

**CHECKLIST OF ISSUES ON ENFORCEMENT<sup>1</sup>**

Responses from Armenia

**Civil and Administrative Procedures and Remedies**

*(a) Civil judicial procedures and remedies*

**1. Specify the courts which have jurisdiction over IPR infringement cases.**

According to Articles 15, 16, 81, 206, 221 and 224 of the Civil Code of the Republic of Armenia, intellectual property right infringement cases are under the jurisdiction of the Courts of First Instance and Appeals, the Cassation and Economic Courts.

**2. Which persons have standing to assert IPRs? How may they be represented? Are there requirements for mandatory personal appearances before the court by the right holder?**

All right holders and their successors have standing to assert intellectual property rights. According to Article 3 of the Code of Civil Procedure, a civil case may be initiated on the basis of an action or application. Citizens may represent their interests personally or through their representatives in accordance with Article 39 of the Code of Civil Procedure. The interests of legal entities in the court shall be represented by the bodies or their representatives acting within the limits of their competences entitled by the law or statute. According to the Code of Civil Procedure, Article 41, the competences of the representative shall be stated in a letter of authorization formulated and issued in compliance with the law.

**3. What authority do the judicial authorities have to order, at the request of an opposing party, a party to a proceeding to produce evidence that lies within its control?**

This issue is regulated in accordance with Article 49 of the Code of Civil Procedure:

1. Evidence is provided by the parties to the case.
2. A party which is unable to obtain the necessary evidence from other parties who have that evidence, whether those parties are involved in the case or not, has the right to apply to court with a claim that the necessary evidence is presented. The application shall include the evidence, the circumstances crucial for that case which may be confirmed by that evidence, as well as the location of the evidence if known.
3. The court shall make its decision based on the results of the review of the aforementioned application.

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<sup>1</sup> Document IP/C/5.

4. The decision on presenting the evidence shall be made immediately, in conformity with the procedure laid down in the Law on Compulsory Executions of Court Decisions.

**4. What means exist to identify and protect confidential information brought forward as evidence?**

This issue is regulated in accordance with the provisions stated in the Civil Code, Chapter 68, which regulates all issues related to the legal protection of undisclosed information, liability for its illegal use as well as the transfer of that right.

**5. Describe the remedies that may be ordered by the judicial authorities and criteria, legislative or jurisprudential, for their use;**

- **injunctions;**
- **damages, including recovery of profits, and expenses, including attorney's fees;**
- **destruction or other disposal of infringing goods and materials/implements for their production;**
- **any other remedies.**

The following measures may be applied by the judicial authorities:

- Money compensation referred to in Article 16 (1) of the Law on Patents, in the sense that the Government of Armenia may, on consideration of national security, national interest or in emergency situations, as well as in cases of non-commercial use by the State, use without the authorization of the patentee any invention, operational model or production sample (compulsory license), provided that the patentee is notified within ten (10) days and is given an equal money compensation, taking into consideration the circumstances of each particular case and the economic importance of each authorization alike.
- Reparation of damages referred to in Article 17(2) of the Law on Patents, in the sense that operations involving patent violation shall be stopped either upon the patentee's or the exclusive license owner's request (unless otherwise provided in the license agreement), or upon the ordinary license owner's request (if provided in the license agreement), while the natural or legal entity that violated the patent shall pay the right owner damages in accordance with the procedure laid down in the legislation of the Republic of Armenia.
- The following measures listed in Article 11 of the Law on Legal Protection of Topology of Integrated Microcircuits, i.e. the author of the topology or any other right owner may claim:
  - a) the restoration of the situation in place before the violation,
  - b) reparation of damages, including revenues illegally received by the violator,
  - c) other measures provided by law and aimed at protecting their rights.

Integrated microcircuits and products containing the former, the production of which is qualified as illegal by a court decision, as well as materials and equipment designed for the production thereof, may be seized, destroyed or sold, whereas funds received from the sale thereof shall be transferred to the State budget or to the plaintiff's account, based on his own request, to compensate his damages.

- Measures listed in Article 47 (paragraphs 2, 3 and 4) of the Law on Trademarks, Service Marks and Place-names of Commodity Origin:
  - i. Protection of civil rights in cases of illegal use of trademarks, except suspension of illegal use and claims for compensation of damages, shall also be provided in the following manners:
    - a) publication of the court decision by the violator, aimed at restoring the authority of the injured party,
    - b) removal of an illegally used trademark or a trademark similar to the original to the point of confusion from the product or its packaging, in such a manner which will preclude the possibility of a recurring use,
    - c) destruction of the images of illegally used trademarks or trademarks similar to the original to the point of confusion,
    - d) where methods listed in subparagraphs b) and c) cannot be applied, in order to preclude the possibility of further damages to the trademark owner, the product containing an illegally used trademark, or its packaging, shall be seized or even destroyed without any compensation.
  - ii. Any person who illegally uses any registered place-name or a place-name similar to the original to the point of confusion, shall, upon request of the owner of the place-name use certificate or a non-government organization:
    - a) suspend its use and compensate the damages to all injured parties, as well as pay to the local budget from the profit gained from the illegal use of the place-name an amount exceeding the compensation of damages,
    - b) publish the court decision in order to restore the authority of the injured party,
    - c) remove the illegally used place-name or a place-name similar to the original to the point of confusion from the product or its packaging, in such a manner which will preclude the possibility of a recurring use,
    - d) destroy the images of illegally used place-names,
    - e) where methods listed in subparagraphs c) and d) cannot be applied, the product containing an illegally used place-name, or its packaging, shall be seized or destroyed without any compensation.
  - iii. In cases of illegal use of trademarks or place-names, in order to minimize the danger of future violations, protection of civil rights may be ensured by seizure of material objects of the violation (materials, devices, advertisement means), if the latter were predominantly used for that purpose.

- Measures listed in Article 43 of the Law on Copyright and Neighbouring Rights, whereby the copyright owner or the owner of neighbouring rights may demand from the violator:
  - a) to recognize his rights,
  - b) to restore the situation in place before the violation and to suspend violation actions or actions that contain the danger of violation,
  - c) to present the pirated product, in order that it may be seized or destroyed,
  - d) to provide compensation of damages (including profits lost), in accordance with the procedure laid down in the legislation of the Republic of Armenia,
  - e) to pay money compensation instead of damages or lost profit refund. The amount of the compensation shall be specified by the court based on the nature and the consequences of the violation,
  - f) to apply other measures provided for in the legislation of the Republic of Armenia and aimed at protecting his rights.

The right to select between measures listed in subparagraphs c), d) and e) lies upon the owner of the copyright and/or neighbouring rights.

To protect his rights, the owner of the copyright and/or neighbouring rights may apply to court in accordance with the procedure laid down in the legislation of the Republic of Armenia.

The owner of the copyright and/or neighbouring rights may apply to court in order to obtain from the copyright violator any information on third persons involved in production and distribution of a composition or a sound (or video) recording, as well as on sources of acquisition and distribution thereof. Any violator who refuses to provide the afore-mentioned information shall be accountable in accordance with the legislation of the Republic of Armenia.

Legally acquired pirated samples of compositions or sound (or video) recordings shall not be subject to seizure from the third parties.

Pirated samples of compositions or sound (or video) recordings not requested by the owner of the copyright and/or neighbouring rights, as well as materials and equipment used for the production and reproduction of the former, may be destroyed pursuant to court decision.

- Measures listed in Article 16 of the Law on Firm Names:
  - a) Where the exclusive right of a legal entity to use the firm name is violated, the violator shall compensate all damages incurred.
  - b) In order to restore the authority (reputation) of the injured legal entity, the competent authority shall, on the violator's account, publish in its official newsletter the appropriate court decision, indicating above all the owner of the violated right.

- c) In case of violation of the exclusive right of use of firm names, any signboards, seals, stamps, document forms, advertisements and all other printed publications made by the violator shall be subject to destruction.

**6. In what circumstances, if any, do judicial authorities have the authority to order the infringer to inform the right holder of the identity of third persons involved in the production and distribution of the goods of services found to be infringing and of their channels of distribution?**

This issue is regulated:

- by Article 47(5) of the Law on Trademarks, Service Marks and Place-names of Commodity Origin, whereby any person whose rights with respect to a trademark or place-name are or are likely to be violated, may apply to court and request, from the owner of a product that bears an illegally used trademark or place-name, information on third persons involved in production and distribution of such products, as well as on sources of acquisition and distribution thereof,
- by Article 43(4, 5) of the Law on Copyright and Neighbouring Rights, whereby the owner of the copyright and/or neighbouring rights may apply to court in order to obtain from the copyright violator any information on third persons involved in production and distribution of a composition or a sound (or video) recording, as well as on sources of acquisition and distribution thereof. Any violator who refuses to provide the afore-mentioned information shall be accountable in accordance with the legislation of the Republic of Armenia.

Legally acquired pirated samples of compositions or sound (or video) recordings shall not be subject to seizure from third parties.

**7. Describe provisions relating to the indemnification of defendants wrongfully enjoined. To what extent are public authorities and/or officials liable in such a situation and what "remedial measures" are applicable to them?**

This issue is regulated by the provision stated in the Civil Code of the Republic of Armenia, Article 1063: damage caused to a citizen or legal entity as a result of illegal actions (or inactions) by State bodies, local government or their officials, including issuance of an act by the State or local government body that is noncompliant with the law or other legal act, shall be indemnified by the Republic of Armenia or the relevant community.

**8. Describe provisions governing the length and cost of proceedings. Provide any available data on the actual duration of proceedings and their cost.**

According to the Code of Civil Procedure, Article 111, a case must be investigated and a ruling must be made within two months after the receipt of the action by the court.

The issues on court costs are regulated by the provisions stated in the Code of Civil Procedure, Chapter 9. Article 68, in particular, defines that Court costs consist of the State duty and of costs payable for experts, the summoning of witnesses, the examination of evidence on the spot, and other expenses concerned with the trial.

(b) *Administrative procedures and remedies*

**9. Reply to the above questions in relation to any administrative procedures on the merits and remedies that may result from these procedures.**

There are no provisions on intellectual property right infringements in the Code of Administrative Offences.

**Provisional Measures**

(a) *Judicial measures*

**10. Describe the types of provisional measures that judicial authorities may order, and the legal basis for such authority.**

These issues are regulated by the provisions stated in the Code of Civil Procedure of the Republic of Armenia, Articles 97 and 98:

Article 97. Grounds for the Securing of the Action.

1. The court, by motion of a person participating in the case or by its own initiative shall take measures to secure the action, if the failure to take such measures can make the execution of the court decision impossible or difficult, or result in the deterioration of the state of the property which is the object of the dispute. The securing of the action is allowed at any stage of the proceeding.

2. The motion is discussed on the day of its receipt, and a decision is made.

Article 98. Measures of Securing the Action.

1. The following are the measures of securing the action:

- a) to put a lien on the defendant's property or financial assets in the amount of the value of the action;
- b) to prohibit the committal of certain actions by the defendant;
- c) to prohibit the committal of certain actions by other persons in relation to the object of the dispute;
- d) to suspend the sale of property, in case of instituting a suit concerning the lifting of the lien of the property.
- e) to put alien on the property owned by the claimant and kept with the defendant, immediately or within five (5) days time.

2. When necessary, the court is entitled to apply several measures of securing the action.

3. In case of securing the action concerning the seizure of financial assets, the defendant is entitled to pay the amount demanded by the claimant to the deposit account of the enforced execution service.

**11. In what circumstances may such measures be ordered *inaudita altera parte*?**

According to the Code of Civil Procedure of the Republic of Armenia, Article 65:

- a) Persons who have grounds to fear that producing necessary evidence can become impossible or difficult, are entitled to make a motion to the court in charge of the case in relation to the provision of this evidence.
- b) The motion concerning the provision of evidence must indicate the evidence which is required to be provided, the facts for the establishment of which this evidence is necessary, and the reasons which have served as the basis for the motion.
- c) Based on the results of discussion of the motion the court delivers a decision.
- d) The decision concerning the provision of evidence is carried out immediately, as envisaged in the procedure established in the Law on Compulsory Enforcement of Court Decisions of the Republic of Armenia.

**12. Describe the main procedures for the initiation, ordering and maintenance in force of provisional measures, in particular relevant time-limits and safeguards to protect the legitimate interests of the defendant.**

These issues are regulated in accordance with the Law on “Copyright and Neighbouring Rights”, Article 44:

The Court may, in accordance with the procedures defined by the Code of Civil Procedure of the Republic of Armenia, upon the application of the persons participating in the case or in his own initiative, undertake securing measures of the action - to put a lien on presumably counterfeit copies of the works and phonograms, as well as the materials and the implements designed for their creation and reproduction.

In case of the infringement of copyright and adjacent rights, for which criminal liability is envisaged, the court, with the purpose of securing the civil action submitted or to be submitted in future, shall be entitled to seize all presumably counterfeit copies, as well as the materials and the implements designed for their creation and reproduction, and, if necessary, to detain and, when not claimed by the claimant, destroy them.

In addition, these issues are regulated in accordance with the Code of Civil Procedure of the Republic of Armenia, Articles 99, 101 and 102.

Article 99. Execution of Decision on Securing of the Action.

The Court decision on the securing of the action is executed expeditiously, as envisaged in the procedure established in the Law on Compulsory Enforcement of Court Decisions of the Republic of Armenia.

Article 101. Elimination of the Securing of the Action.

1. The Court investigating the case, by motion of a participating party, can eliminate the securing of the action.

2. The issue of eliminating the securing of the action shall be resolved at court session. The persons participating in the case shall be properly notified about the time and place of the

session. Their failure to be present is no hindrance to the consideration of the issue on the elimination of the securing of the action.

3. A decision shall be made based on the results of the discussion of the issue on the elimination of the securing of the action.

4. In case of a ruling to turn down the action, the securing measures of the action shall be preserved until the enactment of the ruling.

In case of a ruling to satisfy the action, the securing measures are preserved until the enactment of the ruling.

Article 102. Indemnification of Damage Inflicted Due to Securing of the Action.

1. When taking securing measures for the action, the court can, by the defendant's motion, demand from the claimant provision for the indemnification of the possible damages of the defendant.

2. The defendant is entitled to institute an action at the same court against the claimant with the demand to indemnify the damages inflicted by the securing of action.

**13. Describe provisions governing the length and cost of proceedings. Provide any available data on the actual duration of proceedings and their cost.**

This issue is regulated by the provisions of the Code of Civil Procedures of the Republic of Armenia mentioned in the answer to question 8 above.

(b) *Administrative procedures*

**14. Reply to the above questions in relation to any administrative provisional measures.**

There are no provisions on intellectual property right infringements in the Code of Administrative Offences.

**Special Requirements Related to Border Measures**

**15. Indicate for which goods it is possible to apply for the suspension by the customs authorities of the release into free circulation, in particular whether these procedures are available also in respect of goods which involve infringements of intellectual property rights other than counterfeit trademark or pirated copyright goods as defined in the TRIPS Agreement (footnote to Article 51). Specify, together with relevant criteria, any imports excluded from the application of such procedures (such as goods from another member of a customs union, goods in transit or *de minimis* imports). Do the procedures apply to imports of goods put on the market in another country by or with the consent of the right holder and to goods destined for exportation?**

These issues are reflected in the Customs Code of the Republic of Armenia, Chapter 39, Article 227, clause 1 and clause 2, sub-clauses (a) and (c):



Article 227. Applying to the Customs Authorities on Protection of Intellectual Property Rights

1. Under the law of the Republic of Armenia, the legal owner of the right on the intellectual property objects, or any other person having a lawful right to use that object, as well as the successor or his representative (hereinafter, “right holder”), who has valid grounds to suspect that across the Customs border of the Republic of Armenia may be transported goods infringing intellectual property rights, may submit an application (hereinafter, “suspension application”) to the Superior Customs Body with the request of the registration of the intellectual property object and for the suspension of the release of such goods under any Customs regime.
2. The provisions of clause 1 of this Article shall not apply:
  - (a) to goods transported across the Customs border under the Customs regime of transit shipment;
  - (c) to those goods being transported across the Customs border which have been legitimately put into the commodity market for circulation by the right holder or with his consent.

**16. Provide a description of the main elements of the procedures relating to the suspension of the release of goods by customs authorities, in particular the competent authorities (Article 51), the requirements for an application (Article 52) and various requirements related to the duration of suspension (Article 55). How have Articles 53 (security or equivalent assurance), 56 (indemnification of the importer and of the owner of the goods) and 57 (right of inspection and information) been implemented?**

These issues are found in the Customs Code of the Republic of Armenia, Chapter 39, Article 227 clauses 3-6, and Articles 228-232:

Article 227. Applying to the Customs Authorities on Protection of Intellectual Property Rights

3. The suspension application shall include:
  - (a) a detailed description of the intellectual property object, and if possible, a sample, so as to make it recognizable for the Customs bodies;
  - (b) a list of those goods, which may contain the intellectual property object under registration;
  - (c) the means of identification (the form of marking a specific commodity by the trademark of the right holder, etc.) of the intellectual property object under registration by the right holder or by any other person with the consent of the latter, for the goods mentioned in sub-clause (b) of this clause;
  - (d) the period of time, not exceeding two years, during which assistance from the Customs bodies is expected;
  - (e) the applicant’s liability to indemnify the costs of the Customs bodies (costs for full examination of the cargo and storage of the suspended goods in a warehouse of temporary storage) related to the suspension of the goods release, as well as possible costs and damages of the person carrying and shipping the goods, if any further judicial or other settlement prove

that the carriage of the goods across the Customs border by the latter has not been performed with the infringement of the intellectual property right of the applicant;

(f) a surety to ensure the fulfilment of his/her liability referred to in sub-clause (e) of this Article by giving to the Customs bodies a pledge or other equivalent guarantee in the amount prescribed by the latter, within a three days period after being informed by the Customs bodies about the suspension of the goods on the basis of his/her application;

(g) the name and the location of the applicant.

4. While submitting the application referred to in clause 3 of this Article, the right holder shall be obliged to:

a) Submit, along with the application, the documents confirming his rights over the given object of intellectual property and payment of the state duty.

b) Provide the Customs bodies with all other available pertinent information to enable them to make a decision on the application. The furnishing of the aforementioned information shall serve as a precondition for the admission of the application.

5. The application referred to in clause 3 of this Article can be of specific or general nature.

A specific application shall be submitted when the applicant is aware of an impending carriage of specific infringing goods across the Customs border of the Republic of Armenia or their placement with a certain Customs body, and expects one-time assistance from the Customs bodies. Such applications shall be submitted ten days prior to the date when the assistance from the Customs bodies is expected.

In other cases a general application shall be submitted.

6. In case the Customs bodies grant the application of the right holder, an assistance shall be provided to him/her pursuant to the present section within a period specified in the given application, provided within this period the application has not been withdrawn by the right holder or if the rights of the right holder have not ceased, about which the right holder shall inform the Customs bodies no later than the next working day after becoming aware of the fact.

The right holder shall be deemed liable for the measures undertaken by the Customs bodies on the basis of the right holder's application due to a lack of information about the fact of cessation of the right holder's rights.

Article 228. Registration of an Intellectual Property Object, Keeping of a Register and Consideration of Suspension Application in the Superior Customs Authority

1. The Superior Customs Body shall keep a register of intellectual property objects. After registering the intellectual property objects the Superior Customs Body shall take measures to suspend the release of IPR infringing goods under any Customs regime.

2. The types of the intellectual property objects that can be included in the register, as well as the procedure for running and publication of the register shall be established by the Superior Customs Body.

3. The Superior Customs Body shall consider the suspension application within five days and in writing inform the applicant, and if necessary, the Customs bodies as well, about its decision within 2 days. In case decision is made to grant the application, the Superior Customs Body shall define the period, during which the Customs Authorities undertake the respective measures. Any refusal to grant the application shall be substantiated and may be appealed in judicial way.

Article 229. Suspension of the Release of Goods Infringing an Intellectual Property Right Transported across the Customs Border of the Republic of Armenia

1. In the case where goods containing intellectual property objects included in the register are presented to the Customs bodies, and if the Customs bodies have valid reasons that those goods may infringe the right holder's rights, such goods shall be subject to removal to places of custody.

2. A decision on suspension of the goods release shall be made by the head or deputy head of the Customs body for a period of ten days, with a possibility for extension of this period by no more than another ten days under the provisions stipulated in clause (a) of Article 232 of this Code.

3. The Customs body shall notify the carrier of goods about the reasons of suspension during the next day following the decision-making and shall inform him the name of the right holder and the location of the latter and of suspended goods, as well as inform the right holder of the name of the carrier of the goods and the location of the latter and of the suspended goods.

4. In the notification referred to in clause 3 of this Article, the Customs body shall also specify the Customs value of the goods liable to suspension and the size of the pledge or other equivalent guarantee mentioned in Article 227.

5. The procedure for making a decision on suspension of the goods release, notifying the right holder and carrier of goods of the decision made and extending the period for suspension of the goods release shall be established by the Superior Customs Body.

Article 230. Procedure for Indemnity of the Costs Related to Suspension of the Goods Release

1. After being notified of the suspension of the goods release, within a three day period the right holder shall be liable to indemnify the Customs bodies against any costs incurred in relation to the suspension of the goods release by placing a pledge or any other guarantee, as well as to ensure fulfilment of his/her liability to indemnify the possible costs and damages incurred by the person carrying and forwarding the goods. The size of that guarantee shall be determined by the Customs official who has made the decision on suspension of the goods release, and shall be in an amount up to 5% of Customs value of the suspended goods.

2. The indemnification of the costs and damages specified in this Article shall be carried out in accordance with procedure defined by law.

Article 231. Provision of Information by the Customs Body of the Republic of Armenia

1. Without violation of requirements of the legislation on State, official, commercial and other secrecy, a Customs body shall have the right to provide information to the right holder and carrier of goods necessary to solve the problem related to the intellectual property right protection.

2. The aforementioned data cannot be transferred to third person by the right holder and carrier of goods, except for cases stipulated by law, and shall be used exclusively for the purpose it has been provided for.

3. The right holder and carrier of goods shall have the right to take specimens and samples from the goods, the release of which is suspended, as well as present them for expertise in the presence of a Customs official and with permission of the Customs body.

Article 232. Invalidation of Decision on Suspension of the Release

The decision on suspension of the release shall be subject to invalidation and the goods be released under the procedure envisaged in this Code, if

a) within ten days after notifying the right holder of the decision on suspension of the goods release, the Customs body that has made the decision on suspension of the goods release is not informed that the case has been brought to judicial authorities in view of making another substantive decision on the case and that the court has undertaken a measure (provisional measure) to ensure the action on extending the suspension of the goods release. Upon the request of the applicant, the suspension time-limit applied initially may be extended by the Customs body for no longer than 10 days, if the applicant proves that the suit has been brought to the court, whereas the writ of execution has not been so far delivered to him/her;

b) within the period of validity of the decision on the suspension of the release of goods, the right holder applies to the Superior Customs Body with a request to cancel the decision on the suspension or to exclude the intellectual property object from the register, or does not fulfil his liability specified under Article 227 of this Code in the specified period and size.

- 17. Describe provisions governing the length and cost of proceedings. Provide any available data on the actual duration of proceedings and their cost. How long is the validity of decisions by the competent authorities for the suspension of the release of goods into free circulation?**

This issue is regulated under the provisions of Article 111 of the Code of Civil Procedure of the Republic of Armenia, which are specified in the answer to the question 8 above.

- 18. Are competent authorities required to act upon their own initiative and, if so, in what circumstances? Are there any special provisions applicable to *ex officio* action?**

The competent authorities of the Republic of Armenia have no authority to act *ex officio*.

- 19. Describe the remedies that the competent authorities have the authority to order and any criteria regulating their use.**

This issue shall be regulated in accordance with the provisions stated in the Customs Code of the Republic of Armenia, Chapter 39, Article 229 as mentioned in the answer to question 16 above.

## **Criminal Procedures**

### **20. Specify the courts which have jurisdiction over criminal acts of infringement of IPRs.**

According to the Criminal Procedure Code of the Republic of Armenia, only the Courts of First Instance and Appeal as well as the Court of Cassation of the Republic of Armenia shall exercise the jurisdiction.

### **21. In respect of which infringements of which intellectual property rights are criminal procedures and penalties available?**

According to the Criminal Code of the Republic of Armenia, Article 18, an action specified by the mentioned Code that is deliberately performed and is dangerous to society shall be considered as a crime. Only in relation to those actions mentioned in the Criminal Code, Articles 158, 159, and 197 on intellectual property, shall intellectual property right infringements be considered to be criminal. Refer to the answer to question 24 for the text of these Articles of the Criminal Code.

### **22. Which public authorities are responsible for initiating criminal proceedings? Are they required to do this on their own initiative and/or in response to complaints?**

According to the Criminal Procedure Code of the Republic of Armenia, Article 6, clause 30, the body conducting criminal proceedings is the court; and during the pre-trial proceedings, the bodies for inquest, the investigator, the prosecutor.

The criminal case shall be initiated pursuant to the following Articles:

#### **Article 175.** The Liability of Initiating Criminal Case

The prosecutor, the investigator, the investigation body shall be liable to, within their competences, initiate criminal case, where there are reasons and grounds for the initiation of criminal case envisaged in this Code.

#### **Article 176.** The Reasons for Initiation of Criminal Case

1. The reasons for initiation of a criminal case are:

- 1) Statements about crimes by physical and legal entities addressed to the investigation body, investigator, prosecutor;
- 2) Mass media reports about crimes;
- 3) The disclosure of information about crime, material traces and consequences of crime by the investigation body, the investigator, the prosecutor, the court and the judge in their line of duty.

#### **Article 177.** The Statements of Physical Entities about Crimes

1. The statements of physical entities about crimes can be in written or verbal form.
2. The verbal statement made about a crime during investigation or court trial is registered in the protocol of the investigation or the court session, respectively. In other cases separate protocols are written. The protocol must indicate the surname and the first name of the applicant, date of birth, home and work address, the relation to the crime and the source of information, as well as data about identity documents submitted by him. If the applicant has

not submitted identity documents, other measures must be taken to verify the information about the identity of the person.

3. If the applicant is 16 years old, he is warned about the liability for fraudulent misrepresentation which is certified by the signature of the latter.
4. The statement in the protocol is narrated in the first person.
5. The protocol is signed by the applicant and the recipient official.
6. The rules specified in clauses 1, 2, 4 and 5 of this Article are also extended to the statement made by the applicant about crime committed, in case of surrender.
7. A letter, a statement or other anonymous message about crime, unsigned or with false signature or written on behalf of fictitious person, cannot serve as reason for initiation of a criminal case.

Article 178. Statements by Legal Entities

A statement by a legal entity must be in the form of an official letter, or ratified telegram, telephone or radio message, e-mail, or other accepted form of communication. Enclosed to the message can be documents confirming the crime.

Article 179. Mass Media Reports

1. Reports on committed or impending crimes, in press, on the radio, on TV, as well as reports forwarded to mass media and unpublicized, are considered mass media reports.
2. Mass media which publicized reports about crimes or sent to the relevant instances, as well as the authors of these reports must, at the request of the investigating body, investigator and prosecutor, submit the materials under their possession confirming the report about the crime.

Article 180. The Examination Procedure of Reports about Crimes

1. Reports about crimes must be considered and resolved expeditiously, and when necessary to check the legitimacy of the reason for the initiation of criminal case and the sufficiency of the grounds, no less than in 10 days after their receipt.
2. Within this period additional documents, explanations and other materials can be requested, as well as the examination of the *locus criminis* and expert examination.

Article 181. Decisions Made as a Result of Examination of Statements about Crimes

In each case of the receipt of information about a crime, one of the following decisions is made:

- on initiation of a criminal case;
- on the dismissal of initiation of a criminal case;
- on the transfer of the statement by subordination.

Article 182. Procedure of Initiation of a Criminal Case

1. In the event of availability of reasons and grounds for initiation of a criminal case, the prosecutor, the investigator, and the investigating body make a decision on initiation of a criminal case.

2. The decision must indicate the reason and grounds for the case, the Article of the Criminal Code by the elements of which the case is initiated, and the further progress of the case after initiation.
3. If at that moment the person injured by the crime is known, simultaneously with the initiation of the criminal case this person is recognized as the injured party, and if a civil claim has been submitted along with the statement about crime, that person is recognized as civil claimant, by the same decision.
4. The copy of the decision to initiate criminal case shall be sent to the physical or the legal entity which reported about the crime.
5. Along with the initiation of criminal case, measures must be taken to prevent the crime, as well as to keep and preserve the traces of the crime, objects and documents, which can be significant for the case.

Article 183. Initiation of a Criminal Case Based on the Complaint of the Injured Person

Based on circumstances envisaged in Article 109, part 2; Article 110, part 1; Article 131, part 1; Article 132, part 1, 2 of the Criminal Code of the Republic of Armenia, the case is initiated only based on the complaints of the injured, and in case of his reconciliation with the suspect or the accused, the case is subject to termination. Reconciliation is allowed before the court retreats to the conference room to adopt a verdict.

**23. Do private persons have standing to initiate criminal proceedings and, if so, who?**

This issue is reflected in the answer to the previous question, in Articles 177, 178 and 183 of the Criminal Code of the Republic of Armenia.

**24. Specify, by category of IPR and type of infringement where necessary, the penalties and other remedies that may be imposed:**

- **imprisonment;**
- **monetary fines;**
- **seizure, forfeiture and destruction of infringing goods and materials and implements for their production;**
- **other.**

In cases stated in Articles 158, 159 and 197 of the Criminal Code on intellectual property rights, the types of penalties envisaged in those Articles shall be applied.

Article 158. Infringement of Copyright and Neighbouring Rights.

1. If the illegal use of the object of copyright and adjacent rights or appropriation of authorship has caused large damage it shall be punished with a fine in the amount of 200 to 400 times of the minimal salary or correctional labour for up to 1 year, or with imprisonment for the term of up to 2 years.
2. In terms of this Article, by large damage is meant the amount (value) exceeding 500 times the minimal salary at the moment of crime committal.

Article 159. Infringement of a Patent Right.

Illegal use of the object of a patent right or dissemination of essential information on the essence of the object before the official recognition of patent rights without the consent of the

applicant, or appropriation of authorship or enforcing co-authorship, is punished with a fine in the amount of 200 to 400 times the minimal salary, or with imprisonment for a term of up to 2 years.

Article 197. Illegal Use of Trademark.

If the illegal use of a trade mark, service mark, name of firm has caused large damage it shall be punished with a fine in the amount of 300 to 500 times the minimal salary, or correctional labour for up to 2 years or with imprisonment for a term of up to 2 months.

**25. Describe provisions governing the length and any cost of proceedings. Provide any available data on the actual duration of proceedings and their cost, if any.**

The duration of criminal proceedings is not defined.

As for the court costs, that issue shall be regulated by the following Articles of the Civil Procedure Code of the Republic of Armenia:

Article 168. Court Costs

1. Court costs include the amounts of money:

- 1) Paid to the injured as an indemnity of damages caused to him in the result of crime;
- 2) Paid to the injured, the specialist, the expert, for summoning the witness, as an indemnity of per diem allowance;
- 3) Given to a specialist, translator or expert as payment;
- 4) Paid to the assigned defense attorney;
- 5) Spent on preservation, forwarding and examination of the material evidence;
- 6) Spent on intelligence run by criminal prosecution bodies;
- 7) Spent on compensation of the cost of items which have been spoiled or destroyed during the examination, criminal proceeding or other similar expenses;
- 8) Spent on other measures necessary for carrying out the proceeding of the corresponding criminal case.

2. Court costs shall be paid from the State Budget, if not specified otherwise in the present Code.

Article 169. Charge of the Court Costs

1. Court costs mentioned in paragraph 1-6 of the first part of Article 168 of the present Code may be imposed on the accused by the court.

2. Court shall have the right to partially or in whole exempt the accused from paying court costs charged as the state revenue, if the accused is insolvent or if the payment of court costs may crucially affect the financial state of the dependents of the accused.



3. If several persons found guilty on the same criminal case the court costs shall be charged from each of them in the amount determined by the court depending from the severity of their crime, terms of the verdict and financial state.

4. In case of the under-age accused the court costs may be paid by his legitimate representatives.

5. If the accused dies before the verdict comes into legal force, the heirs of the accused shall not be responsible for his liability related to the indemnity of court costs.

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