



EU enforcement of
intellectual property rights:
results at the EU border and
in the EU internal market 2021

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Executive Summary

Since their agreement in 2020, DG TAXUD and the EUIPO jointly publish an annual document presenting the efforts made and work carried out by all authorities in the domain of the enforcement of intellectual property rights (IPRs). This second edition provides the figures for the detentions of IPR-infringing goods and other related information in 2021.

This factual document on the ‘EU enforcement of intellectual property rights: results at the EU border and in the EU internal market, 2021’, has been produced from the data on the detentions at the EU border reported by the customs authorities of 26 out of 27 EU Member States⁽¹⁾, through the EU-wide anti-counterfeit and anti-piracy information system (COPIS)⁽²⁾, as well as the data on detentions within the internal market reported by the enforcement authorities of 21 out of 27 EU Member States⁽³⁾, through the IP Enforcement Portal (IPEP). Its objective is to provide useful information to support the analysis of IPR infringements in the EU and the development of appropriate countermeasures. On a broader scale, it should provide EU policymakers with data to develop an evidence base for priorities and policies.

⁽¹⁾ Detentions data are missing from Greece for the year 2021.

⁽²⁾ In accordance with the relevant EU customs legislation (and in particular Regulation (EU) No 608/2013), COPIS is the EU-wide anti-Counterfeit and anti-Piracy Information System containing all applications for action and all detentions. COPIS is the only legal channel for sharing information between right holders and customs.

⁽³⁾ To be succinct, the part of the EU internal market corresponding to a Member State will be referred to, throughout the document, as the Member State’s national market. Records on national market detentions are not available from the Austrian and German enforcement authorities, the first because their regulations do not allow the police to execute *ex officio* seizures of counterfeit or pirated goods in the national market, and the second because they have not yet joined the data provision network. Moreover, data for 2021 detentions are still missing from Denmark, Luxembourg, Slovenia and Sweden national markets, although the absence of their data in 2021 does not modify at any point the global picture of the trends.

Detentions at the EU border in 2021

The annual number of detentions⁽⁴⁾ of goods suspected of infringing an IP right by customs authorities at the EU border increased slightly in 2021 compared to the previous year (from circa 70 000 in 2020 to circa 75 000 in 2021). The number of initiated procedures has also increased from approximately 102 000 in 2020 to approximately 124 000 in 2021. A more pronounced development can be observed with regard to the number of detained articles (from approximately 27 million in 2020 to approximately 42 million in 2021), even exceeding the pre-COVID-19 pandemic figure in 2019. However, the estimated value of the detained articles has only increased modestly (from approximately EUR 778 million to approximately EUR 806 million). The shift in the basket of products detained from expensive products towards categories of cheaper products, as well as the reduction of the estimated value per unit in some of the categories of articles detained (both among the most numerous and among the most expensive), explained the modest increase of the estimated value of the detained goods in 2021. This occurred despite the huge increase in the number of articles detained that year, which was the second year of the COVID-19 pandemic. All these increases have been reported, despite the missing data on detentions at the Greek border⁽⁵⁾.

In terms of the number of procedures, the product subcategories that appeared the most were common consumer products (Clothing and Footwear, both sport and non-sport shoes) and luxury products (Bags, wallets and purses, Perfumes and cosmetics and Watches). In terms of the number of articles detained, the subcategories in which the unitary item is usually smaller in size and in value and that are mainly transported in bigger shipments such as in containers (Packaging material, Other goods, Mobile phone accessories, Toys and Other body care items) took all top five positions. Regarding the estimated value of the products detained, luxury products whose corresponding genuine item has a high unitary domestic retail value (in particular due to the brands involved), such as Watches, Clothing, Bags, wallets, purses and Jewellery, clearly led the ranking, with an unusual product (Mobile phone accessories) in between, the latter caused by the high volume of items detained of this category of goods.

⁽⁴⁾ Each detention is called a case, which includes a number of individual articles, ranging from one to several million, and may cover different categories of goods and different right holders. For each right holder in a case, a procedure will be initiated by customs.

⁽⁵⁾ Historically representing between 5 %-6 % of the detentions of counterfeit at EU border, in terms of number of items and estimated value respectively.

As to the provenance of the articles infringing IPRs arriving in the EU, the volumes show the primacy of China, followed by Türkiye and Hong Kong, China. China is the predominant country of provenance for the majority of the categories of goods. Moreover, among the identified⁽⁶⁾ detained goods infringing IP rights coming from China, the category of goods most detained is Packaging material. Among those coming from Türkiye, Clothing prevails while the most identified detained items coming from Hong Kong, China, are Labels, tags and stickers.

In terms of means of transport, the highest number of detention cases in 2021 continued to be goods transported via post and express courier. However, over the last few years the detention cases of goods transported by post have been continuously decreasing, whereas detention cases of goods transported by express courier have been increasing. In terms of number of counterfeit articles, detentions in sea traffic and road still account for the majority of all detained articles, while an increase can be noted in air, express courier and post.

Finally, in terms of IPR types infringed by the detained goods, trade marks (either European Union, national and/or international) continued to be, by far, the most infringed type.

The products reported as detained at the EU border due to IP rights infringement remain however over the years only a fraction of the estimated counterfeit and pirated goods that entered the EU market. For example, when compared with the estimated volume of such goods in OECD-EUIPO reports conducted on illicit trade, the counterfeit goods detained at the EU border represented not less than 0.73 % of the estimated value of counterfeit goods passing the border in 2013, whereas in 2016 and 2019 the value represented respectively at least 0.38 % and 0.45 %.

Detentions within the EU internal market in 2021

The trend of IPR-infringing goods detained in the EU internal market increased in 2021 compared to the previous year. Indeed, according to the figures reported by police, customs and market surveillance authorities, the number of IPR-infringing goods reported as detained in 2021 (53 million) was approximately 7 million higher than that of 2020 (46 million), representing a 16 % annual increase. This increase happened despite the fact that some internal market enforcement authorities that had reported in 2020 did not provide figures for 2021, and taking into account that their

⁽⁶⁾ Subcategories of identified products exclude that of Other goods.

detentions in 2020 were marginal. Despite that increase in the number of items detained, the estimated value of those items (approximately EUR 1 253 million) decreased by EUR 46 million, representing a 3.5 % annual decrease, due to the basket of the subcategories detained shifting towards those of cheaper products.

For both the number of items detained and the estimated value, the top six Member States accounted for more than 95 % of total detentions in the internal market during 2021. Italy clearly led the way, with almost 62 % in terms of the number of items, and with over 63 % in terms of estimated value. France, the Netherlands, Spain and Hungary also ranked in the top six in both the number of items and the estimated value, whereas Portugal and Greece completed the ranking in terms of number of items detained and estimated value respectively.

In the top five product subcategories, Other goods ranked first in terms of number of items reported as detained within the EU internal market, followed by Cigarettes and Labels, tags and stickers, and by Clothing and by Audio/video apparatus to a lesser extent. In terms of their estimated value, a group of four subcategories (Textiles, Clothing, Audio/video apparatus and Non-sport shoes) shared the leading role with similar total percentages, followed by Cigarettes.

Lastly, trade marks stand for the most infringed IPR type in detentions in the EU internal market (over 93 % of the articles detained). Other types of rights were infringed in the internal market, such as copyrights (in circa 6 % of the items detained) and designs (circa 0.7 %).

Overall detention data in 2021: aggregated data at the EU border and in the EU internal market

The volume of fake items detained and not released in the EU was approximately 86 million items in 2021 ⁽⁷⁾. This shows a significant increase of almost 31 % of the number of items reported as detained and not released compared to 2020 (66 million items). Approximately 62 % of those were detained in the internal market and the rest at the EU border.

⁽⁷⁾ The data on overall detentions does not correspond exactly with the data on detentions at the EU border plus those on detentions in the EU internal market, because the counterfeit goods detained at the EU border but later released are not recorded in the overall results.

The estimated value of fake items detained in the EU amounted to over EUR 1.9 billion. This value represents a decrease of circa 3 % compared to the previous year, despite the increase in the number of items. This contradiction matches with the overall picture of the detentions of counterfeits in the internal market, as previously explained before. In 2021, almost 65 % of the total value of detained items was accounted for by detentions in the internal market, while the remaining resulted from detentions at the EU border. These percentages are in line with those in 2020.

The 10 Member States with the highest number of detentions reported accounted for almost 97 % by volume and over 93 % by estimated value of the items. Italy recorded the highest individual share by volume, with over 39 % of the total detentions, and by estimated value, with more than 41 %.

Overall, the five most common subcategories of identified detained products, in terms of the number of items detained in the whole EU, were Packaging material, Cigarettes, Labels, tags, stickers, Clothing and Toys. These five subcategories accounted for more than 53 % of the products recorded. In terms of the estimated value of the items reported, the subcategories of products identified were led by Clothing, Watches, Audio/Video apparatus, Textiles and Non-sport shoes. These five subcategories represented almost 54 % of the estimated value of detentions reported during 2021.

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