to trade volumes (e.g. imports of genuine products, estimated trade of fakes, sales of genuine products). This analysis would require availability of data and preparatory work, in particular to define appropriate equivalences between the nomenclatures used to classify detained and traded goods.

References

Regulation (EU) No 608/2013 of the European Parliament and of the Council of 12 June 2013 concerning customs enforcement of intellectual property rights and repealing Council Regulation (EC) No 1383/2003:

<https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:181:0015:0034:en:PDF>

Regulation (EU) No 386/2012 of the European Parliament and of the Council of 19 April 2012 on entrusting the Office for Harmonization in the Internal Market (Trade Marks and Designs) with tasks related to the enforcement of intellectual property rights, including the assembling of public and private-sector representatives as a European Observatory on Infringements of Intellectual Property Rights:

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32012R0386>

Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights:

<https://eur-lex.europa.eu/eli/dir/2004/48/corrigendum/2004-06-02/oj>

DG TAXUD (2020) *Report on the EU customs enforcement of intellectual property rights. Results at the EU border, 2019*:

https://ec.europa.eu/taxation_customs/sites/taxation/files/ipr_report_2020.5464_en_04.pdf

EUIPO (2020) *Report on the EU internal market enforcement of intellectual property rights: results of detentions in EU Member States, 2019*:

<https://euiipo.europa.eu/tunnel->

web/secure/webdav/quest/document_library/observatory/documents/reports/2020_Report_on_detentions_in_EU_MS_during_2019/2020_Report_on_detentions_in_EU_MS_during_2019_FullR_en.pdf

EUIPO (2019) *Report on the EU enforcement of intellectual property rights: results at EU borders and in Member States 2013-2017*:

<https://euiipo.europa.eu/tunnel->

web/secure/webdav/guest/document_library/observatory/documents/reports/2019_Report_on_Enforcement_of_IPR_at_EU_borders_and_in_MS_2013_2017/2019_Report_on_enforcement_of_IPR_at_EU_borders_and_in_MS_2013_2017_Full_en.pdf

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Glossary

EU	European Union
DG TAXUD	European Commission's Directorate-General for Taxation and Customs Union
EUIPO	European Union Intellectual Property Office
COPIS	The EU central database, established by DG TAXUD pursuant to Articles 31 and 32 of Regulation (EU) No 608/2013, containing all applications for action and all detentions at the EU border
ACIST	The acronym of Anti-Counterfeiting Intelligence Support Tool, the name of the former database on EU border and EU internal market detentions provided by the EUIPO, now integrated into the IP Enforcement Portal, the single EU platform to deal with IPR enforcement matters. ACIST was the European Union database that previously gathered statistics on detentions of articles suspected of infringing IPR at the EU border and in the EU internal market
IP	Intellectual property
IPR	IP right(s)
Fake	A product allegedly infringing any kind of IPR

Annexes

Annex A. Enforcement Authorities

A.1 EU BORDER ENFORCEMENT AUTHORITIES

In the EU border scenario, the enforcement authorities are the customs officers in the customs offices, who regularly report – through one reporting authority per Member State and using COPIS – data on detentions of goods allegedly infringing IP rights.

In 2019, almost 600 different customs offices were behind the detentions reported by the Member States' customs reporting authorities. The distribution of these offices by Member State reflects, however, how Member States have organised customs offices and controls in different ways (see Figure A-1).

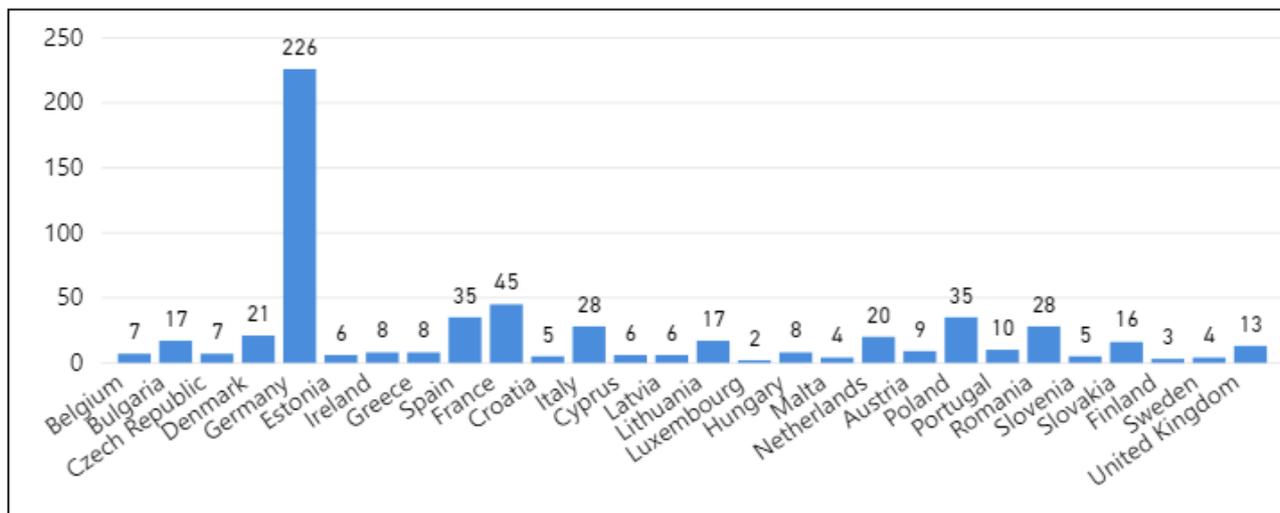


Figure A-1: Number of detaining customs offices in 2019 per Member State.

A.2 EU INTERNAL MARKET ENFORCEMENT AUTHORITIES

In the EU internal market scenario, there are a number of enforcement authorities with the legal powers to detain IPR-infringing goods, and which report about those detentions. These are included in Table A-1.

COUNTRY	ENFORCEMENT AUTHORITIES	DISCLAIMERS
Belgium	FSP Economy	
Bulgaria	Ministry of Interior. General Directorate Combating Organised Crime	The General Directorate Combating Organised Crime has been in charge of the collection of counterfeit and pirated goods since January 2016.
	Ministry of Interior. Directorate National Police	The National Police Directorate was in charge of the collection of counterfeit and pirated goods until December 2015.
	Customs Intelligence and Investigation Directorate. National Customs Agency	
Croatia	Criminal Police Directorate – Cyber Security Department – Croatia	The Croatian Police do not report item values. Therefore, the item value used for the total detention estimation (EUR) is the value used in the yearly publication of DG TAXUD reports.
	Ministry of Finance. Customs Directorate	
Cyprus	Cyprus Police. Department of Combating Crime	
	Customs and Excise Department. IPR Unit	
Czech Republic	General Directorate of Customs. Customs Department	
Denmark	State Prosecutor for Serious Economic and International Crime	
Estonia	Estonian Police and Border Guard Board	
Finland	Customs Enforcement Department. Analysis Unit	
France	Gendarmerie Nationale	
	Direction Générale des Douanes et Droits Indirects	

Greece	Interagency for Market Control (DIMEA), Hellenic Ministry of Development and Investments – Greece	Greek enforcement authorities do not report item values. Therefore, the item value used for the total detention estimation (EUR) is the value used in the yearly publication of DG TAXUD reports.
Hungary	Hungarian National Police. Criminal Directorate. Criminal Division	The Hungarian National Police are in charge of inland detentions of only medical and pharmaceutical products.
	National Tax and Customs Administration. Department of Enforcement	
Ireland	An Garda Siochana. Intellectual Property Crime Unit / Irish Tax and Customs	Internal market data published by Irish Tax and Customs authority resulted from joint enforcement operations
	An Garda Siochana. Intellectual Property Crime Unit	
Italy	Ministero dello Sviluppo Economico. Direzione Generale per la Lotta alla Contraffazione. Ufficio Italiano Brevetti e Marchi	<p>The Italian system of data aggregation does not match with that of the IP Enforcement Portal; as a consequence, data on internal detentions of <i>foodstuffs</i> and <i>beverages</i>, <i>tobacco products</i> and <i>medicine products</i> are not loaded into the IP Enforcement Portal.</p> <p>The Italian system to define IPR type classifications does not match with that of DG TAXUD. For this reason, the Italian data '<i>IPR Type</i>' are referred to in the IP Enforcement Portal as 'NOT PROVIDED', with the exception of COPYRIGHT.</p> <p>The published figures on detained items from the Carabinieri refer to both counterfeit and pirated goods. The data provided by the Carabinieri do not indicate the ID numbers of specific cases. Therefore, each row has been taken as a unique case.</p> <p>The figures published on detained items from the Polizia di Stato refer to both counterfeit and pirated goods. The data provided by the Polizia di Stato do not indicate the ID numbers of specific cases. Therefore, each row has been taken as a unique case.</p> <p>The figures published on detained items from the Polizia Municipale refer to both counterfeit and pirated goods. Although each Italian municipality has their own local police force, all the inland detentions carried out by them will be available in the IP Enforcement Portal under the general heading 'POLIZIA MUNICIPALE'.</p>
Latvia	Latvian State Police	The Latvian State police do not report item values. Therefore, the item value used for the total detention estimation (EUR) is the value used in the yearly publication of DG TAXUD reports.
Lithuania	State Patent Bureau	
Luxembourg	Public Prosecutor's office	The Public Prosecutor's office does not report item values. Therefore, the item value used for the total detention estimation (EUR) is the value used in the yearly publication of DG TAXUD reports.

Malta	Malta Police Force. Economic Crime Unit	
Netherlands	Ministry of Finance. FIOD CT Midden	According to the Dutch instruction for IPR fraud, in cases of danger to the public's health/safety, large-scale trading or indications of a criminal organisation recidivism, the investigative authorities in the Netherlands can start a criminal investigation (including inland seizures). The FIOD (the fiscal information and investigation service of the Dutch Tax and Customs Administration) and the police are the investigative authorities in the Netherlands.
Poland	National Police	The Polish National police do not report item values. Therefore, the item value used for the total detention estimation (EUR) is the value used in the yearly publication of DG TAXUD reports.
Portugal	National Industrial Property Institute	
Romania	Romanian Police	
Slovakia	Financial Directorate	
Slovenia	Criminal Police Directorate. Sector for Economic Crime	Since the number of IPR infringement cases is not considered problematic, the Slovenian Police do not collect separate data on inland cases for statistical purposes. However, this does not mean that the number of detentions in Slovenia is zero.
Spain	Spanish Patent and Trade mark Office	
United Kingdom	Police of Scotland	
	Scotland Trading Standards	

Table A-1: EU national markets reporting enforcement authorities.

Annex B. Availability, quantity and quality of data

As described in section 3, the analysis of the overall detentions of goods infringing IP rights in the EU during 2019 is based on the data about these detentions recorded in the IP Enforcement Portal during 2020.

B.1 EU BORDER DETENTIONS DATA

Data on reported detentions at the EU border are directly and constantly loaded into COPIS by the EU customs authorities.

For the analysis of the overall detentions, data on detentions at the EU border are also partially loaded into the IP Enforcement Portal on the basis of COPIS data. They are loaded yearly, in a one-shot loading exercise.

Records on reported detentions at EU Member State borders are available for 100 % of the Member States, both in COPIS and in the IP Enforcement Portal.

However, as explained in section 3, neither all the records nor all the fields in COPIS concerning the detentions of goods infringing IP rights at the EU border are consistently stored in the IP Enforcement Portal.

There are 36 subcategories used to describe the types of products detained at the EU border, classified under 12 main categories, (see Table C-1 and Table C-2 in Annex C).

B.2 EU INTERNAL MARKET DETENTIONS DATA

Data on reported detentions in the EU internal market are loaded into the IP Enforcement Portal on the basis of the data reported by the different EU enforcement authorities referred to in Table A-1 of section A.2 in Annex A. They are fully loaded each year, but in different bulks of data, depending on the enforcement authority. These bulks consist in some cases of a main bulk with the majority of data for a year, plus one or more minor bulks afterwards. As a result, the picture of the detentions in

the EU internal market during a period may vary, depending on the precise time of the data download.

The main constraints on the availability of 2019 detentions data reported, in particular, by the EU internal market's enforcement authorities, were described in the EUIPO's December 2020 report. Consequently, different degrees of availability of records on the 2018 and 2019 detentions for all EU Member States' national markets exist in the IP Enforcement Portal, as shown in Table B-1 below⁽³³⁾:

⁽³³⁾ The percentage of availability of data includes the estimate of the percentage of volume of detentions made in the national market by the enforcement authorities of those Member States participating in the reporting exercise. For example, it is estimated that the number of detentions made by the United Kingdom enforcement authorities that participated in the exercise in 2018 and 2019 (the Police of Scotland) covers 13 % of total detentions in the United Kingdom national market, the remaining 87 % of detentions being performed by national market enforcement authorities that have never participated in the reporting exercise (England and Wales Trading Standards, the Police of Northern Ireland and the PIPCU) or that did not provide data in the 2018 and 2019 data collection exercises in particular (Scotland Trading Standards).

Country	2018	2019
Belgium	90%	90%
Bulgaria	100%	95%
Czech Republic	100%	100%
Denmark	100%	100%
Germany	0%	0%
Estonia	100%	100%
Ireland	92%	92%
Greece	100%	100%
Spain	100%	100%
France	98%	98%
Croatia	82%	82%
Italy	100%	86%
Cyprus	98%	98%
Latvia	100%	100%
Lithuania	100%	100%
Luxembourg	0%	0%
Hungary	100%	100%
Malta	100%	100%
Netherlands	100%	100%
Austria	0%	0%
Poland	100%	100%
Portugal	100%	100%
Romania	100%	100%
Slovenia	100%	100%
Slovakia	100%	100%
Finland	100%	0%
Sweden	0%	0%
United Kingdom	13%	13%

Table B-1: Availability of records for EU internal market detentions per reporting EU Member State and year.

It should, however, be highlighted that, in most of the cases where the availability of data decreased between 2018 and 2019, or where the 2019 data were not available at the moment of drafting the report, the lockdown imposed due to the COVID-19 pandemic seems to have been the main cause.

Moreover, despite the IP Enforcement Portal being ready to accommodate fields informing about the itinerary used (country of origin; country of shipment; country, city and type of place of detention and country of destination), the means of transport used, and whether the products detained were made in the EU or not, most of this information was not provided by the EU internal market enforcement authorities in 2018 or 2019. This impedes the analysis of these dimensions in this overall report.

There are 44 subcategories used to describe the types of products detained overall: 36 corresponding to the goods detained at the EU border plus 8 additional ones (however, one of these is '16a – Not provided'). The subcategories are classified under the same 12 main categories in the classification used for goods detained at the EU border, plus another 4 main categories defined to accommodate the 8 additional subcategories previously mentioned. The additional categories and subcategories can be seen in Table D-1 and Table D-2 in Annex D.

Annex C. DG TAXUD classification of products for detentions at the EU border

Upper_Category
01 Foodstuffs, alcoholic and other beverages
02 Body care items
03 Clothing and accessories
04 Shoes including parts and accessories
05 Personal accessories
06 Mobile phones including parts and technical accessories
07 Electrical/electronic and computer equipment
08 CD, DVD, cassette, game cartridges
09 Toys, games (including electronic game consoles) and sporting articles
10 Tobacco products
11 Medicines
12 Other

Table C-1: Upper-level DG TAXUD products classification.

Category	Category Short Name
1a - foodstuffs	Foodstuffs
1b - alcoholic beverages	Alcoholic beverages
1c - other beverages	Other beverages
2a - perfumes and cosmetics	Perfumes and cosmetics
2b - other body care items	Other body care items
3a - clothing (ready to wear)	Clothing
3b - clothing accessories	Clothing accessories
4a - sport shoes	Sport shoes
4b - other shoes	Non-sport shoes
5a - sunglasses and other eye-glasses	Sunglasses
5b - bags including wallets; purses; cigarette cases and other similar goods carried in the pocket/bag	Bags, wallets, purses
5c - watches	Watches
5d - jewellery and other accessories	Jewellery
6a - mobile phones	Mobile phones
6b - parts and technical accessories for mobile phones	Mobile phone access.
7a - audio/video apparatus including technical accessories and parts	Audio/video apparatus
7b - memory cards; memory sticks	Memory cards/sticks
7c - ink cartridges and toners	Ink cartridges
7d - computer equipment (hardware) including technical accessories and parts	Computer equipment
7e - other equipment including technical accessories and parts	Other electronics
8a - recorded (music; film; software; game software)	Recorded CDs/DVDs
8b - unrecorded	Unrecorded CDs/DVDs
9a - toys	Toys
9b - games (including electronic game consoles)	Games
9c - sporting articles (including leisure articles)	Sporting articles
10a - cigarettes	Cigarettes
10b - other tobacco products	Other tobacco
11a - Medicines	Medicines
12a - machines and tools	Machines/tools
12b - vehicles including accessories and parts	Vehicle accessories
12c - office stationery	Office stationery
12d - lighters	Lighters
12e - labels; tags; stickers	Labels, tags, stickers
12f - textiles	Textiles
12g - packaging materials	Packaging material
12h - other	Other goods

Table C-2: Lower-level DG TAXUD products classification (subcategories) ⁽³⁴⁾.

⁽³⁴⁾ The category short name 'recorded CVs/DVDs' refers to any kind of support for recording, in particular to USB sticks.

Annex D. Additional classification of products for detentions in the EU internal market

Upper_Category
13 Furniture
14 Construction materials and machinery
15 Online counterfeit and pirate products
16 Not Provided

Table D-1: Additional upper-level products classification.

Category	Category Short Name
13a - Private residence furniture	Home furniture
13b - Office furniture	Office furniture
13c - Other furniture	Other furniture
14a - Construction materials	Construction materials
14b - Construction machinery	Construction machinery
15a - illegal streaming/downloading	Illegal
15b - Online - sale/offer of counterfeit products	Online sale/offer of counterfeit products
16a - not provided	Not provided

Table D-2: Additional lower-level products classification (subcategories).

Annex E. Methodological notes for comparing detentions at the EU border with detentions in the EU internal market

In order to analyse the differences between the types of subcategories of goods most detained in 2019 at the EU border and in the EU internal market, the comparison is based on the share that the detentions of a certain type of products, i , represented, in terms of both number of items and value, as a fraction of the total detentions of all types of goods in that year.

That share showed clear discrepancies between the type of products detained at the EU border and in the EU internal market in 2019.

However, to make the comparison appropriate, it is important to choose a subset of Member States in which there is a solid availability of data on detentions **both** at the EU border and in their national markets. Since the data on detentions at the EU border in 2019 are available for all Member States (see section B.1 of Annex B), the solidity of the set of countries to be chosen is determined by the availability of data on detentions in Member State national markets in 2019 (see Table B-1 in section B.2 of Annex B). On the basis of that availability, the analysis described hereafter has been **restricted to all the EU Member States in 2019 except Austria, Finland, Germany, Luxembourg, Sweden and the United Kingdom** (the selected subset).

The share, **in terms of quantity of items**, of detentions in 2019 at the EU border of the goods of subcategory i for the selected subset is:

$$QShare_i^{EUborder}$$

(e.g. $QShare_{cigarettes}^{EUborder} = 15.9\%$)

The share, in terms of quantity of items, of detentions in 2019 in the EU national markets of the goods of subcategory i for the selected subset is:

$$QShare_i^{EUintmark}$$

(e.g. $QShare_{cigarettes}^{EUintmark} = 3.5\%$)

The delta between the share, in terms of quantity of items, at the EU border and the share in the EU national markets in 2019 is defined as the difference between the two, taking 'at the EU border' as the minuend:

$$\Delta QShare_i = QShare_i^{EUborder} - QShare_i^{EUintmark}$$

(e.g. $\Delta QShare_{cigarettes} = 15.9\% - 3.5\% = 12.4\%$)

High positive values of $\Delta QShare_i$ imply that the detentions of goods of subcategory i are, in 2019 and in the selected subset of Member States, proportionally much more voluminous, in terms of quantity of items, at the EU border than in the EU national markets, whereas high negative values of $\Delta QShare_i$ imply that the detentions of goods of subcategory i are, in 2019 and in the selected subset, proportionally much more voluminous, in terms of quantity of items, in the EU national markets than at the EU border.

Analogously, the share, **in terms of estimated value**, of detentions in 2019 at the EU border of the goods of subcategory i for the selected subset is:

$$VShare_i^{EUborder}$$

(e.g. $VShare_{clothing}^{EUborder} = 24.5\%$)

The share, in terms of estimated value, of detentions in 2019 in EU national markets of the goods of subcategory i for the selected subset is:

$$VShare_i^{EUintmark}$$

(e.g. $VShare_{clothing}^{EUintmark} = 13.1\%$)

The delta between the share, in terms of estimated value, at the EU border and in the EU national markets in 2019 is defined as the difference between the two, taking 'at the EU border' as the minuend:

$$\Delta VShare_i = VShare_i^{EUborder} - VShare_i^{EUintmark}$$

(e.g. $\Delta VShare_{clothing} = 24.5\% - 13.1\% = 11.4\%$)

High positive values of $\Delta VShare_i$ imply that the detentions of goods of subcategory i are, in 2019 and in the selected subset of Member States, proportionally much more voluminous, in terms of estimated value, at the EU border than in the EU national markets, whereas high negative values of $\Delta QShare_i$ imply that the detentions of goods of subcategory i are, in 2019 and in the selected subset, proportionally much more voluminous, in terms of value, in the EU national markets than at the EU border.



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