

CHECKLIST OF ISSUES ON ENFORCEMENT¹

Responses from the Kyrgyz Republic

Civil and Administrative Procedures and Remedies

(a) Civil judicial procedures and remedies

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

Courts having jurisdiction over IPR infringement cases are courts of general jurisdiction, arbitration (commercial) 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?

Right holders have the right to assert IPRs. In court proceedings right holders can assert claims through representatives. There are no requirements for mandatory personal appearance of the IPR holder.

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 which lies within its control?

Producing evidence is the responsibility of the parties during the court proceeding. The court has the right to require the parties to provide the evidence necessary to resolve the dispute.

Article 49 of the Arbitration Procedural Code (hereinafter APC) and Articles 65, 66, 70 and 71 of the Civil Procedural Code (hereinafter CPC) regulate the authority of the courts regarding the production of evidence. The court, if necessary, may require the production of relevant evidence from persons possessing it, regardless of whether they are a party to the dispute.

In case of failure to comply with a court order to produce evidence, and absent excusable reasons, the court may impose a fine as a sanction. Imposition of a fine does not relieve the person from the obligation to submit the evidence to the court.

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

In compliance with Article 7 of the APC, the court has the right to order the proceeding, or parts of it, closed in order to preserve commercial or other secrets.

¹ Document IP/C/5.

In accordance with the Law of the Kyrgyz Republic "on Commercial Secrets" the State controlling and law enforcement bodies, within the limits of their competence, have the right, upon written request, to familiarize themselves with the information, which constitutes a commercial secret. Officials of these bodies bear responsibility for disclosure of information that is the commercial secret of an economic entity. In the course of court examination of different disputes, the court and third parties are allowed to get acquainted with the objects of commercial secrets in the part which is directly relevant to the essence of the dispute, where an economic entity acts as a plaintiff or defendant.

5. Describe the remedies that may be ordered by the judicial authorities and criteria, legislative or jurisprudentially, 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 basic civil-legal ways of rights protection are stipulated in Article 11 of the Civil Code:

- Injunctions

The court has the right to make a ruling ordering termination of violation by way of:

- restoration of the situation which existed before the rights were infringed (by way of destruction of the copies, stating the names of creators on the copies);
- suppression of the actions infringing the right or creating the threat for its infringement (prohibition of advertising, offer copies for sale, ban sale and finishing printing of edition).

- Damages, including recovery of profits, and expenses, including attorney's fees

One of the remedies is indemnification of losses. Recovery of damage, including lost profit/benefit shall be understood under indemnification of losses.

Court expenses are distributed among the parties in proportion to the amount of satisfied claim requirements (Article 91, 91-1 of the CPC and Article 86 of the APC). The prevailing party has the right to reimbursement of costs associated with the payment for attorney's assistance (Article 92 of the CPC).

- Destruction or other disposal of infringing goods and materials/implements for their production

Destruction or any other disposal of infringing goods and any materials and implements for their production which infringe intellectual property rights is provided for in Part 2 of the Civil Code and in the specific laws on intellectual property.

The Copyright Law, in Articles 49 and 50, states that counterfeit copies are subject to confiscation and destruction including materials and equipment used in their production. Article 1113 of the Civil Code and Article 41 of the Law on Trademarks provide for the destruction of counterfeit goods in the event the infringement cannot be remedied by the removal of counterfeit trademark.

- Other remedies
 - invalidation of transaction;
 - invalidation of the act of the State body;
 - imposition of fines;
 - compensation of the moral damage.

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 or services found to be infringing and of their channels of distribution?

Specific circumstances under which the courts have the right to demand from the infringer information on third parties involved in the production and distribution of the infringing goods or services and distribution channels is not provided for in the legislation. But according to Article 15 of the Civil Procedural Code, the court bodies must, without limiting to materials and explanations, take all measures provided for by the law for the full and objective elucidation of the circumstances of the case.

While preparing the case for court's investigation and during court's examination the judge may order the defendant to provide information relevant to the settlement of the dispute (Articles 43, 49 and 103 of the APC and Articles 65, 66 and 142 of the CPC). In this way, the right holder is informed of the identity of 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?

The court, in the course of consideration, may demand the plaintiff provide a security to cover the possible losses to the defendant (Article 141 of the CPC and Article 67 of the APC).

After enforcement of the decision the defendant, to whom it was refused in his claim, has the right to demand from the plaintiff for indemnification of losses caused to him by the measures on securing the risk, allowed upon the request of a plaintiff (Article 141 of the CPC and Article 71 of the APC).

Article 15 of the Civil Code provides for the recovery of the losses caused by State bodies and bodies of local self-government.

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

The length of proceedings is stipulated in the CPC and the APC.

Duration for preparation of the case for the court investigation:

- the court of general jurisdiction – 7 days from the date the application is accepted;
- arbitration court – 10 days.

Duration of the term for consideration of the case by court:

- arbitration court – a month as of the date the determination on preparation of the case for the court investigation is made;
- the court of general jurisdiction – also a month.

The Resolution of the Government of the Kyrgyz Republic № 521 as of 18 July 1994, on "Approval of the State fee's rates" establishes the amounts of the State fees.

The amount of the State fees for statements of claims filed in court are the following:

- 10 soms: for suits alleging damages less than 500 soms;
- 5 per cent of the alleged damages: for actions involving from 500 up to 5000 soms;
- 10 percent of the claimed damages: for actions involving over 5000 soms.

The amounts of State fees for the statements of claims filed in arbitration court are the following:

- 5 per cent of the claim, but not less than the minimum wage, amount for claims up to 50,000 soms;
- fee of 2,500 soms plus 4 per cent of the claimed amount more than 50,000 soms for claims from 50,000 to 250,000 soms;
- fee of 10,000 soms plus 3 per cent of the claimed amount more than 250,000 soms for claims from 250,000 to 500,000 soms;
- fee of 20,000 soms plus 2 per cent of the claimed amount more than 500,000 soms for claims from 500,000 to 2,500,000 soms;
- fee of 60,000 soms plus 1 per cent of the claimed amount more than 2,500,000 soms for claims involving from 2,500,000 to 5,000,000 soms;
- fee of 80,000 soms plus 0.5 per cent of the claimed amount for claims of more than 5,000,000 soms.

In the course of considering statements of claims in the courts of general competence, the plaintiffs of claims arising from copyright, right to invention, industrial design, rationalization proposal are released from the payment of court expenses (Article 89 of the CPC).

Official statistics data on actual length of judicial proceedings and their costs are not kept.

(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.

9.1 Specify the authorities which have jurisdiction over IPR infringement cases.

Courts having jurisdiction over IPR infringement cases are courts of general jurisdiction.

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

See answer to question a (2).

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

Competent bodies have the authority to withdraw articles and documents that are implements or direct object of infringement, found in detain, personal examination or inspection of articles (Articles 564, 566 and 567 of the Code on Administrative Liability (hereinafter CAL)).

In the course of preparation of the case for consideration the court has the right to make a decision to require additional materials (evidence) on the case (Article 581).

9.4 What means exist to identify and protect confidential information brought forward as evidence?

See the answer to question a (4).

9.5 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.**

Pursuant to Article 27 of the CAL, the following remedies are stipulated:

The court has the right to make a ruling to impose the fine on an infringer:

- For infringement of patents (Article 339 of the CAL):
 - individuals – 5 to 10 minimum wages² with forfeiture of the product;
 - officials – 20 to 30 minimum wages with forfeiture of the product.
- For the same actions committed for the second time within a year:
 - individuals – 5 to 10 minimum wages with forfeiture of the product;
 - officials – 50 to 100 minimum wages with forfeiture of the product.
- For the illegal use of copyrighted works or phonograms (Article 340 of the CAL):
 - individuals – 5 to 10 minimum wages with forfeiture of the counterfeit copies of works and phonograms;
 - officials – 10 to 20 minimum wages with forfeiture of the counterfeit copies of works and phonograms.
- For the same actions committed for the second time within a year:
 - individuals – 10 to 20 minimum wages with forfeiture of the counterfeit copies of works and phonograms;
 - officials – 30 to 50 minimum wages with forfeiture of the counterfeit copies of works and phonograms.
- For the illegal use of trademarks (Article 341 of the CAL):
 - individuals – 5 to 20 minimum wages with forfeiture of goods;
 - officials – 20 to 100 minimum wages with forfeiture of goods.
- Illegal use of warning mark (mark indicating registration):
 - individuals – 5 to 15 minimum wages;
 - officials – 15 to 50 minimum wages.
- For the refusal to submit required data on the income related to objects of copyrights and neighbouring rights (Article 342 of the CAL):
 - individuals – 5 to 10 minimum wages;
 - officials – 20 to 50 minimum wages.
- For the same actions committed for the second within a year:
 - individuals – 10 to 20 minimum wages;
 - officials – 50 to 80 minimum wages.

² The currency in the Kyrgyz Republic is the "som". Monetary amounts in Kyrgyz legislation are often expressed in terms of "minimum wages". The current minimum wage (minimum monthly salary) is 100 soms. The rate of exchange is, at the time of writing, 42 soms to one United States dollar.

- For the failure to register the licensing agreements for copyrights and neighbouring rights (Article 343 of the CAL):
 - individuals – 5 to 10 minimum wages;
 - officials – 10 to 50 minimum wages.
- For the same actions committed for a second time within a year:
 - individuals – 5 to 20 minimum wages;
 - officials – 50 to 100 minimum wages.
- For failure to meet the requirements regarding contracts for live performances (Article 344 of the CAL):
 - Individuals – 5 to 10 minimum wages;
 - officials – 10 to 50 minimum wages.
- For the same actions committed for a second time within a year:
 - individuals – 10 to 20 minimum wages;
 - officials – 50 to 100 minimum wages.
- For the failure to pay royalties (Article 345 of the CAL):
 - individuals – 15 to 20 minimum wages;
 - officials – 50 to 100 minimum wages.

Damages, including recovery of profits, and expenses, including attorney's fees

One of the IPR remedies is indemnification of damages.

An infringer must recover the damage caused by an administrative infringement. The issue on indemnification of damage shall be resolved by court, if the property damage exceed the established minimum wage.

The issue on indemnification of material damage caused by an administrative infringement may be solved in the order of civil legal proceedings.

Destruction or other disposal of infringing goods and materials(implements for their production

Confiscation of counterfeit goods as well as materials and equipment the use of which entail violation of intellectual property rights shall be subject to destruction or transfer to the right holder, upon his request.

9.6 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 or services found to be infringing and of their channels of distribution?

In the event of incompleteness of presented materials the court has the right to make a decision to call persons to provide the necessary evidence on the case (Article 583 of the CAL).

9.7 Describe provisions relating to 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?

In the event the decision of the court is repealed, the confiscated goods are to be returned. If it is impossible to return the goods, its value is recovered (Article 603 of the CAL).

The harm caused by illegal actions of officials is to be indemnified in the order of civil legal proceedings.

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

In accordance with the CAL, the following terms are stipulated:

- minutes of administrative violation are transferred to court within twenty-four hours from the moment of its recording;
- consideration of case – 10 days from the date of receipt of the case's materials by court;

Courts costs in administrative legal proceedings shall include the costs of the injured party, witness, expert and translator incurred by them due to participation in the court investigation that should be reimbursed by the guilty party.

Official statistics on actual length of proceedings and their real value are not maintained.

Provisional Measures

(a) Judicial measures

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

Pursuant to Articles 134-141 of the CPC and Articles 66-71 of the APC, the court, on its own initiative, or at the request of parties, can take measures to secure the claim. This may be done at any stage of the court proceeding if it is determined that by not taking such measures it would be difficult or impossible to provide the relief granted by the court. The court has the right to:

- seize the property or monetary means belonging to the defendant;
- prohibit the defendant from carrying out certain actions;
- prohibit third parties from transferring property to the defendant or implement other commitments in relation to him.

On the application of parties participating in the case the court has the power to compel the production of evidence when obtaining the necessary evidence becomes impossible or difficult (Articles 58-60 of the CPC and Articles 58-59 of the APC).

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

The court bodies can proceed *inaudita altera parte* when there is the probability that the provision of necessary evidence and execution of court's decision will be difficult or impossible in the future.

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.

In compliance with Article 66 of the APC, and Article 134 of the CPC, provisional measures are taken respectively by the court of arbitration upon the request of the party or court of general jurisdiction, both on the court's own initiative and upon the request of a party.

Provisional measures are allowed at any stage of the process if failure to take such measures may complicate or make impossible the execution of court's decision.

The court, in granting provisional measures, can demand that the plaintiff provide a security for possible losses of the defendant (Article 141 of the CPC and Article 67 of the APC).

The decision taken on the results of the application is implemented immediately (Articles 137-138 of the CPC and Article 66 of the APC). The application of provisional measures can be cancelled by the same court (Article 139 of the CPC and Article 70 of the APC).

The court's decision on provisional measures can be appealed. The issue on cancellation of such a decision shall be solved by court. Persons participating in the case are informed of the time and place of the meeting though non-attendance of the parties is not an obstacle for consideration of the issue of granting or lifting the provisional measures (Articles 139-140 of the CPC and Article 70 of the APC).

In the event of refusal in the claim the allowed provisional measures shall remain in force until a decision on the merits is reached. But the court can, simultaneously with the decision on the claim or after the decision is made, decide to cancel the provisional measures (Article 140 of the CPC and Article 70 of the APC).

If the defendant prevails in the action for infringement, he has the right to demand the plaintiff to indemnify the losses caused to him by provisional measures (Article 141 of the CPC and Article 71 of the APC).

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

An application for provisional measures is considered by the court of general competence on the same day it is received, and by the arbitration court no later than the next day after its receipt (Article 137 of the CPC and Article 66 of the APC).

Payment of the State fee is not required to file an application for adoption of provisional measures.

No official data are collected on the actual length and costs of procedures.

(b) *Administrative measures*

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

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

In accordance with Article 562 of the CAL the authorized bodies or officials may take the following types of provisional measures:

- delivery of the infringer – compulsory detention of a person in order to record a protocol;
- administrative detention of a natural person – short-term limitation of freedom of a natural person in order to provide for correct and timely consideration of the case and execution of the court's decision;
- personal inspection and inspection of transport means, small ship and things;
- withdrawal of documents and things that are the implements or direct object of infringement, found in detention, personal inspection or inspection of things.

The following may be applied with respect to legal entity:

- inspection of the premises that belong to the legal entity, territories and the goods placed there, transport means and other property as well as relevant documents;
- confiscation of the documents and property that belong to the legal entity.

14.2 In what circumstances may such measures be order *inaudita altera parte*?

The measures similar to *inaudita altera parte* shall be applied in the course of inspection of things and documents in the cases that brooks no delay with participation of two witnesses in the absence of owner in accordance with Article 566 of the CAL.

14.3 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.

Basic procedures of provisional measure and their duration differ with respect to the type of the applied measure.

Delivery of the infringer (Article 560 of the CAL). Compulsory appearance before the body of internal affairs or any official premises by the officials who are responsible for supervision or control over the observation of legislation. Such a delivery must be carried out within the short term and fixed in the protocol.

Administrative detention of a natural person (Articles 563-565 of the CAL). In the event of application of this measure, upon the request of arrested person, the relatives, administration at his working place (place of study), as well as defender are notified about his location within the short term.

The arrested person is told about his rights and liabilities and the relevant marks is introduced into a protocol on administrative detention.

The prosecutor has the right to make a ruling on release of a person with respect to whom the illegal administrative detention was applied, this ruling is to be immediately fulfilled.

The term of administrative detention of a person must not exceed 3 hours. The persons conducted illegal sale of goods or other articles may be arrested up to 72 hours before consideration of the case by judge with the written notification of the prosecutor within 24 hours from the moment of detention.

Personal inspection and inspection of transport means, small ship and things (Article 566 of the CAL) shall be conducted by the authorized officials of internal affairs' bodies as well as other authorized bodies. As a rule, inspection of things and other articles is carried out in the presence of the owner of these things. The indicated measures are fixed in the protocol.

Withdrawal of documents and things (Article 567 of the CAL). Withdrawal is carried out by the authorized body. Withdrawn things and documents are stored until consideration of the case on administrative infringement. After consideration of the case, based on the results of consideration, the things are confiscated in the established order, returned to the owner or destroyed.

The person with respect to whom provisional measures have been applied (administrative detention, inspection, withdrawal of things and documents) has the right to appeal the decision to the higher body or court (Article 569 of the CAL).

The harm caused by illegal action of officials shall be recovered pursuant to the rules established by the Civil Code and Civil Procedural Code (Article 594 of the CAL).

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

Provisions regulating the duration of provisional measures are submitted in the answer to question 14.3. The CAL does not provide for the payment of costs associated with the application of provisional measures.

Official statistics data on actual duration of proceedings is not collected.

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?**

In accordance with the Customs Code (CC) the customs bodies must suspend the release of goods suspected of infringing intellectual property rights upon the written application of the right holder.

The afore-mentioned procedures shall be also applied to the other objects of intellectual property, other than counterfeit trademarks and goods produced with the violation of copyright.

Suspension of the release of such goods is related only to the goods directed for free circulation.

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?

The main element of procedures relating to the suspension of the release of goods by customs authorities for free circulation shall be the written application of the right holder (Article 29 of the Customs Code).

The customs bodies have the right to suspend the release of goods for a period of 10 working days. In some cases customs authorities can extend this period for an additional 10 working days. Upon the expiration of this period, customs authorities, having preliminarily notified the applicant, must remove the restriction on the release of the goods if the applicant does not provide proof that court proceedings have been initiated with respect to the importer of the goods in question. Until the appropriate judicial authorities consider the case, customs authorities shall not have the right to release the goods, unless otherwise provided by the court with respect to these goods. The goods including industrial designs, patents, integrated circuits topographies or undisclosed information may be released under condition that the guarantee/security is provided by the importer for the period of 30 days, sufficient to protect the interests of the right holder (Article 30 of the CC).

Upon the request of the customs bodies, the applicant shall provide a security in the amount sufficient to cover losses of the importer occurred due to the fault of the applicant (Article 29 of the CC).

The damage caused in the result of failure to take measures on protection of intellectual property rights as well as in the result of suspension of the release of importer's goods without sufficient grounds is to be indemnified by the customs bodies pursuant to the norms of customs legislation (Article 31 of the CC).

The authorities of the customs bodies to inspection and information are stipulated in detail in the draft Regulation on the customs control with respect to goods containing objects of intellectual property which is being developed.

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?

The duration of suspension of the release and the duration of effectiveness of the decision made by the customs bodies is explained in the answer to question 16.

The Government of the Kyrgyz Republic shall establish the costs of proceedings (file of an application on suspension of the release of goods for free circulation). At present the draft Resolution of the Government that will maintain the rates of levies on indicated procedures is in the process of development (Article 29 of the CC).

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?

In the event there is a doubt that the indicated goods violate the intellectual property right, the customs body may suspend the release of goods at their own initiative. In this case the applicant and importer shall be notified on suspension of goods (Article 28 of the CC).

At present, on the basis of the norms of the Customs Code, draft of the Regulation which will stipulate the authorities of customs bodies on taking measures for protection of intellectual property rights is being developed.

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

The customs bodies, upon the application of the right holder (Article 29 of the CC) or on their own initiative (Article 28 of the CC), shall suspend release of goods into the free circulation as a remedy measure.

Criminal Procedures

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

Courts of general jurisdiction have jurisdiction over criminal acts of infringement of IPRs.

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

The criminal procedures and punishments are applied for:

- infringement of copyrights, neighbouring rights (objects of copyright, neighbouring right) and rights of a patent holder (invention, utility model and industrial design);
- illegal use of trademark (trademark, service mark, appellation of place of origin of goods and trade name);
- unlawful acquisition of the information which is of commercial secret and disclosure of commercial secret.

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?

The law enforcement bodies responsible for the conduct of investigation (institution of proceeding) are the following:

- Office of Public Prosecutor – violation of copyright, neighbouring rights and rights of the patent holders;
- bodies of internal affairs – illegal use of a trademark, illegal acquisition and disclosure of a trade secret.

Criminal case is initiated by the indicated bodies or court upon the application on committed or preparing crime or on their own initiative in the event of revealing direct signs of crime (Articles 95 and 97 of the CPC).

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

Private persons have "standing" to file complaints with the relevant law enforcement bodies authorized to bring an action and investigate criminal cases on violations of IPRs.

Criminal prosecution for illegal disclosure of a trade secret is realized upon the application of the right holder suffered damage (Article 194 of the CC).

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**

Pursuant to Articles 150, 191, 193 and 194 of the CC, the following types of punishments for violation of IPRs are stipulated:

Imprisonment

- for violation of copyright, neighbouring rights and rights of patent holders – imprisonment up to three years;
- the above actions committed repeatedly, by a group of people on preliminary agreement or by an organized group shall be subject to imprisonment from three to five years.

Monetary fines

- shall be penalized in the amount up to 50 minimum wages;
- illegal use of a trademark shall be penalized by a fine of 200 to 400 minimum wages;
- illegal use of warning mark with respect to the trademark, non-registered in the Kyrgyz Republic shall be penalized by a fine of 100 to 200 minimum wages;
- disclosure of a commercial secret shall be penalized by a fine of 100 to 200 minimum wages.

Seizure, forfeiture and destruction of infringing goods and materials and implements for their production

- infringement of copyright, neighbouring rights and rights of patent owners;
- illegal use of a trademark;
- illegal acquisition and disclosure of commercial secret.

Other types of punishment

- Community service (free of charge labour for the benefit of society during the hours when he is free from his main work or study):
 - for illegal use of trademark – for a term from 180 to 240 hours;
 - for illegal use of a warning mark with respect to the trademark non-registered in the Kyrgyz Republic – for a term from 120 to 180 hours;
 - for disclosure of trade secret – for a term up to 120 hours.
- Treble damages (exaction of the sum of treble amount from the damage caused in the form of monetary means or payment in kind):
 - for violation of copyright, neighbouring rights and rights of patent holders.
- Custody (keeping of a person in the conditions of strict isolation):
 - for illegal use of a trademark – for a term up to 6 months;
 - for illegal use of a warning mark with respect to the trademark non-registered in the Kyrgyz Republic – for a term up to 4 months;
 - for illegal acquisition of a trade secret – for a term up to 6 months.
- Deprivation of the right to hold certain positions or conduct certain activities:
 - for infringement of copyright, neighbouring rights and the rights of patent holders – for a term up to three years.

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.

According to Articles 97, 124, 221-1, 235 of the Criminal Procedure Code the following terms are applicable to criminal proceedings:

A decision to initiate or refusal to institute criminal proceeding shall be made within three days, and in special cases, within not more than ten days.

The primary investigation must be finalized not later than two months. This term may be extended by the authorized prosecutor to six months, and by the Deputy Prosecutor of the Republic, to up to nine months.

The criminal trial shall be scheduled no later than 14 days from the receipt of the case in court if the accused is being detained, and within one month in all other cases.

The court should decide the case no later than one month from the moment it is lodged with the court.

The court costs shall be charged from the accused or at the State's expense. If the case is dismissed or the defendant is acquitted, or in the event of insolvency of a person, the court costs will be at the State's expense.

In a case instituted upon the complaint of the suffered party (right holder), the court has the right, in the event the defendant is discharged, to impose the costs in full or partially on a person by whose complaint the proceedings began.

There are no official statistics for recording information on the actual duration and costs of proceedings.
