

FOREWORD EDITOR OF SPECIAL ISSUE

Intellectual property represents a field of law that has its finger on the pulse of time and current developments in science, technology, art, politics and economy in almost an unprecedented manner. As a consequence, the legislation and practice in this area find themselves in a constant endeavor of offering adequate response and adapting to these changing circumstances and challenges. The complexity and sensitivity of the nature of this field, also from a legal and political point of view, makes this task even more demanding.

The legislation and practice in the field of intellectual property in the selected countries of the region South-Eastern Europe (Slovenia, Croatia, Bosnia and Herzegovina, Serbia, Montenegro, Macedonia and Albania) are certainly not immune to the mentioned developments. Nevertheless, while they face certain global challenges (e.g. the effects of digital technologies on the use, management and enforcement on subject matter protected by these rights), they are also confronted with particular, rather specific issues that are determined by their legal history, cultural environment, political developments or their position in the process of European integration.

In the initial phase of the planning of this conference, a presumption was established that due to the geographic proximity, surmountable language barriers, common or similar history and comparable economic situation some of these particular challenges may not only be strictly national, but represent cross-border, or regional issues. If that should be the case, then also the solutions to these challenges need to be proposed and implemented on the regional and not on the isolated national level.

In order to examine the validity of that presumption and establish the foundation for this conference, the contributors from the selected countries of the region were asked to critically examine their national legislation and practice in three selected fields: collective management of copyright and related rights, patents and trade marks. Hence, the topics dealt within the framework of this conference are not exhaustive and reflect only particular central elements of the discussion on challenges in the field of intellectual property in the selected countries of South-Eastern Europe, but also the EU.

Hence the objective of this conference in the regional context was to search for challenges and offer solutions in particular areas of intellectual property that are relevant and valid beyond the national laws of countries of the region.

The preparatory stage of the conference with regard to challenges in the region South-Eastern Europe ("Regional challenges") was comprised of four phases:

Phase I/Detecting the Challenges: Country reports on challenges in the field of collective management of copyright and related rights, patents and trademarks.

In this initial phase, the contributors were asked to prepare reports providing overview over the national systems (of collective management, patents and trade mark) and foremost underlining major issues/challenges in the practice and in the legislative field on the basis of provided questionnaires.

Phase II/Facing the Challenges: Summaries of challenges in each field.

In this phase three summaries of challenges (for each area separately) were prepared on the basis of provided country reports on challenges, where similar challenges in the region were underlined and combined, but also specific national issues were emphasized.

Phase III/Dealing with the Challenges: Conventional solutions and „outside the box“ solutions for challenges in each field.

For the preparation of this phase the contributors submitted their proposals for dealing with the challenges detected in the national reports and summarized in Phase II that are however not only valid for their own country, but represent cross -border solutions of a particular issue for the region. The proposed solutions represented both conventional and non-conventional/„outside the box“ suggestions aiming for the elimination of a particular challenge, irrespective of potential political or systematic obstacles.

Phase IV/Eliminating the Challenges: Consolidated conventional and „outside the box“ solutions.

Finally in the last phase, the conventional and “outside the box” solutions submitted by the contributors were summarized in form of an outline of guidelines for dealing with the detected challenges.

Similar to the region South-Eastern Europe also the European union is facing with a set of specific issues in the field of intellectual property such as cross-border licensing of rights in musical works, the long-lasting process of introducing a unitary patent protection, or the deficiencies of the unitary trademark system (“EU-challenges”). Despite the fact that not all of selected countries of the region are members of the EU, some of the latter challenges already have or will have an impact on each of them. Thereby a paradox is created, as the countries of the region striving toward a EU-membership are partially under the obligation to adopt the “imperfect” EU systems of protection of intellectual property. On the other hand, the countries of the region that are EU-member states potentially face twofold challenges. The ones they are confronted with in the unitary context and the others that are rooted in their own national systems of collective copyright management, patents or trademarks and that are more “regionally-oriented”. Finally, during the preparation of the conference it was also presumed that some of the regional and EU-challenges coincide and that the already established solutions on the EU-level and/or the proposed solutions on the regional level might initiate a discussion that could eventually lead to the elimination of the latter.

Consequently, also the contributors from the EU used a similar approach as the ones from the region and identified the mayor challenges in the field of collective management of copyright and related rights, patents and trademarks in the EU and offered conventional and “out of the box” solutions.

It needs to be emphasized that the opinions and propositions expressed by the contributors represent their personal views and should not be attributed to their respective institutions and organizations.

We would like to use this opportunity to thank all the contributors who participated in the preparation of this conference for the effort they invested in shaping this, as we consider, comprehensive and unique mutual research project.

Dr. Iza Razija Mešević
Conference Chairman

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