

rective are to be highlighted due to growing internet piracy as well as a strong IT sector and its ongoing development in the Baltic countries<sup>161</sup>.

Further, the new amendments to the 2003 Law on Copyright and Related Rights, which came into force in Lithuania on 12 October 2006, implemented the provisions of the EU Enforcement Directive. In Estonia, the Enforcement Directive was implemented while adopting the extensive amendments to the Estonian Code of Civil Procedure and in Latvia by adopting new amendments to the Civil Procedure Law<sup>162</sup>.

While referring to the implementation of *acquis communautaire*, the Council Regulation (EC) No 1383/2003 of 22 July, 2003<sup>163</sup>, concerning customs action against goods suspected of infringing certain intellectual property rights and the measures to be taken against goods found to have infringed such rights should also be mentioned. The EC Regulation 1383/2003 is substantial in terms of effective actions as applied *ex officio* by the customs authorities or on the basis of applications by IP right holders due to a high number of piracy incidents at the borders of the Baltic countries. However, those actions (measures and procedures) are strictly regulated by the EC Regulation 1383/2003 and do not fall under the scope of the regulation of the Enforcement Directive<sup>164</sup>.

## V. Concluding remarks

Following the scheme of geopolitical functions that could be performed by the Baltic countries, a parallel could be drawn in terms of promoting and protecting IP rights: due to its “cross-road” position, the East-Baltic could be the outpost for the expansion or barrier of external innovations, and, moreover, they could actively contribute to the expansion of IP in this sub-region by involving the “Eurasian” core and become an arena of innovation exchange.

On the other hand, while exploring some rudiments of the creation of the modern IP systems during the interwar period in the Baltic countries, the IP “mentality” and related regulatory system during the Soviet occupation and, finally, referring to the rapid legal changes after the declarations of the independence of the three Baltic states in 1990/1991, it is evident that such discontinuous historical circumstances

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161 See further *refs.* in *infra* § 4A.II.

162 See *Harenko et al.*, Expedited Remedies for the Protection of IP in Finland and the Baltic States, pp. 31-32; also see the implementing amendments in the field of IP rights enforcement regulation in the Baltic countries in *infra* § 5B.I.1.c).

163 Council Regulation (EC) No 1383/2003 of 22 July 2003 concerning customs action against goods suspected of infringing certain intellectual property rights and the measures to be taken against goods found to have infringed such rights, OJ 2003, L 196/7 (hereinafter – the “*EC Regulation 1383/2003*”). Since 1 May, 2004, when the latter regulation became directly applicable to the Baltic countries, the national legislation regarding the import and export of IP goods that was in force until the accession date is no longer applicable.

164 See more discussion about border measures and civil remedies in *infra* § 5G.II.

caused the specific and, frequently, uneven formation of the Baltic IP legal doctrine and practice.

Notwithstanding the fact that, from the current legislative point of view, the national IP system is duly regulated, especially due to the formal and actual integration into the EU processes, Baltic history still has a strong influence, which does not always allow a consistent implementation of EU-wide provisions in practice. Moreover, factors such as the extremely rapid transformation since the declarations of independence of the Baltic countries from centralized economies with weak protection of IP rights to market economies with strong protection of IP rights and the Soviet “IP-mentality” of the people adopting and applying the laws play an enormous role in the creation of an IP-friendly environment in the Baltic countries. The period immediately following the declarations of independence is considered to be only a short transformation period, one which obviously promises additional possible changes in the future.

### **C. *Overview of the current national regulatory and institutional framework for the enforcement of IP rights***

#### **I. *Adoption of national IP legislation: some procedural aspects***

Under the national Constitutions of the Baltic countries<sup>165</sup>, national laws are adopted by the national parliaments (the *Riigikogu* (est.) in Estonia, the *Seimas* (lt.) in Lithuania and the *Saeima* (lv.) in Latvia) and are only enforced after they are officially signed and proclaimed by the national presidents<sup>166</sup>. As the drafting of national laws in the national parliaments is mainly subject to discussions by the parliamentary committees<sup>167</sup>, the role of those committees in the process of the adoption of national legislation, as well as its approximation and implementation with EU legal provisions and international obligations is of the highest importance<sup>168</sup>.

In the area of drafting national substantive IP legislation and the procedural laws which are important for the IP enforcement, the Cultural Affairs and the Legal Af-

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165 Refs. to the 1992 Estonian Constitution, Articles 65(1) and 78(6); the 1922 (last amended in 2003) Latvian Constitution, Articles 64 and 70; the 1992 Lithuanian Constitution, Articles 67 (2) and 70. See also *supra* Fts. 109-111 herein.

166 All the national legislative acts, after they are signed and proclaimed, can be found in the official magazines (Engl. “State Gazette”): for Lithuania – “Valstybės žinios” (lt.); for Estonia – “Riigi Teatuja” (est.), and for Latvia – “Latvijas Vēstnesis” (lv.).

167 Refs. to the 1992 Estonian Constitution, Article 71; the 1922 (last amended in 2003) Latvian Constitution, Articles 25; the 1994 Statute of the Lithuanian Parliament (last amended in 2006), Section III.

168 It should also not be forgotten that on the EU legislative level the Baltic members at the European Parliament have their own representatives (Estonia has 6, Latvia - 8, and Lithuanian – 12 representatives at the European Parliament (2010 data)) who can directly participate in law-adoption processes in the EU legislative institution.