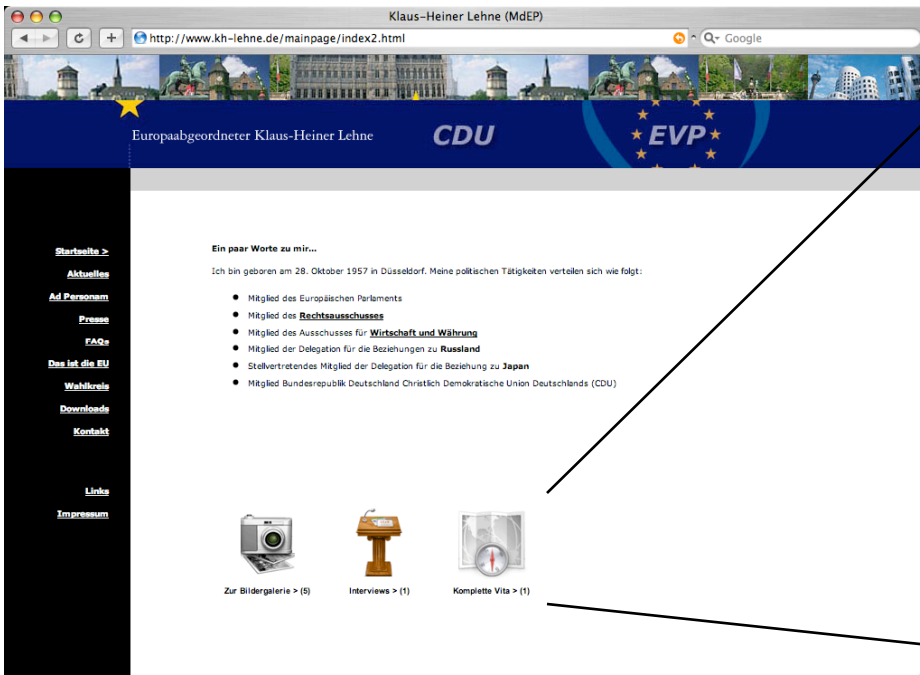


# Klaus-Heiner Lehne MEP is *not* a criminal!

Contact: Ante Wessels, FFII Analyst  
phone: +31-6-100 99 063  
email: [ipred2@ffii.org](mailto:ipred2@ffii.org)



And he is **not** a pirate either...

Mr. Lehne argues to scrap the “commercial scale” requirement of the intellectual property enforcement directive (COD 2005/0127) in the Legal Affairs Committee, saying:

**The ambiguity surrounding the threshold of commercial scale leaves room for legal uncertainty, which is exploited by offenders during prosecution, as it is difficult to collect quantifiable information on their infringing activities.**

Since few criminals keep detailed activity logs, this argument could be used to reverse the burden of proof in any criminal case. The fact that it also turns citizens who merely made a small judgement error into criminals moreover severely undermines the law's authority.

Case in point: Mr. Lehne's website uses several pictograms which were copied from programs by Apple, Inc (on the right, from top to bottom: Directory Access, Keynote 1, and Image Capture). **He is therefore infringing on Apple's copyright** on these icons.

Even with the commercial scale requirement, depending on its definition he may still be committing a criminal act under the proposed directive. But without that requirement there is no doubt that **he will be subject to maximum fines of at least 100,000 Euro.**

**If even lawyers specialised in intellectual property do not see such mistakes on their own website, what about the rest of us?**

**Yes to innovation, No to criminalisation!**

## The Criminalisation Directive

(COM/2006/0168 - COD 2005/0127):

1. **Covers all business IP-conflicts**, not just piracy and counterfeiting;
2. **Piracy and counterfeiting are already criminally punishable** in all member states under TRIPS;
3. Covers infringements on **rights not examined regarding validity** before granting (database, design);
4. **No impact assessment** or substantiated justification by the Commission;
5. **Weak rights become criminal threats** against honest businesses;
6. Regular **citizens are turned into criminals**;
7. **Red tape** turning the Lisbon Agenda into a Prison Agenda.

