

**THE ROLE OF TECHNOLOGY IN PREVENTING AND FIGHTING
ORGANIZED CRIME, FINANCIAL CRIMES AND CORRUPTION.**

**INTELLECTUAL PROPERTY RIGHTS AND LEGAL PROTECTION, HIGH
TECHNOLOGY CRIMES.**

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Biographical information about the author

Ana Rushiti was born on 09/01/1998 in Gjirokastra. I finished primary and secondary education in the city of Gjirokastra. I completed my higher education at the University College of Business, Tirana with very good results. I also completed a master's degree in "Civil and Commercial Law" at this College, receiving a certificate of excellence.

I have also participated in many trainings related to the field of business, motivation, self-discipline, in the political field but not leaving aside the professional trainings conducted inside and outside the country in the criminal field in Argentina. I am also committed to helping families in need. I have participated in national and international student conferences.

I am currently attending law school. I have also published a scientific paper in the international journal IJRDO on "Arbitrage, an alternative effective for resolving trade disputes in Albania comparative over Austria, Armenia, Argentina and Bulgaria "ISSN 2456-2971 Vol 7

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Abstract

Albania is a country where very little has been said about intellectual and industrial property. The chosen topic is a necessary topic to be addressed as intellectual property is in great need of experts in this important field. Many certain individuals make works like in music, in various arts, poetry, various scientific articles, the production of a trademark in the market, but they do not know their rights and obligations arising from intellectual property. In this paper it is important treatment of the albanian legal framework versus the european legal framework related to intellectual property. The study of European Union directives and international court decisions is very important as it helps us make the necessary changes in the law by applying the principle of proportionality.

It is also important in case of copyright infringement to have legal protection. Legal protection can be done with a lawyer or self-defense. Legal protection is very important as it is a principle recognized by the European Convention on Human Rights (ECHR).

We live in the digital age where every service is available online, but high technology has brought many problems ranging from the physical and psychological formation of the child to the copyright infringement. This is a global issue and many websites have tried to protect the rights of copyright or inventor. Dealing with cases in a practical way would make the work more interesting, but also more practical.

I have participated in conferences such as the NATO Model Conference, National and International Student Conferences and I have also conducted training in the field of legal protection of authors & inventors. In the trainings I participated in I received an important message was "Motivation is the important weapon of success".

Keywords: *Rights, directives, development, technology, protection.*

INTRODUCTION

Intellectual and industrial property constitutes one of the most important topics which has received a development recently. The development of modern technology has led to the realization of criminal offenses in the field of technology.

Intellectual and industrial property directly contributes to bringing a valuable product to the Albanian market and beyond. There has always been a need and necessity for the recognition and importance of intellectual and industrial property as many companies, different authors do not know how to protect their rights vis-person-vis other persons. The importance of intellectual and industrial property lies in the cost of investment for the product. Information technology is evolving on a large scale and the need arises for new effective, quality, but also modern products.

Intellectual property also influences the world of literary works, science and musical materials. Albania has had a significant problem of plagiarism of doctoral theses, which with the law of higher education of the Republic of Albania prohibited plagiarism and has started a new reorganization for doctoral studies. there have been cases where they have not referred to the source where they got it. Also in journalism many articles do not have the reference or source of information and the verification of information is important as it informs the public. Also there are companies which have the same logo or the geographical indication is not correct. In intellectual and industrial property competition is very important where prices,

High-tech crimes have negatively impacted the commission of criminal offenses by favoring many individuals to intervene in altering, copying and obtaining without the authorization of the author or inventor the literary, scientific work and the product obtained. The fight against high-tech crimes has not been achieved be defeated by countries of the world where Russia and the US are most affected, but we do not exclude other countries as well. Albania has proved quite weak in the protection of copyright by not following the protection mechanisms of literary, musical or scientific works. Albania has special laws related to intellectual and industrial property.

I Rights and obligations arising from intellectual and industrial property legal protection

1.1 Rights deriving from intellectual and industrial property

Intellectual and industrial property rights:

1) The right to protection -¹The protection of artistic, scientific works means that no other author & person has the right to modify, change the author's work. If the author's work fails to be protected then there will be benefits for the other party and loss for the author. The work of the author can also be used for other purposes to influence the positive image of the author resulting in a negative image in public. They can not use certain works without the approval of the author or the collective management agencies. who have a duty to manage copyright.

²The protection of industrial property (trademarks, patents, inventions) is done through patents where the patent is granted taking into account several conditions: to constitute innovation, to contain the invention step, to be applicable in industry. Exceptions are not considered inventions, scientific theories, mathematical methods, aesthetic creations, schemes and rules for performing mental operations for the development of games and business as well as computer programs.

2) Moral right - Means copyright and review but is not related to the publication of the work. Moral law also concerns the protection from distortions that may be made to the work and as such the protection of the dignity of the author of the work.

3) Property right-Property right includes the right of translation, reproduction, public performance, broadcasting, right of adaptation, renewal.³Freedom of expression is one of the basic freedoms to give and receive information and to give an opinion without restriction of public authorities and regardless of borders. This is mainly related to audiovisual, television or cinematographic broadcasts and must be licensed.

4) Right to revoke copyright - The author has the right to revoke his work in case there are serious moral reasons provided that the real damage caused by the revocation of the right is compensated. The right holder must notify the author of the work regarding the extent of the damage suffered by the revocation of the damage ..

5) Economic law - Authors of various works & inventions have the right to benefit from their products and even their product is competitive in the international market. every work & invention has its own cost in bringing it to market and as such the author has the right to protect the economic cost and get back what he has invested. One of the important freedoms is economic freedom and as such technology in a somehow has achieved that mainly works of art & scientific publications books and various inventions have managed to use and sell online ..Competition is quite important, but companies authors of inventions can not violate the rules of competition.

¹ <https://ascap.edu.al/wp-content/uploads/2018/02/Pronesia-intelektuale-dhe-indusstriale-P%C3%ABrmbajtja-e-modulit.pdf>dated 13.6.2022

²Article 5 and 6 of Law no. 9947 dated 7/7/2008 “On Industrial Property

³Article 1 of the European Convention on Human Rights

6) Patent right - is an important right that belongs to the inventor to have a patent and in case it is his legal replacement is regulated by agreement between them. When we have 2 or more applications for the same invention he will have priority applicant who has applied for this invention at an earlier date.

7) The right to prohibit the indirect use of the invention - The owner of the invention has the right to deprive any third party of the right to use the invention for which the patent has been granted. This means that only the owner has the exclusive right to pass the the right of use to third parties through the licensing contract & licensing agreement.

8) Right to compensation for damage - The owner of the invention or the author of the work has the right to seek compensation in court for their work in case the damage is real, effective, including missing profit and coming as a result of competition violation and taking into account also the moral damage. In any case, the civil court is competent to impose a measure of damages.

1.2 Obligations arising from intellectual and industrial property:

- a) ⁴Strictly implement the licensing contract & agreement with the other person who obtains the right to use the work in the case of copyright for submission of the manuscript within a reasonable time and the licensing agreement that the patent owner has with third parties.
- b) ⁵The inventor is obliged to follow the procedure for granting a patent.
- c) ⁶To reward the author & inventor of the literary, artistic, scientific work and to compensate the damage that may have been caused by unfair competition or moral damage to trademarks, industrial design, geographical indications, patents
- d) ⁷Pay lawsuit fees and institutional fees for filing applications.
- e) ⁸The patent owner has the obligation to notify the licensee of the trial in question.

⁴Article 48 "On Intellectual Property" and Article 46 "On Industrial Property"

⁵Article 17- 34 of Law No. 9947 dated 7/7/2008 "On Industrial Property"

⁶Articles 31 and 184 / c "Law no. 35/2016" "On copyright and other related rights "

⁷Article 65 Code of Civil Procedure and Article 17/3 of Law No. 9947 dated 7/7/2008 "On Industrial Property"

⁸Article 188 / ai Law No. 9947 dated 7/7/2008 "On Industrial Property"

1.3 Legal protection of intellectual and industrial property.

⁹The protection of intellectual property is done when the copyright holder has made a request to the court for the measure of securing the lawsuit where his rights are suspected to have been violated or when there are cases when it is suspected that the rights of the plaintiff are violated and the object of the lawsuit is impossible or difficult, a temporary measure would avoid damage which would be irreparable. Securing the lawsuit itself is a preventive measure which would prevent the negative consequences that would come from this action. The court in this case has the right to request the cessation and withdrawal respectively of actions or acts of the opposing party that violate the copyright. ¹⁰Also in the case of compensation for damage, the offender is obliged to compensate the perpetrator with the appropriate value determined by them or by the court which takes into account the degree of damage of the offender and the amount agreed.

¹¹Legal protection of industrial property (patents, industrial designs, trademarks and geographical indications is protected by the General Directorate of Industrial Property. ¹²Legal protection is initially done through institutional channels that address the application to the relevant institution for a trademark application, industrial design and this request can be accepted, rejected or suspended. ¹³An objection to the protection of a patent may be lodged within 9 months from the date of publication and the objection shall be lodged with the Board of Appeal of the General Directorate of Industrial Property after payment of the prescribed fee. The Board of Appeal may revoke the patent or refuse to receive the request.

¹⁴Litigation begins with filing a lawsuit against anyone who has violated the rights or risks infringing on the patent, but not only. In court it must be proved that the violation has occurred or should have occurred, the fact that the violation has been repeated must be proved. when the violation has occurred in violation. In these cases the court may decide depending on the circumstances of the case 1) securing the lawsuit and taking interim measures 2) compensating the damage¹⁵3) terminate the infringement for any action that constitutes a violation of the patent right. ¹⁶With regard to the statute of limitations, the right to seek compensation is made within 3 years from the date when the person became aware or should have become aware of the damage suffered and the person who caused it.

⁹Article 173 Law No. 35/2016 "On copyright and other related rights"

¹⁰Article 172 Law no. 35/2016 "On copyright and other related rights"

¹¹Article 1 of Law No. 9947 dated 7/7/2008 "On industrial property."

¹²Article 17 of Law No. 9947 dated 7/7/2008 "On industrial property"

¹³Article 33 of Law No. 9947 dated 7/7/2008 "On industrial property"

¹⁴Article 53 Law No. 9947 dated 7/7/2008 "On industrial property"

¹⁵Article 55 hereafter

¹⁶Article 65 hereafter

1.4 Practical cases

1.4.1 Alice Corporation & CLS Bank International

¹⁷Facts and Figures: Alice Corporation is an Australian company which holds patents '479,' 510, '720, and' 375 which all relate to a computerized trading platform dealing with financial transactions in which a party of the third settles the liabilities between the other two so that the settlement eliminates the risk. The settlement risk is the risk to each party in an exchange that only one party will pay its obligation. Alice patents address this risk using the third party as guarantor. In 2007 CLS Bank International sued Alice seeking a declaratory decision and invalidity of the patents.

Legal Basis: U.S. Patent Law.

Court decision: The US court ruled that Alice's patent was invalid as it contained in itself abstract purposes. This is a method of doing business should not be patentable. The courts have also argued Alice's claims do not require more than a generic computer to implement this abstract idea of intermediate solution by performing general computer functions, which is not enough to transform an abstract idea into a patent-acceptable invention.

1.4.2 The case of the sculptors of the Skënderbeu monument.

¹⁸Facts and circumstances: The sculptors OP, AM and JP are co-authors of the Skanderbeg monument located near Skanderbeg Square. The allegations of the co-authors are in their focus that Banka Tirana Sh.a has used the photograph of this work for promotional purposes both on the road to the airport "Mother Teresa" Rinas and in its interior without obtaining permission to use it. Co-authors seek damages. We also have 2 civil court decisions and appeals overturned in this case. The recourse was not accepted in the high court. The claims of the heiress of the OP are related to the violation of access to the trial of the case, the impartiality of the court decision, the violation of private property based on Article 1 of the ECHR protocol.

Legal basis: 131 / f and 134/1 / I of the constitution, Article 1 ECHR Protocol

Judicial decision: The constitutional court by its very nature cannot accept cases of any measure. It is a court of law and not a court of fact and as such looks at the issue from a constitutional point of view whether the rights deriving from the constitution have been fulfilled or not. The constitutional court will intervene when there is a violation of due process of law. Its task is to identify problems of a constitutional nature and not to resolve the dispute as a court of first instance or as a court of appeal. Even with regard to allegations of copyright infringement, there is copyright infringement, but the constitutional court is not competent as this has to do with the analysis of evidence, which is the task of the courts of ordinary jurisdiction.

¹⁷ <https://www.oyez.org/cases/2013/13-298> data 12.6.2022

¹⁸ Decision no. 91 dated 02.07.2018 of the Constitutional Court dated 14.6.2022

II Impact of high-tech crimes to intellectual and industrial property

2.1 Cybercrime, as an evolving phenomenon.

¹⁹Cybercrime has invaded the world and the need has arisen for the specialization of relevant persons to deal with cybercrime. To study a digital crime scene is many times more difficult as the potential for misrepresentation in data representation is unique to scenes digital and as such investigators need to take special measures taking into account the comparison of the results of multiple tools and the inspection of data reaching to the truth of the information. Digital investigators have gone so far as to find even personal information. In terms of jurisdiction in cybercrime it is difficult as acts issued in one state are considered legal, but in another state it cannot be considered legal.²⁰Before investigating cybercrime we should consider its use and knowledge of computer software e-commerce, e-mail, e-security as well as special software. The creation of software brought an evolution related to the identification of routine transactions through the computer. The tangible aspect includes hardware, prints, floppy disks. While the intangible aspect includes computer code data and information and data manipulation within the computer. Cybercrime trends are related to the spread of viruses and other sadistic acts through the Internet, increasing attacks on corporate and government websites for the purpose of stealing information and the steady increase in the number of new and aggressive hackers. Many cyber attacks have been bypassed by investigative authorities and the question arises who will investigate cybercrime and at what level?

2.2 Computer Security, Albanian Criminal Code in the face of international criminal codes.

²¹Computer security has changed from year to year where security concerns came from physical break-ins, theft of computer hardware, and the physical theft and destruction of tape drives. Very few people know how to use a computer where over time we have multiple networking programs. and changed the rules of the game. Inevitably the increase in the availability of online information systems led to abuse where we have the interference of unauthorized persons to interfere with objects and computer equipment and often times attacks can be carried out through telephone lines and information. various data applications makes us have an open system and infringement of intellectual or industrial property is more effective.²²In the Albanian criminal code and not only cybercrime and their security has been a priority. Albania has ratified the convention on crime in the field of cybernetics by making it part of its domestic law starting with computer fraud which is done by introducing, deleting and the removal of computer data with computer forgery which is accomplished through data entry or their replacement with false data subjects are special as they have specific knowledge about it. Unauthorized access is a problem in Albania as many works of art, literature, photographs, etc. have been used for purposes of earning more revenue. for the presentation of computer data,

¹⁹Digital Evidence and Computer Crime Third Edition & Eogan Casey edition 2011 Published in Elsevier. United State In America

²⁰Carl J Franklin "The Investigator's guide to Computer Crime" Library of congress cataloging Springfield Illinois USA 2006

²¹Deborah Russell and GT Gangemi Sr. Computer Security Basics O Reilly & Associates, Inc. July 1992

²² Cybercrime legislation amended Excerpts from the Criminal Code Law no. 7895, Date 27.1.1995 "Criminal Code of the Republic of Albania" amended.

Conclusions:

- Authors and inventors have important rights starting from the right to protection of their work, moral law but also economic law has a special importance.
- Authors and inventors have obligations to publishers and the organizations they belong to but also to the state for the payment of mandatory institutional fees
- Albania has made strides in protecting intellectual and industrial property, but the implementation of criminal and specific legislation and the effectiveness of measures are lacking.
- Cybercrime has caught every cell of us by monitoring us and accessing us unauthorized by becoming part of cyber attacks.
- Legal protection should be the priority of every government to protect the author & inventor in order to motivate him to work harder.
- Protection from unfair competition remains a problem in our country as many traders abuse the prices, but also the quality of the product. products.
- Computer security is coming and advancing and makes our access to the internet more worrying, feeling mainly endangered by children because they do not understand the danger of this action. Different advertisements for different products cause many individuals to be deceived and as a result do not get the product in the size they require.
- The Albanian Criminal Code is parallel to the International Criminal Code.

RECOMMENDATION

- [1] Albanian courts need to create a new section in the field of intellectual and industrial property and the need for experts in this field is growing.
- [2] The state should contribute to the training of students and experts in this field.
- [3] Filters should be guaranteed to protect the works of authors and inventions or to place such a product on the market.
- [4] Products must be effective and cost-effective for the consumer.
- [5] If the invention itself contains fuels it must be made with renewable sources to protect our health and the environment as a whole.
- [6] Albania needs professional digital investigators to professionally investigate cybercrime and relevant institutions must ensure the life of the individual but also his deeds
- [7] Implementation of national legislation and EU directives will bring our country more security and stability in the region.
- [8] Albania has to face the main problem related to unfair competition as it will result in reduced investments in strategic sectors, above all it will lose confidence in the publication of literary, artistic, scientific, musical and inventive works that will bring development. In our country.