

DEVELOPMENT STRATEGY

**Institute for Intellectual Property of
Bosnia and Herzegovina
(2008 – 2015)**

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ABBREVIATIONS

BASMP – Institute for Standards, Metrology and Intellectual Property of BiH

BiH – Bosnia and Herzegovina

CARDS – Community Assistance for Reconstruction, Development and Stabilization

EPC - European Patent Convention

EPO – European Patent Organization

FBIH – Federation of Bosnia and Herzegovine

HW – Hardware

ICT - Information and Communication Technologies

IP - Intellectual Property

IPR - Intellectual Property Rights

IT - Information Technologies

IP – Intellectual Property

OHIM – Office for Harmonization in the Internal Market (EU Trademarks and Industrial Design Office)

PC – Personal Computer

PCT – Patent Cooperation Treaty

RS - Republic Srpska

SIPA - State Investigations and Protection Agency

SAA – Stabilization and Association Agreement

TRIPS – Agreement on Trade Related Aspects of Intellectual Property Rihgts

UNECE – United Nations Economic Commission for Europe

VPN – Virtual Private Network

WCO – World Customs Organization

WIPO – World Intellectual Property Organization

WTO - World Trade Organization

1. SUMMARY

This document, titled the Development Strategy of the Institute for Intellectual Protection of Bosnia and Herzegovina (Strategy), is the basis for the systematic establishment, development and functioning of the complete and effective intellectual property system of Bosnia and Herzegovina in harmony, in the first place, with the demands of the current and future processes related to the integration of Bosnia and Herzegovina in the European Union, fulfillment of obligations under the SAA and accession to WTO and the creation of prerequisites for the use of intellectual property in the achievement of economic development founded on the competitiveness of goods and services, which is closely connected with the incentive for the development of innovative activities, technology transfer, the establishment of trade relations and free flow of goods and services.

Chapter 4 of the Strategy describes the intellectual property as a new contemporary resource necessary for the achievement of economic development and its essential features, which places the focus of our attention on the fact that the use of intellectual property is an unquestionable interest of economic entities and individuals creating new values and as such, it deserves the support of the broader social community.

The intellectual property system includes a number of elements which may be classified, for the purpose of clearer depiction and more transparent processing, into three components, whose establishment and harmonious functioning enable the functioning of the entire system, which is illustrated in Chapter 5.

As the current condition of the intellectual property system of Bosnia and Herzegovina is outlined in Chapter 6, Chapter 7 of the Strategy focuses on the building of an efficient institutional framework, primarily the Institute for Intellectual Property of Bosnia and Herzegovina as a focal point for the initiation, moderation and coordination of activities, necessary for the establishment, development, functioning and application of new intellectual property system of Bosnia and Herzegovina.

In this manner, in addition to its original and principal competence pertaining to the grant of industrial property rights in Bosnia and Herzegovina, the Institute assumes a leading role in the accomplishment of the mission on the establishment, development, functioning and application of new intellectual property system of Bosnia and Herzegovina and thus it contributes in the best manner to the development and application of the entire intellectual property system in Bosnia and Herzegovina on the basis of its legitimate powers, institutional ties to the European and international intellectual property systems, professional knowledge and experience.

With the improvement and further development of the Institute's resources, aimed at capacitating the Institute for assuming new competences in accordance with this Strategy, the Institute should definitely be profiled by 2005, at the latest, as a leading force and focal point in the activities of the initiation, moderation and coordination of the development and application of a new intellectual property system of BiH, in accordance with the demands of WTO and EU and the needs of achieving the economic development of Bosnia and Herzegovina.

2. INTRODUCTION

Historical building of international and national intellectual property systems, which dates from the late 19th century, developed towards the protection of interests of the entities and individuals who made certain intellectual creations, but the economic significance of the use of industrial property in the function of economic development increasingly grew.

Continued and strong development of intellectual property system in the last hundred years is the consequence of the world's leading countries conviction that intellectual property is a part of the entire national wealth and a powerful tool to influence economic development. Intellectual property system has thus become a powerful tool for the transformation of creativity into capital and reputation, inasmuch as it allows for legal title to intellectual property with the exclusive right to disposal.

Nowadays, the systematic use of intellectual property in the function of economic development usually prevails in the countries whose economies are founded on proprietary and market-oriented principles. As a result of that, the awareness of significance of the use of intellectual property in economic and national development has been built at all levels of national hierarchy, from the top layers of executive and legislative branches, over the management structures in scientific, research, development, higher-education sectors and the entire economic sector, down to the individuals who participate as doers in such sectors.

Owing to that, there are no doubts today in those countries as to the use of intellectual property in the function of development, but an absolute conviction dominates in those countries that in modern circumstances, marked with globalization processes, it is impossible to achieve the global competitiveness of goods and services in the absence of adequate use of intellectual property as a precondition for the achievement of high-level economic development, which reflects in favourable balance of the exchange of goods, satisfactory employment rate and high gross national income.

As a result of such condition, national well-functioning systems for the use of intellectual property have been established and developed in those countries. In addition to legislative and institutional components, such systems include the effective user component, patterned on the model of the use of intellectual property in the function of development and business objectives in key sectors, such as economic (large economic systems, small and medium-sized entrepreneurship, craftsmen), research-development, scientific and higher-education sectors.

Industrial property rights (patent, trademark, service mark, industrial design, appellation of origin, lay-out designs of integrated circuits) are acquired through administrative procedures, conducted before a competent institution (in Bosnia and Herzegovina it is the Institute for Intellectual Property), whereas copyright (the right of authors on their works in the domain of literature, science and art) and related rights (the rights of performers, producers of phonograms, videograms, databases and the rights of broadcasting organizations – broadcasts producers) stem from and belong to the author by mere creation of a work and as such they are not conditioned by the fulfillment of any formalities.

The acquired industrial property right allows for:

- exclusive production and market exploitation of:
 - invention protected by patent;
 - sign protected by trademark/service mark;
 - outer shape of a product protected by industrial design;

- indication, which indicates that the goods originate from a certain territory, registered as the appellation of geographic origin (appellation of origin);
- layout designs of semiconductor products;
- prevention of unlawful use, copying and imitation of a product or work.

Principal forms of intellectual property are specified in Appendix 1.

A very important component of intellectual property system is the enforcement of granted rights, which is achieved through civil protection, criminal protection and administrative remedies (inspection supervision and border measures).

3. DOCUMENT PURPOSE AND OBJECTIVE

3.1 Strategy Purpose and Objectives

This document, the Development Strategy of the Institute for Intellectual Property of Bosnia and Herzegovina (Strategy), gives more comprehensive overview of the framework and development trends of the Institute, as a basis and precondition for the creation of program for the establishment, development and functioning of a new intellectual property system in Bosnia and Herzegovina.

The Strategy sets out guidelines and activities in order to enable the Institute to contribute to making the intellectual property system of BiH compatible with intellectual property systems in the EU countries by assuming new competences, in addition to the functions under its current competence stipulated by law, and thus make its contribution to the economic, social and cultural development of Bosnia and Herzegovina, which will be consistent with the achievements of the modern knowledge-based society.

Strategy objectives:

- define the main determinants of the new intellectual property system of Bosnia and Herzegovina, which will allow for the level of intellectual property protection in Bosnia and Herzegovina similar to that in the EU countries in accordance with the commitments undertaken by accession to relevant international treaties;
- determine the role of the Institute in the development and functioning of the new intellectual property system of Bosnia and Herzegovina as the instigator and coordinator of actions for the acquisition and use of intellectual property as an important lever in economic development;
- define the development strategy of the Institute through the recommendations for:
 - creation of preconditions for the efficient functioning of the Institute (human resources, organizational structure, work technological basis, financing);
 - development of key functions of the Institute (administrative procedures for the grant of industrial property rights, information activities, promotional-educational activities);
 - automation of administrative proceedings and procedures aimed at more efficient and more quality service providing to the users;
 - improvement of cooperation with the institutions in charge of the enforcement of intellectual property rights in Bosnia and Herzegovina (courts, customs authorities, market inspection, prosecutor's office, police, etc.);

- enhancement of cooperation with international institutions (WIPO, WTO, WCO, UNECE, EPO, etc.) and regional national institutions in the domain of intellectual property.

3.2 Starting Points in Strategy Making

The main requirements in Strategy making are founded on the operationalization of necessary measures set out in the Strategy for the Integration of Bosnia and Herzegovina in the European Union, i.e:

- a) capacitate the Institute for Intellectual Property of Bosnia and Herzegovina and work on the improvement of its capacities,
- b) accede to all relevant international conventions and organizations in the domain of intellectual property protection,
- c) enhance the cooperation among courts, market inspection, customs and police authorities for the purpose of more effective combat against counterfeiting and piracy,
- d) monitor technological progress and in accordance with it provide professional training for the employees in charge of examining the applications in the domain of copyright and related rights protection,
- e) launch an information campaign for all key and interested persons, including the broader public, about the significance of intellectual property as a segment of the internal market.

Strategy starting points also include:

- relevant BiH regulations in the domain of intellectual property,
- international regulations to which Bosnia and Herzegovina is a party (international legislation in the domain of intellectual property),
- work program of the Institute for Intellectual Property of Bosnia and Herzegovina for the year 2008,
- recommendations of the Regional 2002 CARDS Intellectual Property Rights in the Western Balkans,
- recommendations of international institutions, primarily WIPO (IP Strategies for Development, The 45 Agreed Recommendation under the WIPO Development Agenda,...), UNECE;
- recommendations of WIPO standing bodies (standing committees, *ad hoc* working groups etc.).

Parameters for the improvement of legislative, institutional and user components of the intellectual property system of Bosnia and Herzegovina stem from the Strategy, along with the arguments highlighting the Institute as a driving force of activities pertaining to the establishment, development and functioning of a new intellectual property system of Bosnia and Herzegovina. The Strategy also defines trends and dynamics of the development of Institute's capacities.

It is anticipated that the stated objective will be attained through the results of the following three components:

- development of Institute's institutional capacities, institutions for the enforcement of intellectual property and intellectual property system users,
- strengthening of legislative framework in accordance with TRIPS-plus and SAA demands,
- development of intellectual property users.

The first step towards the realization of the said components is to define determinants of the intellectual property system of BiH with a special emphasis placed on the

development of the Institute, as it occupies a central position in the intellectual property system of Bosnia and Herzegovina, whereas the building of human, functional and technological resources is a crucial prerequisite for the establishment of a new intellectual property system of Bosnia and Herzegovina.

In order to make the Strategy feasible, recommendations as to the development of reliable and effective system of the protection and use of intellectual property of BiH have been set out as a prerequisite for integration processes and accession to WTO, fulfillment of obligations under SAA and development of foreign investments and incentives for economic, scientific and cultural development, whose realization would unfold according to the Institute's plans and programmes:

- short-term – for the period of 2008 to 2009
- mid-term – for the period of 2009 to 2012
- long-term – for the period of 2012 to 2015
-

4. INTELLECTUAL PROPERTY AS CONTEMPORARY DEVELOPMENT RESOURCE

It is widely known that all creations of human intellect, intellectual creations, attain their value by reproduction, use and disclosure to other people, so it is impossible to protect them by concealing or confining them or by another kind of physical protection.

A legal protection system has been developed for their protection, the intellectual property system, by virtue of which the owner's right to disposal, use and economic gain derived from the protected intangible property is protected with the assistance of tools and institutions available within the legal system.

The intellectual property system thus becomes a powerful tool for the transformation of the results of creativity into capital and reputation, as it affords legal ownership of intellectual property to the right holders with the exclusive right to disposal and use.

Modern legislation distinguishes various forms of intellectual property, as illustrated in Appendix 1.

The result of putting the sintagm «knowledge-based economy» into action is basically the creation of manifold knowledge-based creations and achievements, whose ultimate goal is global competitiveness of products and services as a basis and prerequisite for the balanced exchange of goods and increase in the employment rate or, if we put it in other words, the economic development as a whole, in accordance with the needs for an effective respond to the challenges of economic environment.

The attainment of the said objective in modern circumstances envisions, *inter alia*, obligatory and regular activity, through which all creations and knowledge-based results are legally protected by an appropriate form of intellectual property, which not only prevents the waste of resources invested in the creation of the results of intellectual activities, but excludes the possibility of uncontrolled and unlawful use of such results and on the other side, it allows for their capitalization by the entities and individuals who created them.

As a result of development within international and national frameworks through almost 125 years, we presently witness the effective functioning of established, developed

intellectual property systems in the countries whose economies are traditionally founded upon proprietary and market-oriented principles.

A series of indicators which prove the effectiveness of the use of national intellectual property systems in the function of economic development in the countries whose economies traditionally rest upon proprietary and market-oriented principles is long, which is the result of historical conditionality and preconditions created.

The development of intellectual property, in particular the industrial property, in the world, as well as positive experience acquired in the practical use of its effects, resulted in intellectual property becoming an unquestionable and unexpendable contemporary resource and device for the economic systems of industrially developed countries in achieving global competitiveness and success in market competition, not only on global and regional plans, but also within the national frameworks.

Owing to historical development and practical experience, not only has professional awareness been created in the countries which constitute competitive economic environment to Bosnia and Herzegovina within the EU framework and global frameworks, but an unquestionable, infallibly functioning awareness that there are not any doubts whatsoever as to the necessity of the use of intellectual property in the function of economic development has been created at all levels of national hierarchy in these countries, from the top layers of executive and legislative branches, over the management structures in scientific, research, development, higher-education sectors and the entire economic sector, down to the individuals participating as doers in such sectors.

In the countries which traditionally belong to the group of world's leading industrially developed countries, a corresponding synthesis of the research-development sector (R&D) and overall innovative processes with the intellectual property system has been created as an ultimate result of historical development, along with simultaneous incorporation of intellectual property in all social segments and activities relevant for achieving the global competitiveness of technical solutions and products based on the results of their own scientific, research-development and related processes.

The current situation in Bosnia and Herzegovina in respect of intellectual property in the function of economic development is a good foundation for getting closer to the practices prevailing in the countries of competitive economic environment in the EU and within global frameworks, namely the countries whose economies are traditionally founded upon proprietary and market-oriented principles and whose effective system of the use of intellectual property in the function of economic development is already in place.

4.1 Intellectual Property in the Function of Economic Development of BiH

In order to achieve the effective use of intellectual property in the function of economic development in Bosnia and Herzegovina, patterned after the model applied in the countries whose economies are historically based on proprietary and market-oriented principles, it is necessary to establish a corresponding national intellectual property system and ensure its effective functioning and development, which necessitates the creation of a set of conditions and carrying out of some specific concrete activities, primarily needed in order to overcome some unfavourable, historically conditioned circumstances from the aspect of importance of intellectual property rights.

This Strategy sets out the preconditions necessary for the establishment, development and effective functioning of new intellectual property system of Bosnia and Herzegovina, whose use is anticipated in the function of economic development.

4.2 Intellectual Property in the Context of European Integrations and Accession to WTO and the Fulfillment of Obligations under the Stabilization and Association Agreement (SAA)

The established, developed, new and effectively functioning intellectual property system is a precondition and requirement for the completion of European integration processes and accession to the World Trade Organization (WTO).

This document specifies the conditions and measures aimed at capacitating the Institute for Intellectual Property of Bosnia and Herzegovina for assuming new competences, in addition to its current core competences, through which it will initiate, coordinate and make necessary contribution to the establishment, development and functioning of a new intellectual property system of Bosnia and Herzegovina, as a precondition not only for satisfactory economic development, but also for the completion of European integration processes and accession to the World Trade Organization (WTO).

5. MAIN COMPONENTS AND THEIR ROLE IN THE ESTABLISHMENT, DEVELOPMENT AND FUNCTIONING OF NATIONAL INTELLECTUAL PROPERTY SYSTEM

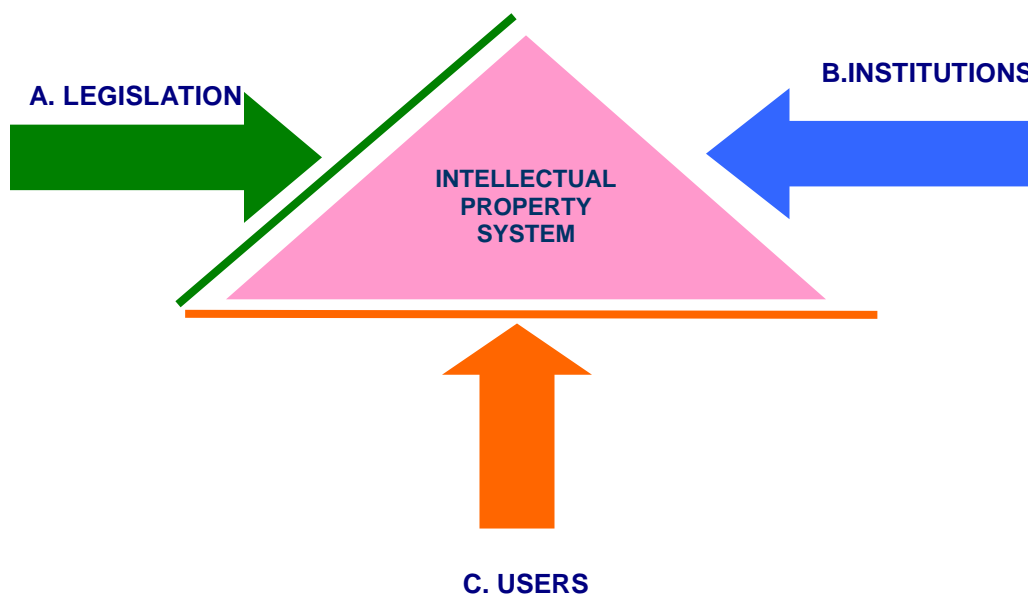
5.1 Main Components of National Intellectual Property System

The establishment and management of systematic intellectual property protection presupposes the existence and functioning of an extensive set of laws implemented by a number of institutions and actors.

A systematic analysis of intellectual property within national frameworks can be clearly illustrated through three main components: legislation – institutions – users, which are prerequisites for the protection of the accomplished results of knowledge in the interest of entities and individuals who accomplished them, but it also provides an array of possibilities and methods for using such results in attaining global competitiveness of goods and services.

Through the interaction of all three components, which rely on the existence of adequate resources, capacities, prerequisites and conditions, the intellectual property system becomes a powerful tool for the transformation of the results of creativity into a particular form of right as a basis for the acquisition of capital and reputation.

Hence, a national intellectual property system may be symbolically illustrated as a triangle comprising the said three components:



Each component consists of the following elements:

A. LEGISLATION:

- a. International conventions and treaties in the domain of intellectual property,
- b. Laws governing intellectual property,
- c. Bylaws (regulations, implementation regulations)
- d. Methodology of the Institute's practice in relevant administrative procedures in the matters concerning intellectual property rights

B. INSTITUTIONS, whose competence includes:

- a. Preparation of proposed legislation in the domain of intellectual property rights,
- b. Preparation of proposals for international conventions, treaties and agreements in the domain of intellectual property
- c. Conducting procedures for the grant of industrial property rights,
- d. Enforcement of intellectual property rights by means of legal instruments, which fall within the competence of courts, prosecutor's office, market inspection, customs procedure, police, agriculture, organizations for collective management of copyright and related rights

C. USERS

- a. Individuals filing applications for the grant of protection of industrial property (foreign and national),
- b. Users of information funds in the domain of intellectual property,
- c. Authors and right holders under copyright and related rights

The functioning of each national intellectual property system necessitates the existence and effective functioning of all three components, which implies:

- broad legislative framework, which allows for the establishment of mechanisms and legal grounds for the protection of the accomplished results of knowledge in the territory of a particular state;
- functioning of a number of competent institutions which ensure the establishment and enforcement of rights;
- existence of manifold and diverse users, entities and individuals active in the use of intellectual property.

The outcome of synergy of the components is the creation and implementation of a model, which would allow for putting the protected results of creative activities into the function of economic and social development.

In order to fully express all potential possibilities offered to the society by the intellectual property system framed in such manner, there must exist an ambiance in which all components will be present and functional.

The absence of any of these components calls the functioning of intellectual property system as a whole into question, which leads to stagnation and economic setback, lack of interest for creativity and innovation, whereas business climate loses its vitality, consistency and credibility.

5.2 Role of the Components of National Intellectual Property System

LEGISLATION

Legislation in the area of intellectual property is formed by national laws and bylaws and international conventions and treaties. International conventions and treaties reflect the latest world achievements, which stem from the action and contribution of majority world countries, assembled in the World Intellectual Property Organization (WIPO).

From the perspective of each single member state of WIPO, it is necessary to ensure proper monitoring of such achievements, participate in their development and adoption,

and ensure timely accession and preparation of conditions for their implementation within national frameworks.

The EU legislation, expressed through numerous specific directives, is a special obligation.

As for the national legislation in the domain of intellectual property, it should reflect modern trends in terms of contents and solutions therein, but in particular it should be harmonized with the current demands of EU integration processes and accession to WTO.

Achieving this in quality and timely manner within national frameworks requires the existence of an institution whose competence would encompass:

- Monitoring the application of the existing legislation and development of new national legislation, updating the existing legislation and drafting new proposed legislation;
- Cooperation with international organizations (WIPO, UNECE, WCO, WTO), regional offices, primarily EU offices (EPO, OHIM) and national offices for intellectual property in the function of the development of national legislative component.
- Contribution to the development and functioning of other national institutions, whose competences include intellectual property, through cooperation, initiation and unification of joint activities in the area of legislation, aimed at the effective functioning of each institution respectively and all of them together;

An institution must have sufficient resources available, in the first place it must have sufficient number of employees qualified and specialized for the discharge of duties in the domain of intellectual property.

INSTITUTIONS

An important component in the functioning of a national intellectual property system is a series of institutions, among which a special position is occupied by an institution which deals with the grant of intellectual property rights by means of conducting procedures for the grant of industrial property rights (in BiH it is the Institute for Intellectual Property), whereas other institutions belong to a group of intellectual property rights enforcement institutions.

a) Institute for Intellectual Property – institution for the establishment of intellectual property rights

The functioning of the Institute requires certain capacities (sufficient number of trained and specialized employees in the area of intellectual property), adequate material resources and office premises furnished with the office and information equipment necessary for professional, quality and prompt conduct of procedures for the grant of industrial property rights and rendering information services, or search of databases for:

- Patents
- Distinctive signs (trademarks, industrial design, appellations of origin)

b) Institutions for intellectual property rights enforcement

The enforcement of intellectual property rights requires the existence and functioning of a certain number of institutions whose respective competences include intellectual property. Such institutions must have certain capacities (sufficient number of trained and specialized staff for the work in the area of intellectual property) and adequate material

resources for professional, quality and prompt execution of activities, procedures and measures concerning intellectual property.

USERS

A national intellectual property system is good insofar as it enables its users to achieve their own effective and fastest possible development through its application and thus contribute to the national economic development.

The users of intellectual property system are grouped into 6 main clusters:

- a) economic systems,
- b) small and medium-sized entrepreneurs,
- c) development-research institutions,
- d) higher-education institutions,
- e) craftsmen,
- f) inventors.

Development of the user component of intellectual property system is an ultimate national interest and priority, as it is a precondition for catching up with the level and practices of competitive environment in the EU and in global frameworks.

It is very important to train the users to master the fundamentals of intellectual property, which is necessary for professional, quality and prompt execution of activities, procedures and measures concerning the acquisition, maintenance and transfer of rights (transfer, license, security, etc.), as well as for the accomplishment, use and capitalization of their own attainments protected by any form of intellectual property.

The past experience and in particular the current situation in Bosnia and Herzegovina indicate that it cannot be expected that every user will train himself and create by himself preconditions for the use of intellectual property in the manner dictated by the competitive environment. It is therefore necessary to stipulate adequate resources within the framework of national intellectual property system, which would initiate and participate in the processes concerning the provision of appropriate capacities for the development of users (adequate number of trained and specialized staff in the area of intellectual property in institutions and users, as well as material resources for raising public awareness). Representatives for the protection of intellectual property and attorneys, whose respective practices include the domain of intellectual property rights, are an important segment of this process.

In order to achieve establishment, development and functioning of intellectual property system, in addition to three mentioned components, there must be a broader community awareness created at all levels of national hierarchy, from the top layers of executive and legislative branches, over the management structures in scientific, research, development and higher-education sectors and overall economic sector, down to the individuals who participate as doers in such sectors. Besides that, the value and importance of the effective functioning of intellectual property system must be recognized.

5.3 Correlation of National, Regional and World Intellectual Property Systems

In the process of establishing and facilitating the effective functioning and development of a national intellectual property system, it is necessary to take into account that, in addition to national intellectual property systems, an exceptionally important role on the world's stage is played by regional and global systems of intellectual property protection.

It is a result of strenuous integration and globalization processes which all together necessitate the strengthening of EU cooperation, by means of harmonizing the intellectual property legislation and unifying administrative procedures for the protection of intellectual property for the purpose of rationalization and enhancement of effectiveness.

The solutions applied include the joint use of existing resources, unification of costs, establishment of joint institutions (offices, courts), use of common databases and conduct of uniform procedures for full patent examination within regional organizations.

Regional cooperation resulted in the establishment and functioning of regional intellectual property offices which conduct procedures for the grant of intellectual property rights, thus increasing the quality and efficiency and shrinking the costs in relation to the acquisition of intellectual property.

Albeit each OUN member state independently regulates acquisition and exploitation of intellectual property rights in its territory, abiding by jointly agreed rules, regional offices of intellectual property have been established to conduct uniform procedures for the acquisition and maintenance in force of any form of intellectual property for several countries.

The lead institution in the domain of intellectual property worldwide is undoubtedly the World Intellectual Property Organization (WIPO).

WIPO is one of the 16 specialized agencies of the United Nations headquartered in Geneva. WIPO was established in 1970 and it currently has 184 member states (over 90 percent of all countries in the world). WIPO administers 21 international treaties (15 in the domain of industrial property and 6 in the domain of copyright).

Regional Offices

The following regional offices currently operate in the world:

OFFICE	OPERATIONAL SINCE	MEMBERS	HEADQUARTERS	TYPE OF IP
European Patent Office (EPO)	1977	34 European countries	The Hague, Munich, Berlin	Patents
OHIM (Office for Harmonization of the Internal Market)	1996	27 EU countries	Alicante (Spain)	Community Trademark and Community Industrial Design
Euro-Asian Patent Office	1994	11 former USSR countries	Moscow	Patents
African Intellectual Property Organization	1962	15 Francophone countries in Africa	Cameroon	Industrial Property
African Regional Industrial Property Organization (ARIPO)	1976	14 Anglophone countries in Africa	Zimbabwe	Industrial Property
Patent Office of the Gulf Cooperation Council	1999	6 Gulf Countries	Riyadh	Patents

6. CURRENT CONDITION OF THE INTELLECTUAL PROPERTY SYSTEM OF BOSNIA AND HERZEGOVINA

The current condition of BiH intellectual property system is the threshold for defining the nature and the extent of changes necessary for the creation of a new, contemporary intellectual property system of Bosnia and Herzegovina.

The overview of current condition is appropriately given through the overview of three main components: legislation – institutions – users.

The nature and the extent of necessary improvement of BiH intellectual property protection stem primarily from:

- use of intellectual property for the purpose of BiH economic development, in accordance with the requirements of competitive environment in the European Union and on a global scale;
- process of accession to WTO, which commenced in 1999 and which requires the harmonization of legislation in the domain of intellectual property with the TRIPS Agreement;
- accession of BiH to SAA, for which EU negotiations commenced in 2005, prompting the improvement of intellectual property protection in accordance with TRIPS and *Acquis Communautaire* and the fulfillment of obligations under the Interim Agreement on Trade and Trade Related Matters entered into by the European Community and Bosnia and Herzegovina (Gazette of BiH – International Treaties, number 5/08);

A new, contemporary intellectual property system of Bosnia and Herzegovina, which complies with specified requirements, would thus be established through the improvement of the existing system.

6.1 Legislation

6.1.1 National Laws and Bylaws

The following table gives an overview of BiH laws and bylaws in the domain of intellectual property, which are in force or in preparation:

	NO.	LAW/REGULATION	PUBLISH
IN FORCE	1.	Copyright and Related Rights Law in Bosnia and Herzegovina	"Gazette of BiH", volumes 7/02, 32/02 i 76/06
	2.	Industrial Property Law in Bosnia and Herzegovina	"Gazette of BiH", volumes 3/02 i 29/02
	3.	Protection of New Plant Variety Law	"Gazette of BiH", volume 46/04
	4.	Law on Administrative Fees	"Gazette of BiH" volumes 16/02, 19/02 and 43/04
	5.	Trademarks Regulations	"Official Gazette of BiH", volume 22/02
	6.	Industrial Design Regulations	"Gazette of BiH", volume 22/02
	7.	Regulations Concerning the Appellations of Origin	"Gazette of BiH", volume 22/02

	8.	Regulations Concerning the Patent Grant Procedure	"Gazette of BiH", volume 22/02
	9.	Regulations Concerning Professional Criteria for Performing the Function Pertaining to Copyright and Related Rights Enforcement	"Gazette of BiH", volume 10/02
	10.	Decision on Special Procedure Costs for the Grant, Maintenance and Transfer of Intellectual Property Rights	"Gazette of BiH" volume 29/02
	11.	Decision on the Formation of Appellate Board	"Gazette of BiH", volume 45/08
	12.	Regulations Concerning Professional Examination for Representatives for Industrial Property and the Examination Program	"Gazette of BiH", volume 26/05
	13.	Decision on Conditions for the Recordal in the Register of Representatives for Industrial Property	"Gazette of BiH", volume 26/05
	14.	Criminal Law, Articles 242. to 246.	"Official BiH", volume 37/03
IN PREPARATION	1.	Copyright and Related Rights Law	Deadline for drafting bills is August 2009.
	2.	Collective Management of Copyright and Related Rights Law	
	3.	Patent Law	
	4.	Trademarks Law	
	5.	Industrial Design Law	
	6.	Appellations of Origin Law	
	7.	Layout Designs of Integrated Circuits Law	
	8.	Plant Variety Protection Law	

6.1.2 Multilateral Agreements

An overview of international conventions and treaties in the domain of intellectual property, which are in force, in the process of ratification and in preparation in BiH, is given in the following table:

	NO.	CONVENTIONS	IN FORCE AS OF
IN FORCE	1.	Convention Establishing the World Intellectual Property Organization	01/03/1992, pursuant to the Declaration of the Continuity of Membership of Former SFRY, deposited by the Government of the Republic of BiH with the International Bureau of the World Intellectual Property Organization (WIPO). Decision on Taking over and Application of Regulations (Gazette of RBiH volume 25/93 (Overview of International Multilateral Treaties).
	2.	Paris Convention for the Protection of Industrial Property	
	3.	Madrid Agreement Concerning the International Registration of Marks	
	4.	Nice Agreement Concerning the International Classification of Goods and Services for the Purpose of the Registration of the Marks	
	5.	Locarno Agreement Establishing an International Classification for Industrial Designs	
	6.	Berne Convention for the Protection of Literary and Artistic Works	
	7.	Convention Relating to the Distribution of Program - Carrying Signals Transmitted by Satellite	
	8.	Universal Copyright Convention	
	9.	Patent Cooperation Treaty (PCT)	07/09/1996
	10.	Cooperation and Extension Agreement, between the Ministers Council of BiH and European Patent Organization ("Gazette of BiH – International Treaties", no. 02/04),	01/12/2004
	11.	Trademark Law Treaty	22/12/006
	12.	Singapore Treaty on the Law on Trademarks (Revised Treaty on the Law on	31/03/2006

		Trademarks) and the Final Act Adopted by the Diplomatic Conference in Singapore	
	13.	Treaty on Intellectual Property in Respect of Integrated Circuits	08/03/2007
PENDING RATIFICATION	1.	Convention for the Protection of Producers of Phonograms against Unauthorized Duplications of their Phonograms	17/06/2008 BiH Presidency passed the decision on approval of ratification – deposit of ratification instrument is pending
	2.	International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations	17/06/2008 BiH Presidency passed the decision on approval of ratification – deposit of ratification instrument is pending
	3.	Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks	Treaty enters in force for BiH on 27/01/2009
	4.	Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure	Treaty enters in force for BiH on 27/01/2009
	5.	Strasbourg Agreement Concerning the International Patent Classification	Treaty enters in force for BiH on 27/10/2009
	6.	The Haque Agreement Concerning the International Registration of Industrial Design	Treaty enters in force for BiH on 27/12/2008
IN PREPARATION	1.	Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks	Grounds for Accession of BiH to international conventions have been prepared – continuously, but not later than June 2010.
	2.	WIPO Copyright Treaty	
	3.	WIPO Performances and Phonograms Treaty	
	4.	Patent Law Treaty	
	5.	International Convention for the Protection of New Varieties of Plants	
	6.	Nairobi Treaty on The Protection of the Olympic Symbol	
	7.	Lisbon Agreement for the Protection of Appellations of Origine and their International Registration	
	8.	Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods	

6.2 Institutions for the Establishment and Enforcement of Intellectual Property Rights

6.2.1 Institution for the Establishment of Intellectual Property Rights – Institute for Intellectual Protection of BiH

a) Particulars of the Institute

The Institute for Intellectual Property of Bosnia and Herzegovina is a legal successor of the Institute of Standardization, Metrology and Intellectual Property of Bosnia and Herzegovina, which was established on October 10, 1992. Three laws have governed the status of this Institute since then. In September 2004, the Law Establishing the Institute for Intellectual Property of Bosnia and Herzegovina (Gazette of BiH, volume 43/04, hereinafter the Law on Establishment) in the capacity of independent state administrative organization was passed. The process of demerger of the Institute predecessor (BASMP) into three separate state institutions lasted to the end of 2006. By virtue of the Decision of December 29, 2006, the Institute took over the functions in the domain of intellectual property, which were previously performed by BASMP and since January 1, 2007, it has performed the functions under its competence as an independent institution.

b) Institute's Competence

Pursuant to Article 7 of the Law on Establishment, the Institute's competences include:

- domain of **industrial property protection**: conduct of procedure for the acquisition, transfer and lapse of the right to patent, trademark and service mark, industrial design and appellation of origin, administrative functions related to the protection of layout designs of integrated circuits (Layout-Designs);
- domain of **copyright and related rights**: administrative and professional functions related to authors' rights on their works in the domain of literature, science and art, rights of performers, producers of phonograms, broadcasting organizations; supervising the work of organizations for the collective management of copyright;
- **information and documentation activities** in accordance with WIPO standards, laws and implementation regulations governing the domain of intellectual property;
- **preparation of grounds for accession of BiH** to international conventions, treaties and agreements in the domain of intellectual property implementation;
- **fostering international cooperation** with the institutions of a kind in other countries and international organizations for intellectual property enforcement;
- **publicist activity** in the domain of intellectual property.

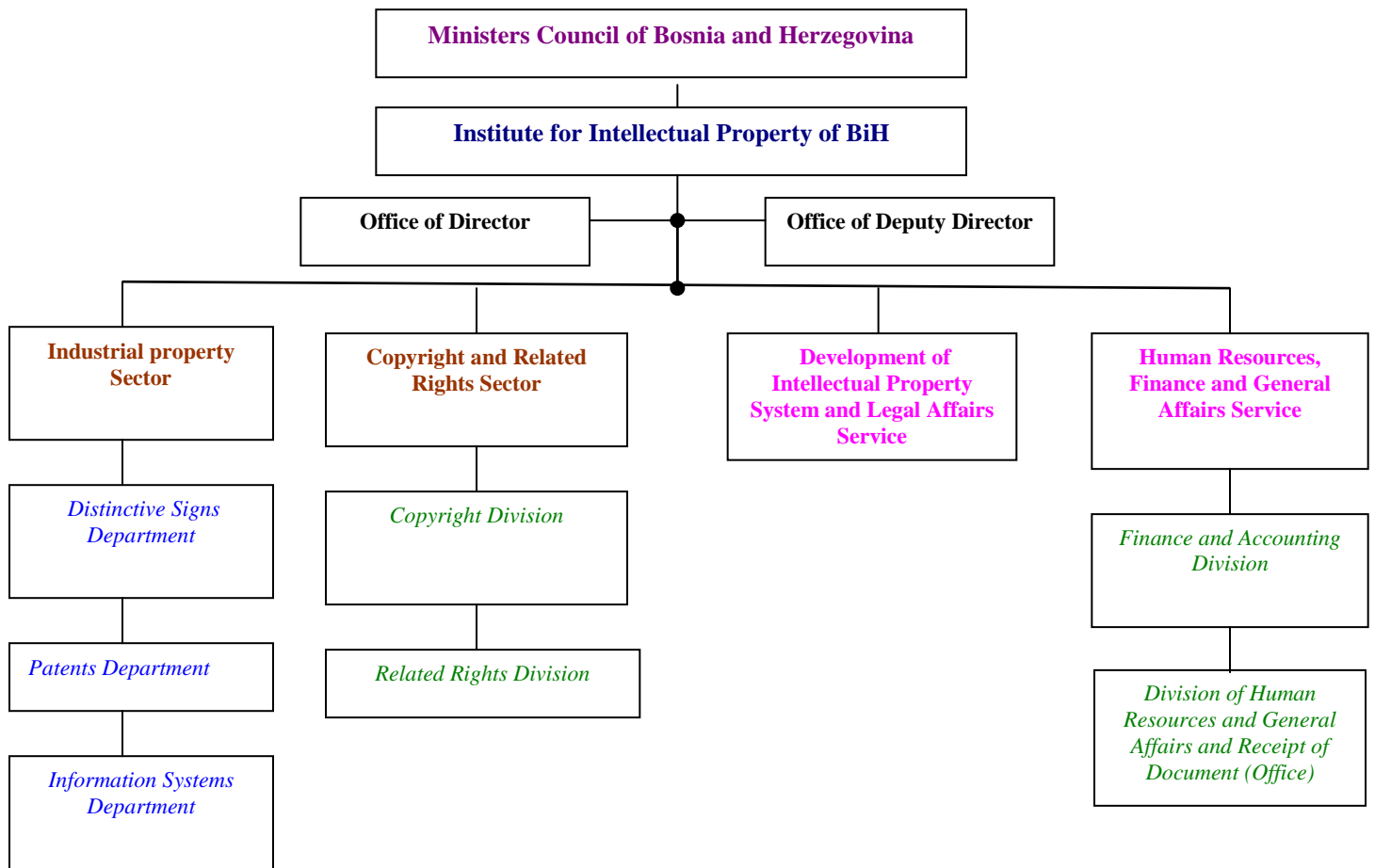
c) Institute's Organizational Structure:

Organizational structure of the Institute is governed by the Regulations Concerning the Internal Organization of the Institute for Intellectual Property of BiH adopted on Session 117 of the Ministers Council of BiH, held on May 4, 2006. The main organizational units were formed in accordance with the Regulations for executing the functions under the Institute's competence, i.e.

- 1) Offices of the Director and Deputy Director
- 2) Industrial Property Sector
- 3) Copyright and Related Rights Sector
- 4) Development of Intellectual Property System and Legal Affairs Service;
- 5) Human Resources, Finance and General Affairs Service

The functions under the competence of the Institute are executed in the headquarters in Mostar and branch offices in Sarajevo and Banja Luka.

Institute's Organizational Scheme:



As illustrated in the organizational scheme, there are 2 sectors, 2 services, 3 departments and 4 divisions operating within the Institute.

c) Personnel

The Institute currently numbers 37 employees, 63% of which hold Bachelor's Degree, whereas 37% hold Associate Degree.

		BACHELOR'S DEGREE		ASSOCIATE DEGREE OR SECONDARY EDUCATION
NUMBER AND PROFILE	BACHELOR OF LAW	8		
	BACHELOR OF SCIENCE	13		4
	OTHERS	2		10
NO. OF YEARS OF SERVICE IN THE INSTITUTE	OVER 5	5		7
	BETWEEN 3 AND 5			
	BETWEEN 1 AND 3	6		3
	LESS THAN 1	12		4

According to the current recruitment plan, it is anticipated that the Institute will eventually have 64 employees, whereas by the end of 2008 the number of employees should reach 44.

Table 1 indicates the number and deployment of employees in organizational units as of December 1, 2008 and the number of employees whose recruitment has been approved pursuant to the Regulations on the Internal Organization of the Institute and the Law on Budget of BiH Institutions and International Liabilities of Bosnia and Herzegovina for the Year 2008. (Gazette of BiH, volume 17/08).

Schedule 1: Current Organizational Structure of the Institute

MINISTERS COUNCIL OF BiH

INSTITUTE FOR INTELLECTUAL PROPERTY OF BiH

OFFICE OF DIRECTOR (2)

OFFICE OF DEPUTY DIRECTOR (1)

INDUSTRIAL PROPERTY SECTOR			COPYRIGHT AND RELATED RIGHTS SECTOR		SERVICE FOR DEVELOPMENT OF IP SYSTEM AND LEGAL AFFAIRS	SERVICE FOR HUMAN RESOURCES, FINANCE AND GENERAL AFFAIRS		
Distinctive Signs Department	Patents Department	Information Systems Department	Copyright Division	Related Rights Division		Finance and Accounting Division	Division of Human Resources and General Affairs and Reception of Documents (Office)	
Current Number of Employees								
37* (34 + 3***)								
9	9	5	1	1	2	2	5	
23			2		2		7	
Anticipated Number of Employees								
64								
16	17	6	3	3	4	3	6	
1**+39			1**+6		1** + 4		1**+9	

(*) Number as of 01.12. 2008

(**) Head of Sector or Service

(***) Offices of the Director and Deputy Director

d) Procedures for the Grant of Industrial Property Rights

Patent Grant

In accordance with the applicable legislation, the Institute grants patents in the procedure which obligates the applicant to submit sufficient evidence that his invention meets patentability conditions. The Institute thus grants patent on the basis of the European patent granted for the same invention or, if such European patent has not been granted, on the grounds of the patent granted following full examination by an institution which, within the meaning of Article 32 of the Patent Cooperation Treaty, enjoys the status of international institution for preliminary examination, or another patent office with which the Institute entered into an appropriate agreement (the agreement with the Austrian Patent Office is currently in force).

Such system does not require a large number of employees for the conduct of patent grant procedure and practically speaking, it is the only acceptable alternative for small countries in which foreign applications constitute majority and arrive through PCT and EPC.

The following table shows the number of national patent applications in BiH and in some countries in the region:

	NUMBER OF CITIZENS IN MILLIONS	NUMBER OF NATIONAL APPLICATIONS					
		2005		2006		2007	
		TOTAL	PER MILLION CITIZENS	TOTAL	PER MILLION CITIZENS	TOTAL	PER MILLION CITIZENS
BiH	4.6	66	14,3	55	12,0	61	13,3
CROATIA	4.5	362	80,4	318	70,6	344	76,4
SLOVENIA	2.0	344	172,0	287	143,5	331	165,5
SERBIA	8.0	372	46,5	432	54,0	406	50,75

A comparison between the number of national patent applications per million citizens in BiH and in some neighboring countries shows a considerable lag in Bosnia and Herzegovina.

That fact indicates that the users in BiH (economic systems, small and medium-sized entrepreneurship, scientific-research institutions) lack tradition and awareness of the role and importance of a patent system in the technological development of a particular company, but also the entire country. In addition to that, it can be concluded that the financial condition of the users in BiH is inadequate to meet the requirements of implementing and financing the acquisition of industrial property in the country and abroad.

Trademark and industrial design grant is based on substantive examination of applications, which is a far more complex system, requiring a specific number of employees and available conditions. The tendency of continued growth in the number of trademark applications on one side and insufficient capacity of the Institute on the other,

resulted in the lack of desired promptness in the conduct of grant procedures in the past. Such situation is understandable, if we take into account that in addition to grant procedures, the Institute conducts invalidation procedures, procedures for the lapse of a trademark for non-use, procedures for the maintenance of rights, recordal of licenses, franchises and transfer of rights, procedures for the division of a trademark application, procedures for the division of a trademark, recordal of representatives and recordal of all status changes (name or address change, mergers of companies etc.).

The situation with respect to the grant of industrial design is more favorable, owing to the fact that applications are fewer and the procedure is relatively simpler, so that the processing of an industrial design application lasts one year on average.

e) Copyright and Related Rights

Unlike industrial property rights, the acquisition of copyright and related rights does not require the conduct of administrative procedure and it significantly depends on the effective intellectual property rights management system.

According to the existing law, the Institute has certain competences in the area of copyright and related rights. The Institute issues licenses to collective management organizations for their work.

There are four organizations or associations currently in BiH licensed by the Institute for the collective management of copyright and related rights:

SINE QUA NON – licensed for the management of copyright and performer's rights,

UZUS – licensed for the management of performer's rights

KVANTUM – licensed for the rights of phonogram producers

ELTA-KABEL – licensed for the management of copyright and rights of broadcasting organizations

The inadequate regulation of Institute's competence in the procedure of administrative supervision of the work of organizations for the collective management of copyright and related rights, conditions for the establishment of organizations for the collective management of copyright, their liabilities against right holders, users and protected material, methodologies of reporting to the Institute and the scope and nature of supervision of their work by the Institute leads to misunderstanding among the organizations themselves and confusion among the users.

In order to improve such situation, it is necessary to:

- make legislative changes in accordance with the proven lawful solutions, experience and practices of the countries in the region and Europe
- make revision of licenses issued to organizations for the collective management of copyright and related rights
- raise awareness of right holders and users of intellectual property
- enhance technological support

f) Information Equipment

As until 2006, the Institute was a part of the former Institute of Standards, Metrology and Intellectual Property of BiH (BASMP), which was headquartered in Sarajevo, majority of information resources (HW and databases) are still located in Sarajevo.

Information infrastructure in the Branch Office Sarajevo comprises:

- Local network (Intranet) – ETHERNET 100Mbps/1Gbps
- DSL internet connection – rented line 1 Gbps
- Server (database and file server, domain controller, firewall), 19 working stations
- Operating system Windows, Symantec AV, Backup & Disaster recovery strategy, MS Office 2000/XP, Corel, OCR Iris
- Databases of applications and industrial property rights granted (trademarks, patents, industrial design, appellations of origin), databases of the transfer of rights (transfer, licences, securities) and representatives, internal database for the control and recordal of payments of administrative fees and special costs for actions in the procedures for the grant of industrial property rights and information services, incoming and outgoing mail databases (protocol) have been developed in house on MS Access platform. The data stored in these databases are used for the purpose of the creation of administrative acts, verifications, certificates, certificates of industrial property rights and the gazette.

Information infrastructure in the head office in Mostar comprises:

- Local network (Intranet) – ETHERNET 100Mbps
- ADSL 2 Gbps Internet connection
- Server (database and file server, domain controller, firewall), 12 working stations
- Operating system Windows, Symantec AV, Backup & Disaster recovery strategy, MS Office 2000/XP, Corel, OCR Iris
- Industrial design databases, databases of representatives for the protection of industrial property and appeals against Instiute's decisions have been developed in house on MS Access platform. Data stored in these databases are used for the purpose of the creation of administrative acts, verifications, certificates, industrial design certificates and the Institute's Gazette.

The Institute is headquartered in Mostar and the branch offices in Sarajevo and Banja Luka have been connected through VPN since May, 2008.

g) Financing

The Institute is financed through the Budget of BiH Institutions. In 2008, the amount of KM 1.413.626,00 was approved for that purpose.

The Institute contributes to the Budget of BiH Institutions with the funds derived from the collection of administrative fees and special costs for actions in procedures for the acquisition, maintenance and transfer of industrial property rights, recordals in the register and renewal of recordals in the register of representatives for industrial property, as well as from rendering information and other services under its competence. In 2007, KM 1.240.500,00 were paid into the Budget on that basis.

In addition to the foregoing, by virtue of participating in the conduct of procedures under the membership in international conventions, the Institute paid CHF 588.225,00 into the Budget of BiH Institutions on the basis of the Madrid Agreement Concerning the International Registration of Marks and EUR 389.079,00 on the basis of the Cooperation and Extension Agreement with the European Patent Organization in 2007.

6.2.2. Institutions for the Enforcement of Intellectual Property Rights

Intellectual property rights, defined carefully and thoroughly in a number of international conventions, treaties and national laws, which are granted or recognized within the intellectual property system, would be absolutely denied, if there were not a system for their enforcement („a right without a remedy is no right at all“).

The effective enforcement of intellectual property rights is a vital component in the promotion and encouragement of fair competition in market-oriented economy, but also in the fulfillment of international obligations under TRIPS Agreement and conditions for the EU integration processes.

The enforcement of intellectual property rights, granted pursuant to the legislation in the domain of intellectual property (Industrial Property Law, Copyright and Related Rights Law, international conventions), is ensured by numerous institutions in accordance with their powers and competences.

TRIPS Agreement should be highlighted as it specifies a minimum standard for the enforcement of intellectual property rights. All member countries are obligated to apply those standards, which include General Rules, Civil and Administrative Procedures and Remedies, Provisional Measures, Special Requirements Related to Border Measures and Criminal Measures. The assistance of state authorities, such as the police, courts, customs and other administrative agencies is thus provided to intellectual property right holders in the protection and enforcement of their rights.

The overview of institutions for the enforcement of intellectual property rights and the laws governing their work in the domain of intellectual property in BiH is given in the following table:

INTELLECTUAL PROPERTY RIGHTS MANAGEMENT INSTITUTIONS		REGULATION ON ESTABLISHMENT
INDIRECT TAXATION AUTHORITY		Indirect Taxation System Law of BiH
MARKET INSPECTION	FBiH Market Inspection	Inspections Law of FBiH
	RS Market Inspection	Inspections Law of RS
COURT OF BIH		Law on the Court of BiH
COURTS		
INVESTIGATIONS AND PROTECTION AGENCY (SIPA)		
CONSUMER PROTECTION COUNCIL		Consumer Protection Law of Bosnia and Herzegovina
AGRICULTURE SECTOR		Law on Agriculture, Food and Rural Development

The capability of the Institute for Intellectual Property of BiH for the effective work in the matters of acquisition and enforcement of intellectual property rights in BiH is outlined in the following table:

	Rules governing its competence with respect to IP	Activities pertaining to acquisition and enforcement of IP	Capability for the work under the competence pertaining to IP			
			STAFF	EXPERIENCE	FINANCES	
Institute for Intellectual Protection of BiH	Industrial Property Law	ACQUISITION OF IP	Industrial Property Protection	In part	In part, continued training	In part
	Copyright and Related Rights Law		Administrative and expert jobs related to the domain of copyright and related rights	In part	In part, continued training	In part
	Law Establishing the Institute for Intellectual Protection of BiH		Information-documentation activities in the domain of IP	In part	In part, continued training	In part
			Preparation of grounds for the accession of BiH to international conventions in the domain of IP	In part	In part	In part
			Fostering international cooperation in the area of IP	In part	In part	In part
			Publicist activity in the domain of IP	In part	In part	In part

6.3 Users of Intellectual Property

As we stated earlier, the users of intellectual property may be grouped in the following clusters:

- Economic systems
- Small and medium-sized entrepreneurs
- Development-research institutions
- Higher-education institutions
- Craftsmen
- Inventors

Contemplating their respective activities in the acquisition and use of intellectual property in BiH through the number and structure of national applications for the protection of industrial property, which is one of transparent indicators, it can be concluded that the use of intellectual property in BiH is not at satisfactory level.

A part of explanation for such state rests upon the fact that the specified groups of users usually have insufficient knowledge of industrial property system and its impact on business strategies and achievement of competitiveness and in addition to that, they perceive intellectual property system as complex and costly to use, so that they encounter difficulties not only in the procedure of legal protection, but also in the management of industrial property cycle, which includes the commercialization of granted rights, use of patent information funds, enforcement and valuation of industrial property.

Financial resources necessary for the protection in the country and abroad, which BiH users usually do not possess, create significant impediment to a more intensive activity of users in the sphere of filing applications for industrial property protection.

The current situation in BiH with respect to the use of intellectual property in the function of economic development is far from the prevailing practices in the countries of competitive economic environment. In order to achieve similar level of the effective use of intellectual property in the function of economic development, it is necessary to create a set of conditions and carry out fairly specific activities, which will allow for overcoming the adverse, historically conditioned circumstances in the first place.

The attainment of that goal in quality manner and in reasonably short time frame exceeds the possibilities possessed independently by each single entity in scientific, research-development, higher-education sectors and overall economic sector. To begin with, small and medium-sized economic entities, as well as those who act independently using their own resources and experience, cannot change the situation in the time frame needed in order to make it similar to the prevailing practices in the countries of competitive economic environment.

Hence it remains necessary to define and conduct a broad social action, based on appropriate programs and infrastructural support mechanisms, which require financial resources and specialist consultancy services.

7. ESTABLISHMENT, DEVELOPMENT AND FUNCTIONING OF A NEW INTELLECTUAL PROPERTY SYSTEM OF BOSNIA AND HERZEGOVINA

A new intellectual property system of BiH could be established within acceptable time frame on the basis of the existing intellectual property system in BiH and provided that certain preconditions are created.

7.1 Preconditions for the Establishment, Development and Functioning of a New Intellectual Property System of BiH

The analysis given in foregoing paragraphs indicates:

- insufficient capacities in BiH, specialized, trained and experienced in drafting proposed legislation in the domain of intellectual property, in accordance with current and future requirements of economic development and accession to WTO and EU;
- inadequate structure and insufficient capacity of the Institute for all functions which stem from the context of current competences and obligations imposed on BiH under WTO and SAA;
- lack of preconditions (competence, resources) for the function of institutions within the institutional component pertaining to intellectual property management;
- undeveloped user component:
- insufficient number of lawful representatives for the protection of industrial property.

In order to create a new intellectual property system of BiH, functioning in accordance with the demands imposed on it (economic development, WTO, SAA), some fundamental preconditions must be fulfilled in terms of the completion of intellectual property system in its all three components (legislation, institutions, users):

- a) Legislation
 - Sufficient human resources, specialized and qualified, having necessary experience in drafting new laws and bylaws (number of specialists, adequate specialist education and possibly experience in drafting bills);
- b) Institutions
 - New competences need to be defined and a new organizational structure with a certain number of organizational units (Sectors, Services), consistent with such new competences, must be established in the Institute as an institution having the existing competence pertaining to the establishment of intellectual property rights:
 - It is necessary to capacitate the institute in terms of human resources, provide necessary equipment and adequate office premises and sufficient financial resources;
 - As to the institutions for the enforcement of intellectual property rights, which already operate under their respective competences, it is necessary to

determine their specific competences related to intellectual property and ensure that they have adequate human resources and suitable working conditions in terms of premises and materials and receive quality specialist education.

- c) Users
- As for the users of intellectual property system of BiH, it is necessary to define and implement programs to familiarize them with intellectual property and its use and raise their awareness of the role and importance of intellectual property;
 - Give an impetus to the establishment of internal offices for intellectual property in large economic entities and ensure social support for the small ones in the establishment and functioning of specialized agencies for intellectual property;
 - Ensure access to financial support under favourable conditions for the acquisition and maintenance of intellectual property rights in the country and abroad.

The establishment of the said preconditions rests upon the involvement of a large number of entities and the question arises as to how such changes can be made in order to ensure prompt and quality establishment of a new system of intellectual property in BiH.

The optimum solution may be the model in which all such activities are initiated, coordinated and performed to a large extent by a single institution.

A logical choice for such role is the Institute, as it already has legislative powers in the domain of intellectual property, institutional ties with the international intellectual property system, a certain number of experienced and trained staff and besides, it ensures the use of direct link with the Ministers Council of BiH which is responsible for the work of the Institute.

In order to play its role in accordance with the new competence on the basis of legislation, institutions and users, the Institute must constitute and staff:

- Sector for the Development of Intellectual Property System, which would replace the current Service for the Development of Intellectual Property System and Legal Affairs, as well as relevant departments within the Sector, with one such department being in charge of the cooperation with the institutions for the enforcement of intellectual property rights;
- Sector for Information-Communication Technology and Documentation, which would continue the work of the current Department of Information Systems;
- Sector for the Development of Users and relevant departments within it.

7.2 Institute's Role in the Establishment, Development and Functioning of a New Intellectual Property System in BiH

The Institute is the sole institution in BiH able to assume new competences on the basis of its legitimate powers, institutional ties with the international intellectual property

system, expert knowledge and experience, and thus influence the development and application of the entire new intellectual property system in BiH. Therefore, the Institute is the focal point of a new intellectual property system of BiH, which is after all the case in the other countries in the region and outside it.

As the conduct of business assumes global proportions nowadays, the Institute would ensure, by its new competence, the necessary harmonization of intellectual property system, which requires uniform instruments for the creation, recognition and use of intellectual property

Based on the overviews given in foregoing paragraphs, it may be concluded that functional components of the Institute should develop in several directions in order to achieve readiness of the Institute for the fulfillment of all tasks under the current and new competences in the context of globalization processes and forthcoming obligations imposed on BiH under WTO, SAA, etc.

Firstly, it is necessary to increase the number of employees and provide specialist training for them, make structural changes, provide adequate office premises, develop ICT application and increase the Institute's budget and employees' salaries.

By assuming new competences and establishing relevant organizational units, as well as by creating the conditions for their work, the Institute becomes, in its capacity as the national office for intellectual property, a dominant part of the institutional component of a new national intellectual property system and it constitutes its nucleus, for it makes considerable impact on the elements of economic policy through the planning and implementation of administrative protection system, costs in relation to the acquisition and maintenance of rights, administrative and court fees paid for the enforcement of rights, as well as through making available the intellectual property information funds to the public.

Thereby, following the example of the majority of EU countries, the Institute's competence includes, in addition to the conduct of procedures for the grant of industrial property rights and information – documentation activities in the domain of intellectual property, the promotion of innovation activities, providing mediation and assistance to the business community in a more intensive and effective use of intellectual property and the preparation of the necessary legislation in the domain of intellectual property.

An irreplaceable role in all specified activities is played by the use of modern technological trends, which assign the main role to the information – documentation technology, not only in the conduct of administrative procedures for the grant of rights (prompt, effective, safe and transparent procedure), but also in the dissemination of information, promotion of intellectual property and raising public awareness.

In light of such new competences and modern trends, the Institute is confronted with challenges and objectives, which can be attained only by virtue of strengthening human resources, establishing an effective and functional organizational structure, intensive development of information–communication technology and fostering international cooperation.

8. DEVELOPMENT STRATEGY OF THE INSTITUTE IN THE FUNCTION OF ESTABLISHMENT, DEVELOPMENT AND FUNCTIONING OF A NEW INTELLECTUAL PROPERTY SYSTEM IN BOSNIA AND HERZEGOVINA

8.1 Institute's Mission and Strategic Objectives

MISSION

Initiation, coordination and participation in the establishment, development and functioning of a new intellectual property system in BiH, in accordance with the needs for economic development and the requirements of current and forthcoming integration processes and accession to WTO.

STRATEGIC OBJECTIVES

1. Strengthen institutional capacities of the Institute for Intellectual Property of BiH for the purpose of making it capable of discharging the duties under the present competence and new competences, which includes initiation, setting in motion, functioning and development of all three components of a new intellectual property system in BiH;
2. Establish preconditions for the establishment and promotion of the legislative component of a new intellectual property system of BiH in accordance with the needs for making contribution to the economic development of BiH and the demands imposed by integration processes, starting from the current demands under WTO/TRIPS and EU/SAA.
3. Improve institutional capacities of the Institute in accordance with the current competence pertaining to the conduct of quality, prompt, rational and transparent procedures for the grant of industrial property rights in BiH in accordance with the EU criteria and practices.
4. Contribute to institutional capacity building and the functioning of institutions, whose respective competences include the enforcement of intellectual property rights in BiH.
5. Contribute to the development of BiH intellectual property system users by means of raising public awareness of the role and significance of intellectual property in modern economy and knowledge-based society and establish preconditions for the use of intellectual property in achieving competitiveness of BiH economy.

8.2 Institutional Capacities of the Institute in Attaining Strategic Objectives

In order that the Institute could assume and carry out all forthcoming tasks, as it begins to play its new role in the establishment, development and functioning of a new intellectual property system, it is necessary to take strategic measures, pertaining to the structural and functional development of the Institute in accordance with the Strategy

and ensure the application thereof by means of the passage of relevant regulations and provision of necessary resources (institutional capacities of the Institute ought to be enhanced in the first place).

8.2.1 Redefining of Institute's Competences in Accordance with Strategic Objectives

The extended scope of the Institute's competence in accordance with strategic objectives requires the definition of a new organizational structure of the Institute. A new structural form stems from the current scope of the Institute's work, but also from the tasks imposed on the Institute in the context of its role in the establishment, development and functioning of a new intellectual property system, taking into consideration at the same time and to the maximum extent possible the principles of functionality, effectiveness and creation of conditions for quality performance.

A proposed new organizational structure constitutes a solution compatible with solutions in the offices of the leading European countries and it will allow for the Institute's performance in accordance with the demands arising from the extended competence.

The new organizational structure is outlined in Table 2.

MINISTERS COUNCIL OF BiH

INSTITUTE FOR INTELLECTUAL PROPERTY OF BiH

DIRECTOR'S CABINET (2)

DEPUTY DIRECTOR'S CABINET (2)

PATENTS SECTOR		TRADEMARKS AND INDUSTRIAL DESIGN SECTOR		COPYRIGHT AND RELATED RIGHTS SECTOR		SECTOR FOR DEVELOPMENT OF IP SYSTEM				SECTOR FOR ICT AND DOCUMENTA- TION		SECTOR FOR INFORMATION AND COOPERATION WITH USERS		SERVICE FOR HUMAN RESOURCES, FINANCE AND GENERAL AFFAIRS	
Department of Administrative- Legal Affairs	Department of Specialists in the Area of Technology	Trademarks Department	Department of Industrial Design and Appellations of Origin	Copyright Department	Related Rights Department	Department of IP Legislation Development	Department of Cooperation with Institutions for IP Rights Enforcement	Department of International Cooperation Development	Department of Invalidations and Representation	Department of ICT Application Development	Department of Document Receipt, Classification and Filing	Department of Information and Regional Cooperation with Beneficiaries	Publishing Division	Division of Human Resources and General Affairs	Division of Finance and Accounting
Number of Employees															
9	8	7	3	3	3	5	3	3	3	4	4	7	2	3	6
1+17		1+10		1+6		1+14				1+8		1+9		1+9	

8.2.2 Functional Description of Sectors and Services within the Institute

Patent Sector

Sectoral Activities:

- procedures for the grant and maintenance of patent right;
- invalidation procedures;
- participating in the procedures for the international patent protection in accordance with Patent Cooperation Treaty, Budapest Agreement on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure and European Patent Convention (EPC);
- participating in the harmonization of legislation and regulations in the area concerned;
- participating in international cooperation in the domain of patents;
- participating in the promotion of the patent area;
- information-documentation activities in the patent area (national and international patent search).

The preparation of the new Patent Law is underway, which will provide for the patent grant procedure based on patent registration system.

Trademark and Industrial Design Sector

Sectoral Activities:

- procedures for the grant and maintenance of the right to trademark and industrial design
- procedures for the international protection of trademark and industrial design in accordance with the Madrid Agreement and Protocol Relating to the Madrid Agreement and the Hague Agreement Concerning the International Registration of Industrial Designs;
- participating in the harmonization of legislation and regulations in the area concerned;
- participating in international cooperation in the area of trademark and industrial design;
- participating in the promotion of the trademark and industrial design area;
- information-documentation activities in the area of trademark and industrial design (search of national and international trademark and industrial design databases).

The preparation of the new Trademark Law and Industrial Design Law is underway. The Trademark Law will introduce the concept of opposition, which is the prevailing concept in the EU nowadays.

Crucial reasons for the proposed division of the present Industrial Property Sector into two new sectors rest upon the fact that the prerequisites, allowing for more quality, faster and more transparent procedure for the grant of industrial property rights, will be created on the basis of the proposed new separate laws for patents, trademarks and industrial design.

In order to remove the flaws in legislative solutions (collective management of copyright and related rights, conditions for the registration of appellations of origin, additional protection for wines and spirits, well-known trademarks...) and improve the quality and flexibility of the use of legislation in the domain of intellectual property in BiH, the preparation of six new laws in the domain of intellectual property is ongoing. The new laws will replace the cumbersome existing laws: Industrial Property Law, Copyright and Related Rights Law, which were taken over to a large extent, in terms of legislative solutions they offer, from the former state and were updated on many occasions.

The concept that the industrial property domain is regulated by separate laws has been accepted by the majority of EU countries (Appendix 2).

Copyright and Related Rights Sector

Sectoral Activities:

- participating in the drafting of proposed laws, regulations and other rules for the enforcement and application of laws governing the rights of authors of literary, scientific and artistic works (copyright), and the rights of performers, producers of phonograms, databases and videograms and broadcasting organizations (related rights);
- providing expert opinions and explanations in relation to law enforcement and application;
- participating in international cooperation in the domain of copyright and related rights;
- conducting administrative procedures for the recordal in the register of representatives for copyright and related rights;
- supervising the work of the associations of authors and related rights holders dealing with collective management of copyright and related rights.

It should be noted that the preparation of new legislation in the domain of copyright and related rights (Copyright and Related Rights Law (*individual* management) and Collective Management of Copyright and Related Rights Law) is ongoing and it will be fully harmonized with the EU and WTO/TRIPS directives.

Sector for the Development of Intellectual Property System

Sectoral Activities:

- activities relating to the system development and enhancing the enforcement of intellectual property rights;
- monitoring all aspects of applying the legislation and regulations in the domain of intellectual property;
- monitoring the enforcement of industrial property rights;
- cooperation with economic entities-right holders and their associations, courts of competent jurisdiction, customs authorities, police and other relevant state administration agencies;
- systematic monitoring of the development of international regulations and doctrine in the domain of intellectual property;
- initiating, proposing and participating in the drafting of laws and other regulations, aimed at the establishment of intellectual property system, as well as harmonization with other positive regulations and international standards for the purpose of fulfilling the obligations assumed under the international treaties;

- supervising and coordinating the activities related to the passage of laws, regulations and acts of the ratification or accession to the international treaties in the domain of intellectual property;
- monitoring the professional domain, doctrine and practices of other forms of intellectual property (confidential information, unfair competition, plant varieties...);
- initiating and taking measures for the accession to the treaties and conventions in the domain of industrial property;
- proposing, elaborating and coordinating the activities related to the harmonization of relevant regulations with the demands arising from the TRIPS Agreement (SAA...);
- participating in the cooperation with international, regional and national organizations and in the work of standing and *ad hoc* working groups and expert committees in the domain of industrial property;
- activities related to the invalidation of industrial property rights;
- activities related to the representatives in the domain of industrial property;

Information-Communication Technology and Documentation Sector

The increase in demands and needs in the area of the use of information-communication technology (ICT) in all segments of the Institute's work can be expected in the forthcoming period, in which the expansion of human resources and the intensive development of Institute's functional components are imminent.

The ultimate objective of all indicated activities is to increase the effectiveness of the procedure for the grant of industrial property rights and provide to a broad range of users the access to and search of data pertaining to patents, trademarks, industrial design in BiH electronic databases, as well as the data exchange with the EU institutions and WIPO.

Online access to the technical information contained in patent specifications is a crucial step in the creation of a strong impact of intellectual property on the economic and development-research activities in BiH.

Sector for Information and Cooperation with Users

The key role of this Sector relates to making contribution to the development of the users of intellectual property of BiH.

Education and promotion in the domain of intellectual property are necessary for the creation of intellectual property culture in the society, which will be achieved through the educational and promotional activities targeting the following groups:

- economic entities, small and medium-sized businesses, which should be encouraged to use intellectual property as a part of the corporate and marketing strategy;
- scientific-research and development institutions, which should be motivated to protect their intellectual creations, but also to use information funds in the research and development process;
- educational system at all levels, which educates young professionals for the society of the future;

- mass media, which must be managed by the individuals who understand the concepts and terminology of intellectual property in order to be able to inform the broad public of this specific area correctly and accurately.

The Institute ought to support all of them in their development, with the assistance and support of the state administration and educate them continuously on the possibilities and benefits offered by intellectual property, as well as on the need for the development of their skills in receiving, analyzing and implementation of information in the domain of intellectual property, which is transmitted to a large extent by national, regional and global systems.

The justifiability and need for that is manifest, knowing that the intellectual property system, patents in particular, plays a key role in the dissemination of new technological information in today's world. Disclosure of the essence of an invention through the publication of patent application increases the fund of technological knowledge and potentially shrinks the amounts of funds spent for the duplication of development-research processes. It is estimated that patent funds contain about 50 million documents and they are increased every year by around a million new information units. Patent funds contain about 70% of the world's technological knowledge and the majority of such information is disclosed through the publication of a patent application and it is not disclosed in any other place.

Patent funds make an extremely valuable source of information and they allow for:

- avoiding the costs in connection with the research of something that has already been disclosed
- patentability examination
- seeking new technologies for licensing and technological transfer
- keeping pace with technological trends
- finding out ready-made solutions
- source of ideas for further innovations
- monitoring the competition
- avoiding the infringement of rights of others
- identifying the infringement of one's own rights

Making those funds available to the broad public is a big step towards the creation of preconditions for the building of the national knowledge-based economy.

The efficient use of intellectual property in BiH necessitates the development of the information dissemination system, which comprises several important elements:

- Web page of the Institute is supposed to be the main publication and information portal, available to every user who has personal computer and Internet access. It allows for access to information resources of intellectual property and search of national and international databases;
- Gazette and other publications of the Institute available in electronic form should ensure prompt and effective informing of the users about new applications and rights, as well as other novelties in the domain of intellectual property in BiH;
- Information centers, purposely established for the domain of intellectual property within the EU framework, known as **PATLIB CENTERS**, constitute a very important element of the information dissemination system.

Help-Desk within them needs to be technically equipped and have enough employees to respond to user inquiries, related to the protection and use of information from national, regional and world intellectual property funds, made by phone, e-mail, fax or personal visits. The functioning of Help-Desk should be developed towards providing consultancy assistance to the users in the more complex issues, such as more comprehensive searches, analyses and interpretation of the data contained in intellectual property information funds. Such complex tasks ought to be carried out by trained employees, having the profile of patent examiners.

The establishment of PATLIB CENTERS in particular regions in Bosnia and Herzegovina requires a gradual approach, whereas the priority remains the Institute's Headquarters in Mostar and the Branch Office in Sarajevo and the Branch Office Banja Luka. The establishment of PATLIB CENTER in the latter is underway.

- Cooperation with the research-development sector in BiH, universities in the first place, for the purpose of supporting and stimulating their innovative activities. One of the methods for the development of such cooperation is within the framework of WIPO University Initiative.
- Cooperation with economic entities in BiH, aimed at enhancing their competitiveness by incorporating the intellectual property aspect in their business and development programs.

For that purpose, a quality and effective information dissemination system needs to be developed and implemented in BiH under the leadership of the Institute, which requires support to the Institute in the creation of technical and staffing preconditions.

Administrative Service

Activities:

- commercial and financial-planning activities, investments and material management, book keeping and accountancy;
- forecasting and taking measures aimed at increasing the funds derived in the market from providing services under the competence of the Institute and the funds received from the state budget;
- producing financial reports;
- monitoring the measures of human resources policy and discharging the duties related to human resources;
- drafting and overseeing the contracts entered into by the Institute;
- monitoring and overseeing the application and effects of the laws and regulations relevant for the institutions and agencies of the state administration;
- participating in the preparation and conduct of public tenders and other procurements in accordance with law, procuring assets, office material and stationery;
- equipping the office premises of the Institute;
- discharging the duties related to the use of the Institute's vehicles;
- ensuring proper maintenance of the Institute's assets and equipment

8.2.3. Redefining the Institute's Resources on the Basis of Strategic Objectives

In accordance with the extended competence, ensuring the establishment, development and functioning of a new intellectual property system in BiH, it is necessary to provide adequate resources, which will be specified hereafter.

A. Increase in the Number of the Institute's Employees

Table 2 shows that the number of the Institute's employees for carrying out the role, which includes new competences with respect to the establishment, development and functioning of a new intellectual property system in BiH, should be increased to 84 employees.

In light of that fact, a comparison is made between the number of employees in the offices of intellectual property in the region and some EU countries.

	COUNTRY	NUMBER OF CITIZENS (MIL)	NUMBER OF EMPLOYEES IN IP OFFICE	
			TOTAL	PER MILLION CITIZENS
1.	AUSTRIA	8.174	208	26
2.	BULGARIA	7.518	172	23
3.	CROATIA	4.497	103	23
4.	CZECH REPUBLIC	10.246	247	25
5.	GERMANY	82.425	2500	30
6.	HUNGARY	10.032	218	22
7.	SERBIA	8.032	108	13
8.	SLOVENIA	2.011	49	25
9.	SWITZERLAND	7.581	208	27
10.	BOSNIA AND HERZEGOVINA	4.590	37	8

SOURCE: Annual Reports

SOURCE: CIA the World Factbook

However, it transpires from the above table that the countries in the region (countries which faced the challenge of the EU integration and those facing it at present like Bosnia and Herzegovina) have on average 20 employees per million citizens in their respective offices of intellectual property, which means that, should the same criterion be applied, the number of the Institute's employees should be somewhere between 80 and 90 employed.

B. Institute's Office Premises

An important precondition for the quality discharge of duties, stemming from the present and new Institute's competences, is the provision of adequate office premises of the Institute, whose functions are performed in Mostar, Sarajevo and Banja Luka.

What should be taken into account is a minimum standard of 10m² per employee (workplace equipped with PC), ensuring discretion and confidentiality of information about the cases during the procedure, appropriate room for working with clients (reception office), need for permanent disposal and document filing, adequate room for the server

and network equipment arranged according to ICT standards (air conditioning, stabilized electricity supply, fire and water alarm systems, access control) and a need for making certain resources (primarily information resources) available to the public.

The aforesaid and the planned increase in the number of employees give rise to the demands as to the size and type of office premises (offices, reception room, room for educational and information activities, record office).

C. Financing

According to the current financing system, the Institute receives funds necessary to perform its functions from the BiH Budget, which in 2007 amounted to

KM 1.469.884

Simultaneously, the Institute paid into the BiH Budget the funds derived from performing its functions in Bosnia and Herzegovina (collection of administrative fees and special procedure costs for actions in the matters of acquisition, maintenance and transfer of industrial property rights, recordal in the register of representatives for industrial property and rendering information and other services under its competence) in the amount of

KM 1.240.000

In addition to that, by virtue of participating in the implementation of procedures within the framework of the membership in international conventions, the Institute paid into the BiH Budget CHF 588.225,00 under the Madrid Agreement Concerning the International Registration of Marks in 2007, which is equivalent to

KM 654.400

and EUR 389.079,00 under the Cooperation and Extension Agreement with the European Patent Organization, which is equivalent to

KM 710.069

According to the foregoing, the Institute's contribution to the BiH Budget in 2007 totalled to

KM 2.604.468.

A comparison between the amount of funds allocated in the Budget to the Institute and the amount of funds paid into the Budget by the Institute shows that the Institute paid into the Budget the amount 1.77 times larger than the amount allocated in the BiH Budget to the Institute in 2007.

It can be concluded that there is justifiability and need for increasing the funds allocated to the Institute even for performing its functions under the existing competence (increase in the number of employees from 37 to 64, along with providing adequate office space and equipment). It is particularly emphasized, if we take into consideration the extended competence of the Institute and its role in the establishment, development and functioning of a new intellectual property system.

The justifiability of the foregoing is underlined by the data on the funds available to the institutions of a kind in several other countries.

	COUNTRY	NUMBER OF CITIZENS (MIL)	ANNUAL BUDGET ALLOCATION TO INTELLECTUAL PROPERTY OFFICES (EUR)	
			TOTAL (MIL)	PER CAPITA
1.	AUSTRIA	8.174	16.74	2.01
2.	BULGARIA	7.518	5.1	0.68
3.	CROATIA	4.497	2.9	0.64
4.	CZECH REPUBLIC	10.246	9.5	0.95
5.	GERMANY	82.425	260	3.17
6.	HUNGARY	10.032	14	1.4
7.	SERBIA	8.032	1.5	0.19
8.	SLOVENIA	2.011	2.34	1.17
9.	SWITZERLAND	7.581	30	4
10.	BOSNIA AND HERZEGOVINA	4.590	0.7	0.15

SOURCE: Annual reports
SOURCE: CIA the World Factbook

Taking Croatia as an example, such funds amount to around 2.9 million EUR, which means that the funds allocated in the BiH Budget to the Institute should amount to around KM 5.800.000.

D. Drafting and Implementation of Professional Training Programme for the Institute's Staff

The whole staff of the Institute should undergo specific trainings, whose organization is possible through the logistic and financial support of WIPO, EPO, OHIM, EU programs (CARDS, IPA, TAIEX).

Such trainings may be divided into several groups, according to the profile of participants:

- trainings for the Institute's management
- trainings for the employees involved in the conduct of procedures for the grant of industrial property rights
 - introductory training in the area of intellectual property
 - training in the administrative and technical segments of administrative procedures conducted by the Institute
 - learning at work
- trainings for the employees who will be involved in the preparation of new law proposals
- trainings for select employees who will be charged with specific tasks under TRIPS and SAA
- trainings for the employees who will be involved in information activities
- whole-staff workshops on the use of ICT
- foreign language courses (English, German, French, etc.) for all employees.

The continued professional education of employees is provided, *inter alia*, through study-tours to the offices of the countries in the region and Europe, visits, lectures and

seminars delivered to the Institute by the experts from WIPO, EPO, OHIM and some national offices.

Professional training program in 2008 and 2009 is implemented within the CARDS project “Capacity Building for the Protection of Intellectual Property in BiH”.

Professional training program will be included in all plans of the Institute for Intellectual Property of BiH in the forthcoming period.

8.2.4 Coordination of the Work of the Institute and Institutions for Intellectual Property Enforcement

In order to achieve maximum coordination and synergy of the function in the establishment, development and functioning of a new intellectual property system in BiH, of which a focal point is the Institute, the formation of the following Councils is proposed herewith:

- Council for the legislative development of intellectual property system in BiH
- Council for the enforcement of intellectual property
- Council for the development of the users of intellectual property
- Council for the promotion of the use of the protection of appellations of origing
- Council for copyright and related rights and the collective management of copyright and related rights
- Council for the control of piracy and trade in counterfeit goods

These Councils would be formed by the Ministers Council of BiH following the proposal of the Institute.

The Institute would provide operational support to the Councils and such support would be composed of the representatives of the Institute and relevant institutions in BiH.

Typical council profiles in this area have been specified. The possibility of the formation of new councils remains open, in particular user development councils (e.g. Innovators Council, Council for Scientific-Research Sector, Council for Small and Medium-Sized Entrepreneurship, etc.).

The formation of new councils, intended only for a particular user group (innovators), is the matter of estimate and decision of that particular user council.

The possibility remains open and it would be welcome, if some entity and state ministries, state agencies, chambers of commerce, universities, associations of innovators, representatives of craftsmen, small and medium-sized entrepreneurship and others had their representatives in the relevant councils.

Council for the Legislative Development of Intellectual Property System in BiH – composed of the representatives of:

- Institute
- Ministry of Justice
- Judiciary

- Law School
- Directorate for European Integration

Council for the Enforcement of Intellectual Property – composed of the representatives of:

- Institute
- Indirect Taxation Authority (ITA)
- Market Inspections of FBiH and RS
- Court of BiH
- Courts
- Agency for Investigations and Protection (SIPA)
- Consumer Protection Council
- Ministry of Foreign Trade and Economic Relations – Agriculture Sector

Council for the Development of the Users of Intellectual Property – composed of the representatives of:

- Institute
- Ministry of Foreign Trade and Economic Relations
- Universities and faculties
- Chambers (commerce and craftsmen)
- Innovators and associations of innovators
- Large companies active in the acquisition of intellectual property

Council for the Promotion of the Use of the Protection of Appellations of Origin – composed of the representatives of:

- Institute
- Food Safety Agency
- Ministry of Foreign Trade and Economic Relations – Agriculture Sector
- Agromediterranean Institute
- Representatives of associations and producers of agricultural, fishery and food products bearing geographical indications

Council for Copyright and Related Rights and Collective Management of Copyright and Related Rights – composed of the representatives of:

- Institute
- Organizations for the collective management of copyright
- Broadcasting organizations
- Regulatory Agency
- Tax Authority
- Authors, performers, phonogram producers from FBiH and RS and other authors of particular works to which Copyright Law and Law on Collective Management of Copyright and Related Rights applies

Council for the Control of Piracy and Trade in Counterfeit Goods – composed of the representatives of:

- Indirect Taxation Authority (ITA)
- Agency for Investigations and Protection (SIPA)
- Respective Ministries of the Interior of FBiH, RS and Brčko District

- Competent institutions in charge of market inspection in RS, FBiH and Brčko District
- Law School
- Prosecutor's Office

The number and composition of the foregoing councils should not be considered final.

The Councils would play an advisory role and after the formation thereof, each Council would appoint a chairman and relevant bodies. The Councils would come up with periodical work plans and programs to be used by their representatives as the basis for instigating in their parent offices the creation of preconditions for their full contribution to the development and functioning of intellectual property system.

The creation of necessary resources in the institutions, whose representatives are council members, would be achieved through the functioning of Councils, whose work would be supported by certain functions of the Institute. This would allow for immediate initiation, routing and coordination of activities in the work of Councils and thus enhance the establishment, development and functioning of new intellectual property system in BiH.

8.2.5 Institute's Competence in the Entities (FBiH and RS)

The Law Establishing the Institute for Intellectual Property of Bosnia and Herzegovina (Gazette of BiH, volume 43/04) stipulates that the Institute is headquartered in Mostar, whereas branch offices, set out as organizational units, are located in Sarajevo and Banja Luka. The Institute's function which pertains to providing information to the users and the work of the Councils will be performed in the manner allowing for the creation of conditions, to the maximum extent possible, for the participation of all relevant actors from both entities and Brčko District. An example of that could be the information activity in the form of PATLIB centers. The first such center will be established and begin to operate in Banja Luka. The process will carry on in other large administrative and economic centers.

The kind, scope and intensity of activities performed in branch offices are governed by the Regulations Concerning the Internal Organization of the Institute for Intellectual Property of Bosnia and Herzegovina, in accordance with needs, objectives and tasks in the domain of intellectual property.

8.3 Recommendations for the Strategic Development of the Institute

Recommendations for the Promotion of Modern Intellectual Property System Development in BiH, Initiated, Modeled and Coordinated by the Institute as its Focal Point

The Institute's role needs to be contemplated within the context of a crucial task, which stems from the determination to build economic prosperity and competitive, knowledge-based economy in Bosnia and Herzegovina. The intellectual property system adapted to the current and future needs of its users, whose functions are not confined within national borders and who are increasingly becoming a part of the global economy, should be developed in Bosnia and Herzegovina for that purpose.

RECOMMENDATIONS FOR THE PROMOTION OF THE DEVELOPMENT OF MODERN INTELLECTUAL PROPERTY SYSTEM IN BIH

Short-Term	<ul style="list-style-type: none"> ➤ Considering, adopting and applying the Development Strategy of the Institute ➤ Improving legislative framework in the domain of intellectual property ➤ Constituting the Councils ➤ Coming up with the action plan for an intensive promotional-educational campaign as a first step in the development of user component of the intellectual property system of BiH
Mid-term	<ul style="list-style-type: none"> ➤ Institutional reorganization (setting out the competences of institutions within the system of intellectual property rights enforcement) ➤ Specialist education of employees in institutions dealing with intellectual property enforcement ➤ Implementing the action plan for an intensive promotional-educational campaign at all levels of national hierarchy (from the top layers of the executive branch, over the management structures in scientific, development-research, higher-education and economic sectors, down to the individuals participating as doers in such sectors).
Long-term	<ul style="list-style-type: none"> ➤ Advanced specialist training – workshops in WIPO, EPO, OHIM ➤ Forming specialized intellectual property units in all institutions dealing with intellectual property enforcement ➤ Establishing transparent practice (harmonized interpretation of laws, collection and publication of final judgments) ➤ Creating and implementing a model of cooperation among the institutions dealing with intellectual property enforcement ➤ Establishing technological infrastructure for data collection and exchange in the domain of intellectual property (databases, interconnection by means of information-communication networks) ➤ Public disclosure of statistic data on successful performance for the purpose of raising awareness of the importance and contribution of intellectual property ➤ Launching a professional magazine intended for publishing professional and scientific articles pertaining to the theory and practice of intellectual property acquisition and enforcement ➤ Initiating and coordinating the creation of a complete, innovative system in BiH, which would allow for the creation of the model of cooperation and interconnection between development-research institutions on one side and industry on the other side, patterned after the best practices in the European countries

Recommendations for Enhancing the Institutional Capacities of the Institute

The core business of the Institute is the grant of industrial property rights, which requires the improvement and development of a series of resources and preconditions. In order to create conditions for the establishment of objective, quality, prompt and transparent procedure for the grant of industrial property rights as soon as possible, it is necessary to ensure a certain number of trained staff, high level of the development, reliability and stability of information system, appropriate work organization and other preconditions, which will be specified hereafter.

RECCOMENDATIONS FOR ENHANCING THE INSTITUTIONAL CAPACITIES OF THE INSTITUTE

Short-Term	<ul style="list-style-type: none"> ➤ Increasing the number of Institute's employees to 45 ➤ Providing adequate office premises and equipment ➤ Drafting and implementing a professional training program for the Institute's staff ➤ Drafting a plan for the improvement of information infrastructure in line with the recommendations of WIPO, EPO, OHIM and experience of other offices in the region ➤ Establishing structural and functional organization of the Institute, including the employment scheme, in accordance with new competences ➤ Coming up with internal guidelines for the work of the Institute
Mid-term	<ul style="list-style-type: none"> ➤ Implementing the redefined organizational structure ➤ Providing adequate office premises in Mostar, Sarajevo and Banja Luka ➤ Increasing the number of employees in accordance with the extended competence ➤ Modernizing and improving patent, trademark, and industrial design databases (registers) and developing a modern document management system; ➤ Modernizing and improving information support to the industrial property grant procedure; ➤ Online access and search of BiH industrial property registers ➤ Creating conditions (office premises, equipment, staff) for the opening of PATLIB CENTERS in Mostar and Sarajevo
Long-term	<ul style="list-style-type: none"> ➤ Creating preconditions for electronic application filing for the grant of industrial property rights ➤ Providing financial resources for the performance of functions in accordance with the extended competence

Recommendations for the Development of the Users of Intellectual Property System in BiH

Education and promotion are key elements in raising public awareness of the role and significance of intellectual property in the context of current political and economic trends in the world. It is necessary to create the intellectual property culture and boost general understanding of the effects of protection and benefits derived from the use of intellectual property, in particular in terms of the increase in market productivity and competitiveness, foreign investments, technology transfer, creation and application of new technological solutions.

The need for changes in respect of contemporary omnipresence of intellectual property in all segments of society becomes more manifest with the accession to WTO and the commencement of EU negotiations on SAA.

It is therefore necessary to launch an intensive promotional-educational campaign in order to make all prominent layers of social hierarchy focus their attention on the issue of acquisition and use of intellectual property.

The process of raising public awareness is comprehensive and time-consuming and the Institute will be able to carry it out in quality and timely manner only with the strong support of state authorities.

RECOMMENDATIONS FOR DEVELOPMENT OF THE USERS OF INTELLECTUAL PROPERTY SYSTEM OF BIH

Short-term	<ul style="list-style-type: none"> ➤ Drafting the Institute's information strategy ➤ Producing the action plan for an intensive promotional-educational campaign (presentations, seminars, workshops, materials) ➤ Creating technological and organizational preconditions for systematic information dissemination in the domain of intellectual property as the basis for online access to Institute's information resources; ➤ Designing and publishing a new Web page (by redesigning the current) ➤ Creating information products in electronic form ➤ Establishing information centre in Banja Luka ➤ Intensive and continued training of staff for information activities in the domain of intellectual property ➤ Producing Institute's annual report
Mid-Term	<ul style="list-style-type: none"> ➤ Establishing the network of information-consultancy centers (Help-Desk for intellectual property) in Banja Luka, Mostar and Sarajevo ➤ Creating and implementing a model for the internal system of intellectual property use in economic entities ➤ Creating and implementing a model for the use of intellectual property at universities ➤ Establishing projects at state level, which would ensure financial support for the protection of intellectual property at national and

	<p>international levels, prior art searches, exhibiting at fairs and exhibitions, licensing</p> <ul style="list-style-type: none">➤ Seminars in cooperation with WIPO and EPO on licensing, technology transfer and use of intellectual property at universities➤ Establishing national innovation award in cooperation with WIPO
Long-Term	<ul style="list-style-type: none">➤ Introducing intellectual property as a course at the faculties of law, natural sciences and technology➤ Encouraging the establishment and function of specialist consultancy agencies (one-stop-shop for intellectual property)

9. CONCLUSION

The development Strategy of the Institute for Intellectual Property of Bosnia and Herzegovina 2008-2015 is the main document setting out the framework and development trends of a new intellectual property system of BiH by the year 2015, on the basis of determinations set out in the Strategy of BiH Integration in the European Union.

The need for attaining the level of systematic use of intellectual property in the function of economic development in Bosnia and Herzegovina and current and forthcoming integration processes, patterned after the countries whose economies are traditionally founded on proprietary and market-oriented principles, is of particular importance.

The Strategy defines legislative, institutional and user components of the intellectual property system of BiH and it presupposes the preconditions which will allow for their functioning in the systematic development of a new intellectual property system of BiH.

In this context, the document places a special emphasis on the development of the Institute in order to capacitate it to assume new competences, besides the existing competences, and thus become a focal point for the establishment, development and functioning of a new intellectual property system of BiH, which includes development of the legislation in the domain of intellectual property, support to institutions dealing with intellectual property rights enforcement and development of intellectual property users.

The first priority in attaining the said objective is the building of adequate capacities within the Institute in order to enable it to perform its functions under the existing competences in an efficient and quality manner, which presupposes further capacitation of the Institute by increasing the number of employees from current 37 to 64 employees and providing sufficient funds, adequate office premises, equipment, training and specialization for employees.

At the same time, it is necessary to establish preconditions and capacitate the Institute for assuming new competences in order to enable it to accomplish its task pertaining to the establishment, development and functioning of a new intellectual system of BiH. It requires the following concrete activities to be performed:

- ✚ Considering and adopting the Development Strategy of the Institute for Intellectual Property;
- ✚ Defining new competences and including the competences pertaining to intellectual property in the existing competences of institutions dealing with intellectual property rights enforcement;
- ✚ Establishing new organizational structure of the Institute which will include new Sectors and Services, besides the existing ones;
- ✚ Increasing the number of employees to 84 employees;
- ✚ Providing sufficient funds, adequate office premises and necessary equipment;
- ✚ Providing training and specialization for employees;
- ✚ Forming and activating the work of the Councils operating under the umbrella of the Institute;

Needs for performing the foregoing activities are manifest, whereas justifiability and feasibility thereof stem not only from comparison with financial resources available to the institutions of a kind in the European countries, but also from the fact that in 2007 the

Institute paid into the BiH Budget the amount 1, 77 times larger than the amount made available to the Institute in the same year.

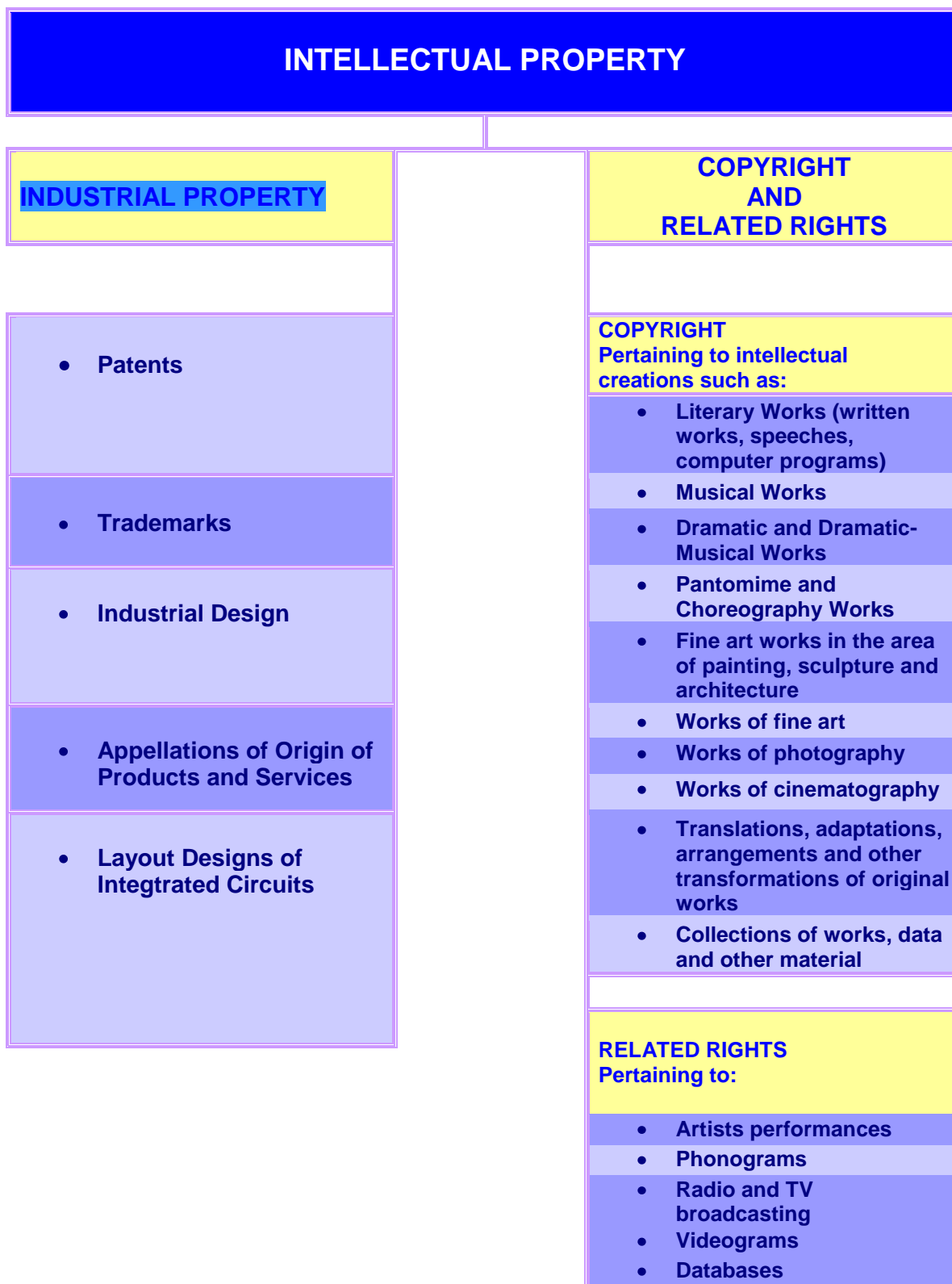
The operationalization of the Strategy will allow for the establishment, development and functioning of intellectual property system and its use in the function of economic development, in line with the practices prevailing in the countries of competitive economic environment in the EU and on a global scale.

10. APPENDICES

Appendix 1: Forms of Intellectual Property

Appendix 2 : Overview of Legislation Concepts in the Domain of Intellectual Property

Appendix 1: Forms of Intellectual Property



Appendix 2: OVERVIEW OF LEGISLATION IN EU COUNTRIES AND COUNTRIES IN THE REGION

INDUSTRIAL PROPERTY LAW OR SEPARATE LAWS ON PATENTS, TRADEMARKS, ...

	COUNTRY	INDUSTRIAL PROPERTY LAW	SEPARATE PATENT, TRADEMARK, INDUSTRIAL DESIGN,... LAWS	REMARK
1	ALBANIA		+	
2	AUSTRIA		+	
3	BELGIUM		+	
4	BOSNIA AND HERZEGOVINA	+		
5	BULGARIA		+	
6	CROATIA		+	
7	CZECH REPUBLIC		+	
8	CYPRUS		+	
9	DENMARK		+	
10	ESTONIA		+	
11	FINLAND		+	
12	FRANCE	+		
13	GERMANY		+	
14	GREECE		+	
15	HUNGARY		+	
16	IRELAND		+	
17	ITALY		+	
18	LATVIJA		+	
19	LITHUANIA		+	
20	LUXEMBOURG		+	
21	MACEDONIA	+		
22	MALTA		+	
23	NETHERLANDS		+	
24	POLAND	+		
25	PORTUGAL	+		
26	ROMANIA		+	
27	SERBIA		+	
28	SLOVAKIA		+	
29	SLOVENIA	+		
30	SPAIN		+	
31	SWEDEN		+	

32	SWITZERLAND		+	
33	UNITED KINGDOM		+	

SOURCE: WIPO – Collection of Laws