

Intellectual Property Rights and Economic Development

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Abstract: *This paper looks at Intellectual Property Rights and the relation they have with economic growth. It also reveals the instruments of Intellectual Property Rights and their impact on the developing and developed countries. At the end it analyzes where Kosovo stands in regards to Intellectual Property rights and what are the steps that should be taken for the situation to improve. Intellectual property is an old concept. We can find the first step in Venetian law of the year 1474, reference is often, in terms of initial systematic approach to the protection of inventions by a form of patent, while setting an exclusive right of an individual, eliminating for the first time, the public interest. Before the 1800-es, although examples of industrial concentration can be identified by some European countries, output growth was more a matter of craft production in small scale, how new methods and radical organizations. Now, the Intellectual Property Rights is one strong point for developing the economic growth all over the world. On the other hand in this study we are trying to investigate the progress of the Intellectual Property Rights in Albania and in Kosova institutions and government progressing reforms. The findings of this paper are some data, gathering in statistical analyze. Intellectual Property Rights in now days is not an old concept, but it evaluate with improving low reforming. The conclusions of this paper research consist in: The infrastructure and technological advancement in this country is still weak, therefore major innovations and discoveries are unlikely to happen (Kosovo case) In Albania the situation is in perfection wnder low influences.*

Key words: *Economic growth, Intellectual property rights, Patents, Innovation*

1. Introduction

Economic growth is a goal that almost all countries seek vigorously. The increase in output that results in higher real incomes of workers, improve citizens' standard of living. This way, the gap between peoples' wants and scarcity is less severe. For a country like Kosovo, economic growth should be a priority and perhaps the most important goal of the government (Larry 1999) There have been numerous cases where countries with much weaker economy managed to gradually improve and eventually surpass the most developed countries. According to the US Bureau of East Asian and Pacific Affairs, Singapore managed to achieve an average growth rate of 7.8 percent between 1965 and 2009, despite the lack of physical resources ("Background Note: Singapore", par. 15)¹. This enabled Singapore to become one of the richest countries worldwide, with an estimated *per-capita* GDP of \$35,515 ("Background Note: Singapore", par. 1). Japan, Hong Kong, and South Korea have also experienced immense economic growth similar to that of Singapore.

This proves that even smaller and poorer countries can catch up with industrialized, wealthy countries. However, between 1750 and 1870, Europe underwent profound changes, which among others can include: growth of cities, construction of railways, capital investment and increased transatlantic economy. However, in Europe the main elements

¹ Please refer to <http://www.state.gov/r/pa/ei/bgn/2798.htm> for the full article on Singapore.

of intellectual property were still in their infancy.

While the American colonies had laws that give patents long before the outbreak of the American Revolution in 1775, and soon after the revolution, 12 of the 13 original colonies adopted laws on copyright. Kosovo should follow the path that these countries followed and analyze what they have done that worked so well for them. In general, many factors or institutional structures might foster economic growth, one of them believed to be the protection of intellectual property rights. But is this necessarily the case?

2. Literature Review and Hypotheses

2.1 What are Intellectual Property Rights (IPRs)?

Before analyzing how these rights impact economic growth, certain keywords have to be defined first. When one speaks of Intellectual Property Rights, one refers to the new and unique ideas, creations and products that result from human creativity (Korn 9)². IPR itself is a broad field. Because of this, countries dedicate many institutions to deal with IPR issues and develop mechanisms to enforce instruments of intellectual property rights. Some of these instruments include:

- (1) *Copyrights* - economic rights that authors possess for over their creations, including the right to make copies and display publicly their creations;
- (2) *Patents* - enable the holder of the patent to prevent others from making, using or selling the creation that is patented for a certain period of time;
- (3) *Trade Secrets* - involve the right of inventors to keep their creations secret for several reasons for an unlimited time (i.e. Coca Cola recipe); and Trade transfers in economy.
- (4) *Trademarks* - distinctive signs that identify a certain product or service produced or supplied by a company - i.e. Ferrari's trademark is the horse standing on two feet (Field Jr. 4-7)³.



2.2 The Relation between IPRs and Economic Development

2.2.1 Protection of intellectual property rights

The major Albanian legislative acts governing copyright and intellectual property are the Law on Industrial Property, No. 9947 dated 7 July 2008, and the Law on Copyright and Related Rights, No. 9380, dated 28 April 2005 (amended). The Law on Copyright and Related Rights governs the rights and obligations of participants in the creative, productive and commercial activities and any other evaluation, utilization, exercise, literature, art or science activity. This law is applicable to local and foreign natural persons and legal entities performing commercial, creative, productive or estimating works, exercise or a variation of artistic or scientific functions on Albanian territory. Subject to this law are original works and derived works and collections.

Intellectual Property Rights are widely believed to have a positive impact on economic development. At first sight, this might seem true, but matters have to be analyzed more in detail to come up with an answer. Having strong IPRs may be either advantageous or disadvantageous, depending on how one looks at it. First, what should be noted is that there is a difference between Property Rights and Intellectual Property Rights (MSSJ 2,1year 2012, pp19). As distinct from Property Rights, IPRs include patents, copyrights, trade secrets which may encourage individuals to innovate, but in the same time these instruments of IPRs might be counterproductive. (Maderly & Leidenern 2005)

H 1 One argument that IPRs do not help economic growth is that although strong patents and copyright foster innovation and discovery.

The cost of working in previously made discoveries is high. For example, patents enable the holder to acquire monopoly

² Please refer to http://www.minervaeurope.org/publications/guideipr1_0.pdf for the full report.

³ Please refer to <http://www.america.gov/media/pdf/books/iprbook.pdf> for the book section (pages 4-7) for more information on the instruments of IPR.

power because others cannot make use of their innovations, at least not legally (Cole 89)⁴. Another problem is that patents create unnecessary variations of products because competitors try to invent something similar to what the holders of the patents have done (Cole 92). As for copyrights, for a country deciding to strengthen these rights, this would mean not being able to copy technologies from developed countries so easily anymore. That is why the decision has to be made by countries about up to what point they should be willing to strengthen IPRs – and especially Patents and Copyrights.

Second, a larger group of people believe that the relation between Intellectual Property Rights and Economic Growth is positive.

2.3 International Trade and Intellectual Property Rights

H2 One of the most widely respected financial institutions, the World Bank, is one of the greatest promoters for Intellectual Property Rights.

On their 2002 Global Economic Prospects Report, they stated that “across the range of income levels, IPRs are associated with greater trade and foreign direct investment (FDI) flows, which in turn translate into faster rates of economic growth” (The World Bank 129)⁵. However, they encourage countries to do a cost-benefit analysis before deciding to what level of IPRs enforcement they should engage. This means that the level of IPR enforcement should depend on a country's income level. An empirical study, conducted by University of Nottingham professors, tried to measure the relation between the income level and IPRs enforcement. The object of their activity is the collection of income from the utilization of the works and their distribution to the title-holders of copyright and related rights who have assigned the administration of these rights to an agency. These agencies report to the Albanian Copyright Office in relation to the applicable tariffs within the first quarter of the following year. The Albanian Copyright Office is a central institution, a public legal entity depending on the Ministry of Culture, Youth and Sports established in compliance with the law within Albanian territory.

The results were quite interesting: high-income and low-income countries seem to profit from enforcement of IPRs the most, while middle-income countries do not (Falvey, Foster and Greenaway 16-17)⁶. They justify their findings by saying that high-income countries benefit by strong Intellectual Property Rights because innovation is fostered and discoveries are made. By enforcing IPRs, low-income countries benefit because international trade with that country is fostered. On the other hand, middle-income countries have no significant benefit by strengthening IPRs because such countries do not necessarily have innovative capacities (Falvey, Foster and Greenaway 17).

Method and Research study

3.1 Intellectual Property Rights in the South Eastern Europe (SEE)



Property Rights in SEE Countries remain very weak. Numerous cases concerning the infringement of IPRs can be detected in countries of this region, i.e. Kosovo, Macedonia, Albania and Serbia. For example, piracy- which is related to copyrights- currently enjoys free reign as one can find whichever movie he/she wants before it is officially released as a DVD. Trademarks also continue to be misused quite heavily (i.e. fast food “Mili” located in the city center of the Capital of Kosovo bears the McDonalds trademark without the appropriate permission). According to the European Union Progress Report for Kosovo (2011), only a slight progress in the field of IPRs has been detected in Kosovo (“Kosovo Under UNSCR 1244/99 2009 Progress Report” 32)⁷.

This slight progress is mainly due to the creation of the Central Intellectual Property Rights Unit, back in February 2009. The duty of this unit is to ensure coordination between relevant authorities (police, customs authorities, the market inspectorate and prosecution offices) in order to “implement the 2008 regulation establishing customs procedures for

⁴ Please refer to http://mises.org/journals/jls/15_4/15_4_3.pdf for the full journal article.

⁵ Please refer to <http://siteresources.worldbank.org/INTGEP2002/Resources/gep2002complete.pdf> for the World Bank Report.

⁶ Please refer to <http://ictsd.org/ip/24237/?view=document> for detailed empirical results.

⁷ Please refer to http://www.delprn.ec.europa.eu/repository/docs/ks_rapport_2011_en.pdf for the full EU report for Kosovo 2009.

action against counterfeit goods, pirated goods and goods infringing intellectual property rights" ("Kosovo Under UNSCR 1244/99 2009 Progress Report" 32). However, according to the same report, the enforcement of IPRs still remains very weak in Kosovo. Kosovo is not known for producing consumer goods, but it may foster economic development in many other ways. The Bureau of Economic, Energy and Business Affairs under the US department of state reconfirms claims of weak intellectual property rights in Kosovo. However, they suggest that "the development of a strong intellectual property rights regime will encourage future investment and economic development" (US Department of State - Bureau of Economic, par. 30)⁸.

3.2 Globalization, one impact factor very important for developing east states

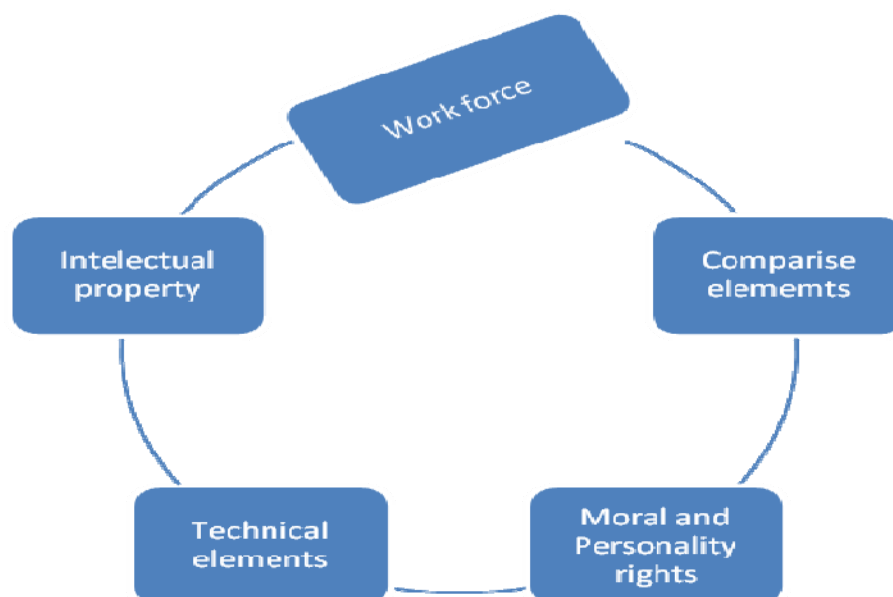
3.2.1 Economic rights and moral rights. ACO and economic rights in Albania

Globalization has opened new avenues for both employers and job seekers. One off-shoot of this is the practice of outsourcing jobs (hiring lower-paid service workers in foreign countries to do work previously done by higher-paid workers) has been a contentious issue in high-income countries, especially the United States. Many American citizens dispute this industry trend because it takes away jobs from Americans, while others dispute it for the ethical implications of exploiting overseas workers. And when people are forced to work for low wages in poor working conditions, workplace safety and health is severely compromised (Field 2006, pp57)

Another facet of this phenomenon is the need for creation of sustainable livelihoods which has become an important factor in the present day world, especially in developing countries and among disadvantaged populations. Sustaining the progress calls for an explicit consideration of future generations. The law includes the specific cases when its provisions are applicable to works, entertainment or performances of artists' players, sounds registration, radio or television programs. The author of a work is the owner of the moral and economic rights to their work. The moral rights are not subject to waiver. (Wedderman & Messenlyer 2012, pp12, 45, 78)

Further, these rights cannot be assigned and prescribed. According to the Civil Code, the moral rights may be assigned through inheritance after the author has passed away. Economic rights can be assigned according to the provision of this law and other legislative acts in force. (Gardild & Soccker 2009, pp23) In such a case, the related copyright rights do not affect the author's rights. The economic right may be assigned exclusively or non-exclusively. The law provides that every agreement for the exclusive assignment of economic rights must be registered and certified by the Albanian Copyright Office (ACO).

Fig 3. Indicators and important factors for progress on intellectual property



⁸ Please refer to <http://www.state.gov/e/eeb/rls/othr/ics/2009/117388.htm> for the full article.

3.3 Albanian markets and Intellectual properties

In terms of our country, intellectual property already is a concept which is gaining citizenship. Thus, more and more, all the elements that comprise it are being made to listen, not only in technical environments, but they are accompanied by supportive legislation, the relevant bodies that administer them, treaties and agreements that our country is a party, etc.. More and more our country's legal framework is supplemented, where we can mention the laws on patents, trademarks, industrial designs, appellations of origin, geographical indications, indications of the resources, royalties, while there are no laws to protect some other elements of intellectual property such as moral rights, personality rights, the defenses of plant varieties, trade dress, trade secrets. (Bello K, 2009)

The market in Albania is full of low cost, high quality real estate for sale. There are literally thousands of brand new, great value apartments, houses and offices on sale now at unbelievable prices. Even in the best locations, such as the capital Tirana, or the coastal metropolis of Durrësi there are fantastic bargains to take advantage of when it comes to buying Albanian real estate. From rural homesteads, to palatial urban apartments, there's property for sale in Albania to suit the needs of every potential investor, all at prices that can't be beaten – not even in neighboring countries. Property in Albania is great value beyond belief! (Lummaj 2012, pp4)

Having long been overlooked by investors, Albanian properties are now beginning to be snapped up by savvy foreigners looking for a good deal. Albania is a rapidly developing economy, on the path to European integration, and as such is a safe bet for a healthy return on your investment.

4. Concluding Remarks

To conclude, the enforcement of Intellectual Property Rights generally is associated with greater economic activity, which in turn leads to economic development. However, few exceptions can be added to this generalization. Countries should make a cost-benefit analysis when determining the level of IPRs enforcement. For example, Kosovo currently falls under the low-income countries category and the property rights area has a lot of room for improvement. In order to encourage foreign investment and improve international trade, Intellectual Property Rights Protection has to be enhanced. In our opinion, copyrights and trademarks are the instruments of IPRs on which Kosovo should concentrate at the time being. The infrastructure and technological advancement in this country is still weak, therefore major innovations and discoveries are unlikely to happen. In this sense, the inclusion of patents and trade secrets would only add costs to our already weak economy. However, copyrights and trademarks should be used to promote investment.

A company like McDonalds will never open a fast-food restaurant here if they know that someone else might misuse their trademark and destroy their reputation. Recently, a coffee bar bearing the name of Starbucks in Prishtina has been asked to change their name in order to respect the copyrights of the famous coffee company. The request was fulfilled and currently the coffee bar functions under a different name. This example might suggest that steps towards improvement are being taken. However, still a lot of work is needed in the field of Intellectual Property Rights if countries of the SEE Region aim to encourage investment and grow economically.

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