



EU4Digital

EU4Digital: supporting digital economy
and society in the Eastern Partnership

Intellectual property rights management for digital innovations: policy recommendations: Armenia

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List of abbreviations

Table 1 List of abbreviations

Abbreviation	Full name
ABA	American Bar Association
WB	World Bank
EIB	European Investment Bank
USAID	United States Agency for International Development
AI	Artificial intelligence
AIPA	The Association of Southeast Asian Nations Inter-Parliamentary Assembly
AIPA	Armenian IP Agency
CEPA	Comprehensive Economic Partnership Agreement
EAEU	Eurasian Economic Union
Eastern Partner countries	Six Eastern Neighbourhood countries (Armenia, Azerbaijan, Belarus, Georgia, the Republic of Moldova, Ukraine)
EEU Treaty	Treaty on the Eurasian economic union
EPO	European Patent Office
EU	European Union
EUIPO	Enforcement Database of European Union Intellectual Property Office
GIs	Geographical indications
ICT	Information and Communications Technology
INL	The U.S. Embassy's International Narcotics and Law Enforcement office
IPR	Intellectual property rights
IT	Information technology
Moldova	Republic of Moldova
NAS RA	National Academy of Sciences of the Republic of Armenia
NGO	Non-governmental organization
P2B	Platform-to-business
PRO INNO	PRO INNO Europe
R&D	Research and Development
RA	Republic of Armenia
SME	Small- and Medium-Sized Enterprises
SMEDNC	Investment Support Centre
TFEU	Treaty on the Functioning of the European Union
U.S.	United States of America
UAT	User Acceptance Testing
UATE	Union of Advanced Technology Enterprises
UE ICT	Union of Employers of Information and Communication Technologies



1 Background

The EU4Digital Facility (a programme under the umbrella of the EU4Digital Initiative) was launched by the European Commission in January 2019. The EU4Digital Facility aims to extend the benefits of the European Union's Digital Single Market to the Eastern partner states – Armenia, Azerbaijan, Belarus, Georgia, Republic of Moldova (hereinafter – Moldova) and Ukraine. The Facility focuses its support across six key policy areas, including ICT innovation. The activities in the ICT Innovation policy area are aimed to support reforms and actions favouring the development of ICT research, start-ups & innovation ecosystems across the Eastern Partnership region, drawing from the EU experience and best practices.

In 2019 - the first half of 2020, the Facility focused its work to identify and share at the regional level the best EU practices for regulation in the policy areas pre-selected by the Eastern partner countries:

- Intellectual property rights management for digital innovations (Armenia);
- New organisational forms for supporting ICT Innovation (Azerbaijan);
- Digital innovation SMEs' access to finance (Georgia, Ukraine);
- ICT innovation ecosystems for start-ups and scale-ups (Moldova);
- Digitising industry (digital transformation of SMEs in traditional sectors) (Belarus).

This report provides the results of the gap analysis related to the policy area 'Intellectual property rights management for digital innovations' in Armenia, and the recommendations for the development of relevant innovation policy. The recommendations formed the basis for elaboration of the national policy implementation action plan for Armenia.

2 Results

The scope and the information type sought during the gap analysis is explained by the scope of the EU4Digital Facility, as well as by the intervention logic of the Facility. Being one of the first endeavours of the EU assistance to the Eastern partner countries in harmonising digital market, the objectives of the EU4Digital Facility at this stage are to **identify the major gaps between the EU and the Eastern partners** and to reveal the directions in which the interested stakeholders can take further active steps to overcome the gaps.

Based on the gap analysis and in tight cooperation with stakeholders, the **recommendations were developed** and can be used as the basis for further activities and possible joint projects. The EU4Digital Facility aims to keep the recommendations as practical and implementable as possible.

These recommendations formed the basis for elaboration of the **national policy implementation action plans** for each Eastern partner country. The action plans identified specific stakeholders in the Eastern partner countries, specific EU tools, platforms, practices that can be mastered by Eastern partner country stakeholders and possible counterparts in the EU countries.

The other activities of the Facility (training, study visit, networking events, promotion activities, etc.) will **support the interested stakeholders in their further activities** on overcoming the gaps.

3 Methodological note

The EU4Digital Facility identified the best EU practices for regulation in the policy areas selected by the Eastern partner countries. These best practices were systematised and formed the basis for analysis of the progress and gaps in the Eastern partner countries.

The gap analysis was performed by comparing the best EU practices and tools with those existing in the Eastern partner country, within the framework of the policy area selected by the country. The national experts in each Eastern partner country collected the field data by means of desk research (study of existing reports and documents), field research (collecting and analysing raw data in Internet space) and interviews with national experts from state bodies and relevant digital innovation ecosystem organisations (see Annex 1. List of organisations and experts consulted during verification process).

Further analysis of the gaps and development of the recommendations was performed by the EU4Digital Facility expert team and aligned through consultations with national stakeholders.



4 Introduction to a framework supporting SMEs in intellectual property rights management

This topic focuses on the capacity of the ecosystem to support start-ups and SMEs with digital innovations to efficiently manage their intellectual property (IP) assets on the international markets.

When studying the country's **ecosystem for intellectual property rights (IPR) management**, it is important to understand that patenting within only domestic jurisdiction is useful only if the market of the patent owner will concentrate his activities in the domestic economy. In case of the Eastern partner countries, domestic markets are in most cases very limited, and it is essential for businesses in these countries to be able to patent in the external markets, which requires payment of fees for maintaining patents in these external countries. Given very high costs of maintaining patents in multiple countries, the patenting decision should be made by businesses after a very thoughtful and strategic study of the market (including competitors, customers, resource structure, logistics), and development of the business strategy. Many nuances, business risks, associated changes in business processes should be considered. That is why creating the cheap conditions for patenting in a particular country should in no way be considered as an optimal state of the IPR ecosystem. An optimal state of the IPR ecosystem in the country is the one which facilitates the innovators to grow for international markets, while remaining the residents and taxpayers of the domestic country.

Generally, due to specifics of intellectual property (IP) as a business asset, there are only a few regulative acts that are used as part of the IPR policy in a prescriptive manner towards IPR distribution, while **most of IPR policy tools have the objective to facilitate the capacity building of businesses and organisations to effectively manage IPR**, including provision of external specialised consultancy.

For innovations based on frontier **digital technologies**, such as AI, big data or blockchain, this consultancy needs to be provided by experts with knowledge of such technologies. Therefore, the **training needs of the IPR ecosystem** also increase, and because of that IPR policy includes capacity building of existing organisations servicing SMEs in IPR as well as building additional actors of the ecosystem to cover the service gaps.

Currently, all Eastern partner countries are the members of the World Intellectual Property Organisation (WIPO). They are applying most of international treaties related to IPR (see Section 6 for Eastern partner countries overview and Annex 3. Legal framework regulating IPR in Armenia for detailed description of legal framework in Armenia). Thus, the legal framework for the procedures of obtaining patents and enforcement as well as the copyright and related rights are already harmonised among the EU and the Eastern partner countries.

Major differences among the countries in the IPR ecosystem relate to the:

- size of fees charged by the national patent offices (which can significantly differ following the purchasing power in the countries);
- the rules on the ownership rights distribution in cases when intellectual property is created by multiple types of actors and combined sources of investments (private, public);
- the experience of national patent offices in reviewing and treating particular applications involving new technologies (i.e. software, blockchain, AI);
- the ecosystem of services that are developed above the existing regulatory framework to complement the capacity of economic actors to make efficient use of the existing rules.

This explains the logic and the structure of the report on the study of the EU4Digital Facility.

Sections 6 and 7 relate to the existing regulation adopted and recommendations issued to create incentives for IP circulation in the economy, including IP created with public funds.

Section 8 studies the components of the ecosystem for support of SMEs in IPR management, including the restrictions of the existing ecosystem.

The methodology for the current EU4Digital Facility study was developed with account of the previous extensive work done in Armenia on IPR system study from the perspective of lawyers (Report with analysis of the intellectual property-related issues in Armenia, expert conclusions and recommendations on intellectual property protection & corporate law transformation for Armenian innovation and growth (Armenian Bar



Association and IP/IT Committee for Armenia, 2019)¹. It was revealed that implementation of a number of recommendations from ABA IPR tackles not only the changes in the regulative framework, but also significant efforts on the development of an institutional framework, economic incentives and collaboration.

Following this, EU4Digital Facility has concentrated its gap analysis on these aspects and developed a set of practical suggestions that are based on the best practice in the European Union, through a prism of ecosystem that is needed to ensure the development of digital innovations. The study of the EU4Digital Facility intentionally focuses on the ecosystem of actors from economic perspective, to identify practical actions that can help to strengthen the capacity of the ecosystem to support SMEs with digital innovations.

The structure of the policy recommendations within this report is a framework of four elements:

- the suggested actions are listed and elaborated where needed (answering the question what is to be done (*What?*));
- the reason why these actions are important is explained in terms of a broader context of the innovation ecosystem development (*Why?*);
- relevant EU organisations are suggested as potential partners exercising the good practice in the considered area;
- possible counterparts in the Eastern partner country are indicated as the parties potentially interested in taking over of the suggested EU best practices and in performing the recommended actions.

¹ Not published; provided for discussion at [IP & Corporate Law Transformation Summit](#), 11-12 October 2019. The comprehensive study of the legal texts for intellectual property followed by recommendations on amendments was executed by the international team of lawyers (Armenian Bar Association and IP/IT Committee for Armenia) in 2019. Discussions on implementation of these recommendations have revealed a number of institutional and capacity challenges in Armenia, which have been studied in detail during the activities of the EU4Digital ICT innovation stream.



5 Summary of recommendations

Following the status and gap analysis, the recommendations were developed, linked to the EU best practices, on how further development of ecosystem to support SMEs in IPR management in Armenia could be maintained. The summarised recommendations in Table 2 are next elaborated in Existing legal framework for IPR in Armenia-8. The order of the recommendations in the below summary corresponds to the recommendations numbering in the sections.

Table 2. Summary of recommendations

Summary of recommendations	
1. Existing regulation and recommendations issued to create incentives for IP circulation in the economy, including IP created with public funds: Goal 1. Legal framework for R&D agreements and technology transfer agreements	
1.1. Introduce the definition of research and development agreement, technology transfer agreement, related definitions, and the principles of concluding R&D and technology transfer agreements contained in the Commission Regulation (EU) No 1217/2010 and Commission Regulation (EU) No 316/2014 with special account of public safeguards, in the legislation governing R&D activities.	
2. Existing regulation and recommendations issued to create incentives for IP circulation in the economy, including IP created with public funds: Goal 2. Rules of IPR allocation and transfer for better IP circulation	
2.1. Consider the rules and scenarios of IPR allocation in joint R&D undertakings and different scenarios of co-financing within the state aid for research and development and innovation contained in the Communication from the Commission COM 2014/C 198/01 as well as IPR rules for FP7 and Horizon 2020 projects.	
2.2. Analyse the national EU member states practices of governing R&D results and IPR resulting from publicly (co-)funded projects and perform economic analysis of the most appropriate framework to be potentially introduced in Armenia with account of its specific economic structure and with a goal to support technological progress and innovation diffusion to the benefit of economic agents.	
2.3. Establish the technology transfer centres at the universities and public research institutions as well as under experienced sectorial business associations of Armenia and equip them with competencies and tools related to commercialisation of R&D results via licensing and creation of spin-off companies.	
2.4. Provide assistance to the state and universities on developing appropriate policy approach and contractual framework, to facilitate knowledge transfer by licenses and creation of spin-off companies and thus to encourage the uptake of innovations in the country.	
2.5. Organise the awareness-raising and the training within the universities and public research organisations; promote the usage of the good EU practices on management of IPR in knowledge transfer activities. Elaborate the sample Code of Practice (sample Agreement), that provides the basic framework to govern the relations between the employer and employee and that allow for flexible negotiation of certain powers and obligations, to support more opportunities for negotiation contract terms on the individual basis (consider Recommendation 2008/416/EC on the management of intellectual property in knowledge activities and Code of Practice for universities and other public research organisations as example). For joint and co-funded projects with publicity, publish the appropriate agreements, contracts examples, and procedures' descriptions in official electronic platforms.	
3. Ecosystem for support of SMEs in IPR management: Goal 1. Capacity building of the ecosystem actors providing support to SMEs	
3.1. Facilitate the increase of AIPA capacity by: <ol style="list-style-type: none"> extending the available online tool for filing and processing applications into an online tool for handling the full application process for IPR and other relevant processes, including court disputes, alternative dispute resolution, etc.; targeted trainings of AIPA staff and its external consultants in patent substantive examination, challenging and enforcing patent and other IP rights, including capacity building of judges; expanding the AIPA capacities, which will allow “permitting AIPA to have independent hiring and employment decision-making capacity, including hiring specialists and hiring independent contractors” (in line with the ABA recommendations); practical transfer of the EU experience to AIPA and related regulators of building the innovation ecosystem in the partnership of public and private stakeholders around IPR. 	



Summary of recommendations
3.2. Introduce the international training programme to the group of consultants. The correct identification of various actors and consultants is very important for the effective implementation of this point.
3.3. Promote staffing by innovation infrastructure organisations and ecosystem actors (technology transfer centres, techno parks, business incubators, accelerators, etc.) of patent attorneys and patent agents, to be able to better support start-ups and SMEs.
3.4. Promote among innovation infrastructure organisations and ecosystem actors the list of services that they can master and deliver to local start-ups, as well as potential counterparts from 33 countries (see PRO INNO list); networking with these organisations and transfer their experience in the joint projects; establish partnership with organisations in the EU (see list from PROINNO) for cross-country consultations in case of projects related to these countries.
3.5. Promote among the innovation infrastructure organisations the training opportunities of their staff at WIPO and other relevant knowledge hubs on IP management issues.
3.6. Consider introducing by Enterprise Europe Network Armenia of services similar to those provided by Enterprise Europe Network in the EU.
3.7. Develop participation in the international working groups specialised in issues of IPR in the digital economy, e.g., for capacity building related to creation and enhancement of Independent and neutral arbitrage body to deal with the issues related to the domain name industry issues, including but not limited to the issues on disputes on domain name registration procedure and termination.
4. Ecosystem for support of SMEs in IPR management: Goal 2. IPR Helpdesk for start-ups and SMEs
4.1. Establish centre(s) 'IP for SMEs', serving as an IPR Helpdesk for start-ups and SMEs.
4.2. Develop an online toolkit for SMEs, including: <ul style="list-style-type: none"> a. description of the business importance of IPR, particular knowledge domains (all covered by WIPO) and instructions for SMEs on the steps recommended, starting from confidentiality agreement (its model to be placed online); b. easy to understand description of the regulatory framework and links to relevant laws; c. promote the EU practices of SMEs protection against cybersquatting and counterfeit trade via e-shops infringing trademarks via specific domain names (i.a. preventive system for avoiding trademark infringement by domain name registrants and dispute resolution procedures) to assist SMEs in using Internet as an international marketing channel; d. references to training opportunities; e. mapping of the specialised consulting and support services for start-ups and SMEs.
4.3. Develop a robust online tool for handling the full application process for IPR and other relevant processes (as an option on aipa.am website).
5. Ecosystem for support of SMEs in IPR management: Goal 3. Mapping consulting and support services and networking actors
5.1. Register major actors on IPR, innovation, technology transfer as a EEN local Network contact point and at the European IP Helpdesk's Signposting Directory .
5.2. Complement the list of IP attorneys available at AIPA's website with additional information on the specialisation of the IP attorneys, to help customers understand whom to consider for their specific needs.
5.3. Launch a searchable online database of organisations delivering support and consulting on the IPR assets protection and management issues (take existing classifications from WIPO and European IP Helpdesk). Consider the options of having it as a national or regional (EaP or other) platform.
5.4. Combine this database with an 'SME journey' advising the list of services relevant to the stage of development and challenges of the business (online questionnaire can be developed).
5.5. Develop systematic collaboration of the Armenian IP Office and innovation ecosystem actors (technology transfer centres, techno parks, business incubators, accelerators, competence centres, external consultants/attorneys/legal firms) in form of organisation of discussions on relevant issues, conferences, joint projects.
5.6. Consider introducing a voluntary certification and maintaining a database of trusted external consultants/companies on certain issues in all lifecycle stages of IP and related rights management – both related to those in jurisdiction of AIPA and those beyond the jurisdiction.



Summary of recommendations	
6. Ecosystem for support of SMEs in IPR management: Goal 4. Awareness raising of SMEs	
6.1. Develop the online materials to explain in a simple language the main principles of IP protection and management in the underrepresented areas, with references to laws and competence centres that can provide further consultations; publish them online (website of AIPA or a newly developed portal for start-ups and SMEs).	
6.2. Develop introductory training courses in Armenian in collaboration with WIPO and European IPR Helpdesk for delivery via WIPO eLearning platform (negotiate direct access to materials; contribution for translation by the Eastern partner country; hosting of materials and monitoring of the online training at the resources of these organisations).	
6.3. Communicate to start-ups via AIPA, innovation infrastructure organisations, business associations, chambers of commerce the existence of such information.	
6.4. Promote the usage of available training courses and webinars by start-ups and SMEs, i.a. perform the tracking the open trainings and produce a newsletter for innovation infrastructure organisations, business associations and other interested subscribers, for their further dissemination to SMEs and start-ups.	
7. Ecosystem for support of SMEs in IPR management: Public support to SMEs	
7.1. Develop financial framework for the national innovation ecosystem development (including tax reliefs, grants, vouchers, loans, subsidies for SMEs and framework to support IPR-related ecosystem services), to be used as a basis when considering the introduction of specific financial tools for IPR ecosystem. Perform the localisation taking into consideration the legislation of RA. In case of missing points in the RA legislation, develop the appropriate normative acts.	
7.2. Consider introducing tax benefits and co-investments scheme for patenting abroad, complemented with expertise and advice from experienced international experts. Such team of experts may be compound from diaspora (i.e. Armenian Bar Association) and its networks.	
7.3. Consider introducing the innovation vouchers for advanced consultations to be provided to start-ups and innovative SMEs via state support (consultations by accredited patent attorneys, law firms and valuation firms). Seek mentoring of Business Finland and Vinnova .	

Source: Developed by EU4Digital Facility



6 Existing legal framework for IPR in Armenia

Due to the global nature of knowledge and the patent system, the main rules governing the protection of intellectual property rights have been harmonised for decades already with the European and global system.

Current legal framework on IPR in Armenia is presented in Annex 3. Legal framework regulating IPR in Armenia. It includes 20 Laws, 12 Implementing Rules/Regulations on Intellectual Property and 88 Treaty memberships, including WIPO, bilateral, multilateral and regional treaties.

Three draft laws regulating the IP sector have been developed by the Ministry of Economy of RA and have already been submitted to the Government for consideration, namely, the Law of RA on Patents, the Law of RA on Industrial Designs and the Law of RA on Copyright and Related Rights. Currently the draft Amendments to the Law of RA on Trademarks are being developed. In particular, in the result of discussions with the Armenian Bar Association and IP/IT Committee for Armenia, a new provision on protection of computer algorithm and software protection has been added in the Patent Law.

Current level of harmonisation of IPR protection rules in Armenia comparing to the rest of the world is rather high and similar to other Eastern partner countries. There is a consensus among the IP professionals that Armenian laws are well harmonised with the international standards.

Table 3. Membership of Eastern partner countries of the World Intellectual Property Organisation and the Treaties Administered by WIPO, International Union for the Protection of New Varieties of Plants, World Trade Organisation and United Nations

Name of organisation/treaty	Armenia	Azerbaijan	Belarus	Georgia	Moldova	Ukraine
WIPO Convention	X	X	X	X	X	X
Paris Convention	X	X	X	X	X	X
Berne Convention	X	X	X	X	X	X
Patent Cooperation Treaty	X	X	X	X	X	X
Patent Law Treaty	X		X		X	X
Madrid Agreement (Indications of Source)					X	
Madrid Agreement (Marks)	X	X	X		X	X
Madrid Protocol	X	X	X	X	X	X
Hague Agreement	X	X		X	X	X
Geneva Act of Hague Concerning the International Registration of Industrial Designs	X	X		X	X	X
Nice Agreement	X	X	X	X	X	X
Lisbon Agreement				X	X	
Rome Convention	X	X	X	X	X	X
Locarno Agreement	X	X	X		X	X
Strasbourg Agreement	X	X	X		X	X
Phonograms Convention	X	X	X		X	X
Vienna Agreement	X				X	X
Budapest Treaty	X	X	X	X	X	X
Brussels Convention	X				X	
Nairobi Treaty		X	X		X	X
Trademark Law Treaty					X	X



Name of organisation/treaty	Armenia	Azerbaijan	Belarus	Georgia	Moldova	Ukraine
WIPO Copyright Treaty	X	X	X	X	X	X
WIPO Performances and Phonograms Treaty	X	X	X	X	X	X
Beijing Treaty on Audiovisual Performances					X	
Washington Treaty						
Singapore Treaty	X		X		X	X
Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled		X			X	
United Nations (UN)	X	X	X	X	X	X
UPOV Convention		X	X	X	X	X
Agreement establishing the World Trade Organization (WTO)	X			X	X	X

Source: <https://www.wipo.int/treaties/en/>

Overview of the existing framework points at two treaties that are not ratified so far. Closer look at the reasons explains this:

- [Lisbon Agreement \(Protection of Appellations of Origin and their International Registration\)](#). This agreement protects “*geographical denomination of a country, region, or locality, which serves to designate a product originating therein, the quality or characteristics of which are due exclusively or essentially to the geographic environment, including natural and human factors*”. Armenia has a grace period in order to phase out use of geographical indications (GIs) under the [EU-Armenia CEPA agreement](#). Advisory group to the Government (through the EU) on CEPA implementation suggested a regulatory road map needs to be prepared – before that, ratification of the Lisbon Agreement would largely complicate the process.
- [Trademark Law Treaty](#). Generally this treaty aims to standardise and streamline national and regional trademark registration procedures; this is achieved through the simplification and harmonisation of certain features of those procedures, thus making trademark applications and the administration of trademark registrations in multiple jurisdictions less complex and more predictable. Here it should be noted that the standards of the Trademark Law Treaty are mostly implemented under the Armenian legislation. Armenian law is largely based on the EU Trademark directive & regulation, and already harmonised with them. Essentially this means that ratification of Trademark Law Treaty in Armenia is not needed; however, on some experts view, given the higher hierarchy that ratified treaties have under the domestic legal system, ratification would still benefit the private sector.

In order to properly take into account the unique conditions in Armenia, the decision on the proper timing for ratification of these treaties needs to be based on accurate weighting of costs and benefits. Analysis of economic implications from ratification these agreement shall be done with a view of the [current and developing legislation on online platforms in the EU](#), including the [EU Regulation 2019/1150 on platform-to-business relations \(P2B regulation\)](#), which entered into force in July 2019, that establishes rules “creating a fair, transparent and predictable business environment for smaller businesses and traders on online platforms”². Relevant EU counterpart on this could be [EU Observatory on the Online Platform Economy](#), which monitors and analyses

2 I.a., the P2B regulation stipulates that “The ownership and control of intellectual property rights online can have significant economic importance for both the providers of online intermediation services and their business users. To ensure clarity and transparency for business users and for their better understanding, providers of online intermediation services should within their terms and conditions include general, or more detailed, information if they so wish, regarding the overall effects, if any, of those terms and conditions on the ownership and control of intellectual property rights of the business user. Such information could, inter alia, include information such as the general usage of logos, trademarks or brand names”.



the online platform economy; supports the EC in policy-making for online platforms. Taking the online platforms legislation into account may support the national SMEs, producers of products originating in Armenia (with the appellation of origin) and the digital start-ups (with protection of trademarks), with a special scale effect seen when these are sold via or represented on international online platforms. That is why understanding of the modern European rules for smaller businesses and traders operation on online platforms is essential.

Another aspect of the existing regulatory framework specifically related to digital technologies is the lack of rules established on protection of **domain names**. While detailed regulations are not necessarily required (the domain name registration takes place at the 'first-come, first-served' rule), yet some basic rules appear necessary to assist SMEs in using Internet as an international marketing channel while having the possibilities (preventive system for avoiding trade mark infringement by domain name registrants and dispute resolution procedures) protecting them against cybersquatting and counterfeit trade via e-shops infringing trademarks. Such practices need to be wider promoted in Armenia to SMEs.

Stakeholder consultations of EU4Digital Facility in Armenia have revealed that creation and enhancement of independent and neutral arbitrage body to deal with the issues related to the domain name industry issues, including but not limited to the issues on disputes on domain name registration procedure and termination, might be helpful, allowing to cover the disputes not only in Armenia but also in other Eastern partner countries.



7 Existing regulation and recommendations issued to create incentives for IP circulation in the economy, including IP created with public funds

7.1 Status

7.1.1 Legal framework for R&D agreements and technology transfer agreements

At the national legislation level, the Republic of Armenia lacks appropriate regulations directed to govern research and development sector.

R&D agreements, as a separate form of contractual arrangements, are not described under the Civil Code or the legislation in general, though execution of such agreements is permissible under the general principle of “freedom of contracts”.

The proximate legal basis of the R&D sector in Armenia is premised on the [Law on the Scientific and Technical Activities](#) (HO-119, 5 December 2000) and the [Law on the National Academy of Sciences of RA](#) (HO-135-N, 14 April 2011).

It should be noted that Armenia has generally adopted the EU approach (Article 101-3 of the TFEU) to allow for exemptions for anti-competitive agreements that can promote technical progress (which includes R&D projects). Under the ‘Law on Protection of Economic Competition’ an exemption is provided from vertical anticompetition agreements which “contribute or may contribute to the technical progress”. The safety guards (for public policy such as consumer protection) such as those that exist in Article 101-3 are also discussed.

Yet it was done only in relation to vertical agreements, but not for horizontal agreements.

Also, on experts view, there might be a complication caused by the unclarity of terms: since R&D agreements are not defined under the Civil Code or legislation in general, whether a specific contract “contributes or may contribute to technical progress” has to be proven. Thus, parties to such a contract are bearing the burden of proof. Since any specific practice on this point is absent in Armenia (and there has been only a few patent litigation cases in Armenia), this remains a grey zone. Thus, despite the fact that the Law on Protection of Economic Competition provides for the exception of contracts contributing to technical development, this exception applies to vertical anticompetition agreements only and, furthermore, while a specific definition or regulation of R&D agreements is absent, the scopes and conditions for the application of this exception remain a regulatory “grey zone”. It is suggested by national experts to consider that the exemptions Armenia has allowed for vertical agreements are made applicable to horizontal agreements as well, notably to R&D agreements. This might be seen as a strategic change in a view of the growing integration of Armenia into the global market and attraction of R&D intensive transnational corporations into the national market.

The same holds true for the technology transfer sector which is devoid of any regulatory framework at the level of national legislation of the Republic of Armenia.

At the same time, it should be noted, that Republic of Armenia, joining the Eurasian Economic Union on 10 October 2014, undertook an obligation to bring its legislation into line with the Treaty on the Eurasian Economic Union of 29 May 2014 (hereinafter referred to as the Treaty) and other normative legal acts. The Treaty also sets out the general principles and rules of competition to be followed by the competition legislation of the Republic of Armenia. The general principles and rules of competition of the Treaty also define the prohibitions and regulations of anti-competitive agreements.

In particular, pursuant to Part 3 of Article 76 of the Treaty, any agreements between economic entities (market participants) of the Member States shall be prohibited if these entities are competitors operating in the same product market, and such agreements lead or may lead to:

- setting or maintaining prices (tariffs), discounts, allowances (surcharges), extra charges;
- increasing, decreasing or maintaining prices in tenders;
- dividing the commodity market in the territorial principle by the volume of sales or purchases of goods, by the range of products sold or composition of sellers or buyers (customers);
- reduction in or cessation of the production of goods;
- refusal to conclude agreements with certain sellers or buyers (customers).

According to Part 4 of the same Article, “Vertical” agreements between economic entities (market participants) shall be prohibited, with the exception of “vertical” agreements recognised as admissible in accordance with the admissibility criteria determined by Annex 19 to this Treaty, if:



- such agreements lead or may lead to setting a resale price of goods, except in the case where the seller sets to the buyer the maximum resale price of goods;
- such agreements obligate the buyer not to sell goods of any economic entity (market participant) that is a competitor of the seller. This prohibition shall not apply to agreements implying organisation by the buyer of the sale of goods under the trademark or other identifications of the seller or manufacturer.

According to Part 5 of the same Article, other agreements between economic entities (market participants) shall be prohibited, except for “vertical” agreements recognised as admissible in accordance with the admissibility criteria determined in Annex 19 to this Treaty, if it is determined that such agreements lead or may lead to any restriction of competition.

At the same time, Article 19 of the Treaty sets out the criteria for the admissibility of agreements, which apply only to vertical or other agreements within the meaning of the Treaty, as well as to agreements on joint activities of economic entities.

Following the above regulations, the Treaty does not provide for the possibility of considering horizontal agreements as permissible.

At the same time, according to Part 3 of Article 74 of the Treaty, the Member States may determine in their legislation any further prohibitions, as well as additional requirements and restrictions with regard to the prohibitions set out in Articles 75 and 76 of the Treaty.

In other words, the member states of the Eurasian Economic Union have the right to impose only stricter requirements, prohibitions, or restrictions than the requirements and prohibitions of the Treaty.

In this case, introducing of the EU practice (considering the horizontal agreements for R&D and technology transfer that may be subject to anti-competitive regulation as subject to permission) by amending the Law ‘[On the Protection of Economic Competition](#)’ would mean defining a softer regulation by the RA legislation than the prohibitions envisaged by the Treaty, which may presumably cause a contradiction with the provisions of the Treaty.

7.1.2 Rules of IPR allocation and transfer

Because of the lack of any governing regulations regarding the R&D sector in Armenia, rules of the intellectual property rights distribution as results of R&D funded (co-funded) from the state budget (public funds) are not published. Also, there are no recommendations on the management of IPR in knowledge transfer activities and sample Code of Practice (sample Agreement) for universities and public research organisations issued by a public body.

The default provisions of the [Civil Code of RA](#) and relevant laws do not fully solve the issue of author’s compensation regarding inventions (namely – the size of the compensation remains an open question), and do not address know-how assignment. Though those issues are easy to govern in service and employment contracts, the problem is that in practice such contracts do not properly address those issues due to lack of practices and low negotiation power of employees of publicly funded universities and R&D organisations.

As a result, the relations among the universities/public research universities and employees as for intellectual property rights may be vague.

On the one hand, the [Copyright Law of RA](#) foresees that copyright emerges automatically, is linked to authors and does not need any registration. The right of authorship is inalienable and is triggered by the fact of creation.

On the other hand, the property rights associated with IP are alienable and can be alienated under any civil contract, including under employment contracts. This causes ambiguity at times, when it comes to commercialisation of R&D results. Such commercialisation is especially hampered by the absence of technology transfer offices at the most of universities and R&D organisations, which would facilitate the international marketing of inventions and assist researchers in the licensing agreements.

The recommendation targeted to address this problem in the Report with analysis of the intellectual property-related issues in Armenia, expert conclusions and recommendations on intellectual property protection & corporate law transformation for Armenian innovation and growth (Armenian Bar Association and IP/IT Committee for Armenia, 2019), is that “Armenian academic and research institutions are encouraged to adopt standard employment agreements governing the relationship between themselves and their researchers and knowledge workers (designed upon existing U.S university employment contracts) that equitably apportion IP and other rights. Greater certainty in the disposition of these rights would create a more conducive environment for the funding of research and the commercialisation of innovation in the future”.

One example of an advanced practice helping innovators to bring their inventions to the stage of commercialisation, is the creation of the Applied Projects Department of the National Academy of Sciences of Armenia in 2016 with its main objective being to promote technology transfer, innovation and commercialisation of research outcomes and advice on IPR issues within the Academy system. Another such example is the



Technology Transfer Office of the Institute for Physical Research under the National Academy of Sciences in Armenia, that has a [special set of rules](#) governing the management and licencing of IP generated at the research institute of the university.

EU4Digital Facility considers the EU practices applicable and relevant to address this problem.

7.2 Potential improvement areas

The potential improvement areas in Armenia can be summarised as follows, focusing on the existing regulation and recommendations issued to create incentives for IP circulation in the economy, including IP created with public funds:

Area 1. Legal framework for R&D agreements and technology transfer agreements

The legal framework for R&D agreements and technology transfer agreements that incentivises collaboration of innovation actors and IP circulation in the economy needs to be further developed. In particular, R&D agreements and technology transfer agreements are not defined under the Civil Code or other legislation in Armenia.

Area 2. Rules of IPR allocation and transfer

The clear rules of IPR allocation and transfer to innovation actors, incentivising collaboration and IP circulation in the economy, including IP created with public funds, are not established.

- Rules of the intellectual property rights (IPR) distribution as results of R&D funded (co-funded) by the state budget (public funds) are not published.
- Recommendations on the management of IPR in knowledge transfer activities and sample Code of Practice (sample Agreement) for universities and public research organisations are not issued.

7.3 Recommendations

Goal 1. Legal framework for R&D agreements and technology transfer agreements

Develop further the legal framework for R&D agreements and technology transfer agreements that incentivises collaboration of innovation actors and IP circulation in the economy.

❖ What?

Introduce the definition of *research and development agreement*, *technology transfer agreement*, related definitions, and the *principles* of concluding R&D and technology transfer agreements contained in the Commission Regulation (EU) No [1217/2010](#) and Commission [Regulation \(EU\) No 316/2014](#), with special account of public safeguards, in the legislation governing R&D activities, simultaneously taking into account the existing obligations of Armenia in EAEU (the provisions of the EEU Treaty, including Annex 19 to the Treaty). In particular, it is suggested to perform the correct legal translation of relevant EU directives and related acts, with definitions and terms, being interpreted according to the EU framework legislation logics.

❖ Why?

The direct reason for establishment of the IPR legal framework is to compensate for market failures (knowledge spillovers) and provide incentives to inventors and organisations to make financial and intellectual investments into R&D as well as to foster the technological progress and innovations diffusion in the economy (“marketplace of inventions and inventors”).

Today R&D in many areas requires more collaboration and contribution of assets by various stakeholders (private; private and public; public and public) within the national economy and across the borders, resulting in innovative products and processes. Following this reality, classical IPR framework is complemented with additional rules established at various levels governing the IPR distribution with the goals to foster innovations and GDP growth. Most R&D agreements and technology transfer agreements lead to economic benefits for both parties; some may lead to significant technological improvements. However, if they significantly contribute to technological progress and innovations, they are treated as an economically favourable outcome.

❖ Relevant EU policies (non-exhaustive list):

- **Commission Regulation (EU) No [1217/2010](#)** of 14 December 2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to certain categories of research and development agreements. The Regulation determines the principles of concluding R&D agreements, as an exemption from the Article 101 of the Treaty on the Functioning of the European Union (TFEU) that prohibits all agreements between undertakings which may prevent, restrict or distort competition within the internal market.



- **Commission Regulation (EU) No 316/2014** of 21 March 2014 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of technology transfer agreements determines the principles of concluding technology transfer agreements, as an exemption from the Article 101 of the Treaty on the Functioning of the European Union (TFEU) that prohibits all agreements between undertakings which may prevent, restrict or distort competition within the internal market.
- ❖ **Relevant EU organisations (non-exhaustive list):**
 - European Commission Directorate-General for Competition;
 - European Commission Directorate-General for Research and Innovation.
- ❖ **Potential counterpart(s) in Armenia:**
 - Ministry of High-Tech Industry;
 - State Revenue Committee;
 - Ministry of Economy.

Goal 2. Rules of IPR allocation and transfer for better IP circulation

Establish the clear rules of IPR allocation and transfer to innovation actors, incentivising collaboration and IP circulation in the economy, including IP created with public funds.

- ❖ **What?**
 1. Consider the rules and scenarios of IPR allocation in joint R&D undertakings and different scenarios of co-financing within the state aid for research and development and innovation contained in the [Communication](#) from the Commission [COM 2014/C 198/01](#) as well as IPR rules for [FP7](#) and [Horizon 2020](#) projects.
 2. Analyse the national EU member states practices of governing R&D results and IPR resulting from publicly (co-)funded projects and perform economic analysis of the most appropriate framework to be potentially introduced in Armenia with account of its specific economic structure and with a goal to support technological progress and innovation diffusion to the benefit of economic agents.
 3. Establish the technology transfer centres at the universities and public research institutions as well as under experienced sectorial business associations of Armenia and equip them with competencies and tools related to commercialisation of R&D results via licensing and creation of spin-off companies.
 4. Provide assistance to the state and universities on developing appropriate policy approach and contractual framework, to facilitate knowledge transfer by licenses and creation of spin-off companies and thus to encourage the uptake of innovations in the country.
 5. Organise the awareness-raising and the training within the universities and public research organisations; promote the usage of the good EU practices on management of IPR in knowledge transfer activities. Elaborate the sample Code of Practice (sample Agreement), that provides the basic framework to govern the relations between the employer and employee and that allow for flexible negotiation of certain powers and obligations, to support more opportunities for negotiation contract terms on the individual basis (consider [Recommendation 2008/416/EC on the management of intellectual property in knowledge 'activities and Code of Practice for universities and other public research organisations](#) as example). For joint and co-funded projects with publicity, publish the appropriate agreements, contracts examples, and procedures' descriptions in official electronic platforms.
- ❖ **Why?**

The level of organisations in their relations with individual innovators is another level of rules incentivising the circulation of IP in the economy is. The economic consequences of not having clear rules incentivising researchers to innovations need to be seen in the framework of several factors:

1. The salary of public employees and researchers at public scientific organisations in the Eastern partner countries is usually low, that's why they have to look for additional income.
2. When this income is created by intellectual work, in most cases the researchers work in the same area of specialisation where they are experts, and thus the intellectual product that is created by them for one employer usually relates to the intellectual product created for another employer; in this synergy researchers may easily create the intellectual product that was not paid by any employer; all these products cannot be easily separated.



In the absence of further rules explaining how to deal with intellectual products created via public funds, and in the absence of material incentives and assistance to innovators in disclosing their inventions and commercialising (bringing them to market) via licenses or spin-off companies, two most frequent situations are:

- Invention is disclosed to the employer but not put into further economic usage.
- Invention is disclosed to the employer only to the minimal extent that is demanded by the contract, and the employer tries to develop the invention to a marketed product with own resources and fully bears the risks.

Since such situation is common for all countries of the world because of R&D process specifics, the best elaborated practice in the EU and the U.S. is that on the level of the state, the rules are established that fairly remunerate both the publicly funded R&D organisation and the innovator, plus the ecosystem is created that allows for a successful development of invention into a product- or service-oriented business via technology transfer offices, incubators, etc.

The recommendation on the possible transfer of sample agreements needs the following clarification. Sample/Model agreements are not designed to impose certain proportion of IP distribution. Also, they are not designed to fix the terms for all universities and all contracts. Their use is in providing the logical framework, in which the employer and employee can negotiate about certain conditions, while not forgetting about various possible situations that may cause ambiguity in their relations concerning IP.

As emphasised by the country experts during EU4Digital Facility country consultations, there may be many factors/interests affecting the exact proportion of IP distribution that can be considered *fair* (to compensate the costs or the rarity of the asset) or *optimal* from the viewpoint of economic efficiency or social and political goals. They can be country-related (the size of research funds, the sectors of economy), grant-institution-related (benefactor, NGO, foreign state), grantee-institution, research area-related factors. The constellation of these factors generally can influence the structure of this agreement.

Good economic policy justifies that the *areas where the IP is of strategic national importance* (national defence, some healthcare solutions) are to be regulated separately by an *overarching legal framework*.

However, in *all the other areas*, where IP is seen majorly as an economic asset that can be governed by market rules, open negotiations are to apply. In these areas, specific factors are to be taken into account *in each individual contract separately*, and the commercial interests of individual inventor are to be considered by the employer proportionally to his/her specific/rare/unique capabilities and productivity.

If the institutional setting inherited from the outdated economic system leads to negative economic effects (i.e. hampers technological progress and innovations), it is usually corrected by introduction of better institutional practices. Exactly this is a function of specific regulations like Bayh-Dole Act of 1980 that first granted the right to U.S. universities to inventions arising from federal government-funded research (at the same time taking care for the private interests of inventors), Stevenson-Wydler Technology Innovation Act of 1980 and further U.S. laws promoting technology transfer, that have led to establishment under U.S. universities of special departments supporting inventors in commercialising their inventions.

In the EU countries the national practice varies, but the [Communication](#) from the Commission – Framework for state aid for research and development and innovation ([COM 2014/C 198/01](#)) stipulates that research organisation, research infrastructure or public purchaser can “enjoy the full economic benefit of IPR by retaining the right to make unrestricted use of them, particularly the right of ownership and the right to license”. Additionally, the [Recommendation 2008/416/EC on the management of intellectual property in knowledge transfer activities and Code of Practice for universities and other public research organisations](#) (OJ L 146, 5.6.2008, pp. 19–24) (Annex 4), encourages the EU countries to introduce policies or guidelines to ensure that publicly-funded scientific research results are used commercially or for further research, to facilitate knowledge transfer by licenses and creation of spin-off companies and thus to encourage the uptake of innovations.

❖ **Relevant EU policies (non-exhaustive list):**

- [Communication](#) from the Commission [COM 2014/C 198/01](#) ‘Framework for state aid for research and development and innovation’ (OJ C 198, 27 June 2014, pp. 1-29). This Communication sets out the conditions under which the EU countries can grant state aid to companies to carry out R&D&I activities. The European Commission has procedures by means of which it monitors and approves state aid, while limiting distortions of competition arising from R&D&I aid ensuring state aid for research, development and innovation is fair.
- [Recommendation 2008/416/EC](#) on the management of intellectual property in knowledge transfer activities and Code of Practice for universities and other public research organisations (OJ L 146, 5.6.2008, pp. 19-24) encourages the EU countries to introduce policies or guidelines to ensure that publicly-funded scientific research results are used commercially or for further research, to facilitate



knowledge transfer by licenses and creation of spin-off companies and thus to encourage the uptake of innovations. It stipulates that universities and PROs should manage their intellectual property to facilitate knowledge transfer, in particular by the granting of licenses and the creation of spin-off companies.

- [Guidelines for Customization of the WIPO Intellectual Property Policy Template for Universities and Research Institutions](#). The Guidelines stipulate the definitions, the scope of the policy, as well as issues of governance and operation; ownership of IP and rights of use; publication, non-disclosure and trade secrets; research contracts; determinations by the IP management office; commercialisation of IP; incentives and distribution of revenues; IP portfolio maintenance; traditional knowledge and genetic resources; conflicts of interest and conflicts of commitment; dispute resolution and amendments.
- ❖ **Relevant EU organisations (non-exhaustive list):**
 - European Commission Directorate-General for Research and Innovation.
 - [Competence Centre on Technology Transfer \(CC TT\)](#) – launched in 2018 by the Joint Research Centre (JRC) of the European Commission. The CC TT provides technology transfer policy related expertise and services to the European Commission and other institutions of the Union and operational support services to a broader range of stakeholders including member states and individual research institutions facing technology transfer related challenges and issues.
 - [European TTO Circle](#) – a network of the technology transfer offices of Europe's largest Public Research Organisations (PROs). Its priority areas include the development of financial facilities for technology transfer and the reduction of Intellectual Property (IP) barriers to collaborative research.
- ❖ **Potential counterpart(s) in Armenia:**
 - Ministry of High-Tech Industry;
 - State Revenue Committee;
 - Ministry of Economy;
 - Ministry of Finance;
 - Ministry of Education, Science, Culture and Sport;
 - National Academy of Sciences;
 - Armenian Engineering Association.

8 Ecosystem for support of SMEs in IPR management

8.1 Landscape of actors supporting SMEs in IP-related issues

National IP office

[Armenian IP Agency](#) (AIPA) is a national IP office, the state authority for registering industrial property subject matters, which has the status of separate division acting within the Ministry of Economy of the Republic of Armenia. The Government of the Republic of Armenia adopted the statutes and the structure of the Agency.

Activities. AIPA receives and carries out examination of applications on inventions, utility models, industrial designs, trademarks, appellations of origin and topographies of integrated circuits, as well as state registration thereof, grants patents and certificates, maintains state registry of the mentioned subject matters as well as provides the right on use by registering the license agreements and open licenses in accordance with the order established by the legislation of the Republic of Armenia ([AIPA, 2019](#)). It also assists the Ministry of Economy in drafting IPR policies, international cooperation, and publicising other information relating to IPR ([IPR Strategy, 2011](#)). AIPA has a Board of Appeal which deals with appeals that arise in the course of the examination of applications on industrial property subject matter. Furthermore, AIPA plays an important role in the coordination of all the institutions responsible for IPR enforcement ([WIPO Advisory Committee on Enforcement, 2017](#)).

AIPA performs consultations of public organisations, private companies and inventors (residents and non-residents) on a free basis in the following knowledge domains:

- patents for inventions;
- utility models;
- trademarks;
- industrial designs;
- copyright;



- geographical indications;
- topographies of semiconductor products (historically there was only one case of consultations years ago).

Website and online services. AIPA prepares and publishes on its website the [official data on legal protection](#) of the industrial property subject matters and topographies of integrated circuits. Currently the new website of the [AIPA](#) is being developed which will include some functionalities, a section with necessary information for SMEs on the application process. [Online tool for filing and processing applications](#) has recently been launched on [AIPA](#) website. The system consists of sections 'Inventions and utility models', 'Trademarks' and 'Industrial designs'. To use the system, it is necessary to have an identification card with an electronic signature certificate.

IPR enforcement actors

Armenian Observatory Group on Counterfeiting and Piracy was established in 2009, aiming to support the struggle against infringement in the field of IP, to coordinate the activities of the ministries involved in combating counterfeiting and piracy in Armenia. It aims to strengthen public-private partnership, facilitate and promote cooperation between IP enforcement bodies and develop initiatives to help right holders protect their IPRs.

The Observatory members are representatives of the Ministry of Economic Developments and Investments; the Ministry of Finances; the Ministry of Culture; the Ministry of Diaspora; the Police of the Republic of Armenia; the Customs Office; the State Committee for Economic Competition and private organisations representing the interests of right holders ([WIPO Advisory Committee on Enforcement, 2017](#)).

External actors in the ecosystem of IP protection and management

The EU best practice shows that a system of external actors can undertake the functions complementing the activities of the national IP office. The EU experience suggests building the innovation ecosystem in the partnership of public and private stakeholders. Such partnership includes the invitation from the regulators to multiple stakeholders to advise on design of the new regulation (via multiple working groups including private sector and stakeholder consultations). Such partnership also may take place on the level of implementation and deployment of the policy tools, for implementation of which the regulators have limited capacity and which require routine operations in line with established rules, or creative approaches (up to delegating to private sector organisations (selected on a competitive basis) of the operation of the funds that allocate grants and investments).

The same can be applied in Armenia, where the set of external actors might undertake the functions not currently performed by AIPA and build close collaboration among them with AIPA. Generally, AIPA is open to cooperating with IP attorneys already now. All IP attorneys are [listed](#) on the AIPA website.

The existing *ecosystem of external consultants* (beyond national IP office) consists of patent attorneys and specialised consulting organisations that provide consultations on the following issues.

Table 4. Ecosystem of consultants on IR issues in Armenia

Knowledge domain	Patent attorneys	Specialised consulting organisations
Types of IPR per objects		
Patents	X	X
Utility Models	X	X
Trademarks	X	X
Industrial Designs	X	X
Copyright	X	X
Trade secrets	X	X
Geographical Indications	X	X
Plant Variety Rights	n/a	n/a
Topographies of Semiconductor products	n/a	n/a
Domain Names	X	X
IPR management		



IPR issues emerging around publicly funded R&D	Due to the matter not being regulated, this is not a service generally provided in the Armenian market	
IP protection	X	X
IP audit	Not a service generally provided in Armenian market	
IP valuation	n/a	X
IP agreements	X	X
IP commercialisation (licensing and selling)	X	X
IP internationalisation	X	X
IP searches and Tech Watch	X	X
IP strategy	Not a service generally provided in Armenian market	
IPR enforcement		
Alternative Dispute Resolution	X	X
Counterfeiting and Squatting	X	X
Customs & Border Measures	X	X
Enforcement	X	X
Infringement	X	X
Litigation	X	X
Unfair Competition	X	X

Note: X – service provided; n/a – information not available.

Source: Developed by EU4Digital Facility in consultation with law firms

There are over a dozen³ of globally ranked (by such rankings as [Legal500](#) or [Chambers & Partners](#)) law firms and a bigger number of individual attorneys that are advising on IPR issues. The majority of attorneys primarily deal with trademark registration and do not engage into more complicated issues. IP valuation services are provided by valuation experts and companies (including Big4, GT, BDO and local valuation firms), not law firms. As for developing the vision on the issues of IP emerging around digital technologies (Artificial Intelligence, blockchain, cloud technologies, Big Data, etc.) there is an [IPR Committee](#) under [American Chamber of Commerce in Armenia](#) (AmCham) which will be targeting to address the IPR issues that AmCham members face related to the IP rights, develop policy, organisational, legislative, enforcement documents and raise the awareness under the [Digital and Data Privacy Committee](#) within the [American Chamber of Commerce](#). The goal of the [Digital and Data Privacy Committee](#) is “to influence development of friendly, secure and trusted regulatory and business landscape to facilitate the growth of the digital economy as well as the digital transformation of public and private enterprises”.

8.2 Potential improvement areas

Further analysis has revealed the following potential improvement areas, focusing on the capacity of the ecosystem to support SMEs with digital innovations.

Area 1. Capacity building of the ecosystem actors providing support to SMEs

As emphasised in the Report with analysis of the intellectual property-related issues in Armenia, expert conclusions and recommendations on intellectual property protection & corporate law transformation for Armenian innovation and growth (Armenian Bar Association and IP/IT Committee for Armenia, 2019) “the patent examination capacity of the AIPA is extremely limited. There are also limited options for challenging and enforcing patent and other IP rights whether at AIPA or through the courts. All of AIPA’s staff (ca. 50 persons) are full-time employees and the Law on Payment of the Civil Servants currently does not allow the possibility of hiring independent contractors. There is very limited autonomy permitted to AIPA with respect to internal

³ The list includes: Advise Business & Legal Consulting, Armeria Legal and Tax Advisors, AM law Firm, EY, Grant Thornton Legal and Tax, K&P Law Firm, Knyazyan & Partners Law Office, Legelata Law firm, TK & Partners (in alphabetical order).



procedures regarding patent and trademark examination and registration, and almost no autonomy with respect to hiring/employment practices or setting fees and allocating its budget. Any budgetary surplus/income is automatically appropriated by the government and redistributed to other sectors (e.g., medical, defence, education etc.). The solution proposed in the report are to allow “AIPA to become an independent or semi-independent government agency that is not necessarily under the ministerial hierarchy” and “permit AIPA to have independent hiring and employment decision-making, including setting salaries, hiring specialists and hiring independent contractors”. In opinion of experts, the most important aspect of such independence is the ability to keep its own revenue and to set its own fees. Once the USPTO was given such permission by the Congress, the capacity grew considerably and wait times got significantly truncated.

Capacities of AIPA to process applications will be significantly supported by the recently introduced [online tool for filing applications](#) at AIPA. It should be indicated, however, that this tool can only be used with an identification card with an electronic signature certificate, thus, non-residents without such a card cannot file the application for Armenian patent online. Also, there is scope for further development of this online tool to enable the handling of the full application process for IPR and other relevant processes, including court disputes, alternative dispute resolution, etc.

Currently, innovation infrastructure organisations (technology transfer centres, techno parks, business incubators, accelerators, etc.) and Enterprise Europe Network Armenia are not providing focused consultations on IPR management. [ICT Innovation Study \(2018\)](#) has mapped 3 techno parks ([Gyumri Technology Centre](#), [Vanadzor Technology Centre](#), [Viasphere](#)), 6 business incubators ([Kolba Lab](#), [Microsoft Innovation Centre](#), [Innovative Solutions and Technologies Centre](#), Centre for Creative Technologies [TUMO](#), [Enterprise Incubator Foundation](#)), Armenian Startup Acceleration Program ([ASAP](#)), 1 accelerator ([Armenia Startup Academy](#)) in Armenia, with a focus on digital innovations. The EU4Digital Facility study in 2020 has revealed that though they are advanced in supporting start-ups’ growth and internationalisation, of them only [Enterprise Incubator Foundation](#) indicates support of start-ups and companies in IP assets protection or management on its public service offering.

The [Strategy of the Republic of Armenia on Intellectual Property Rights Protection \(2011\)](#) emphasised the need of further institutional strengthening and cooperation for IPR enforcement, including judiciary, police, customs, National Bureau of Expertise and other IPR experts. It included the need of establishment of the IPR Information Centre and creating of an IPR database to keep all records of actions, disputes, profiles. The strategy also underlined the need for continuous trainings of the state officials in charge of IPR enforcement (customs officers, judges and police staff) as well as IPR awareness-raising activities and training for stakeholders and general public.

In 2012-2014, within the Twinning Project on Strengthening the Enforcement of IPRs in the Republic of Armenia, the judges, court personnel and prosecutors were trained in Intellectual Property Rights, legislation, practices, investigation, evidencing and judgements; trainings were conducted for Customs and Police officers on the EU best practices and on work methods, on differentiating between fake and original good. Respective manuals and handbooks for specialists have been developed; 47 copyright specialists were trained from public and private sectors ([WIPO Advisory Committee on Enforcement, 2017](#); [Ministry of Economy, 2015](#)).

In 2017, the U.S. Embassy’s International Narcotics and Law Enforcement (INL) office, together with a visiting delegation of U.S. Homeland Security agents, [trained](#) around 25 Armenian experts on Intellectual Property Rights (IPR) protection and investigation. Participants included investigators from the Armenian National Security Service, Investigative Committee, Special Investigative Service, and the Investigative Department of the State Revenue Committee, along with judges, prosecutors, and other officials from the Ministry of Justice and the IPR Protection Agency. The training highlighted the link between IPR and transnational organised crime and national security, with topics ranging from counterfeit products and smuggling to customs fraud and money laundering.

Currently the establishment of a programme of trainings for judges is being discussed, which will be also included in the new IPR strategy of the Ministry of Economy of RA that is planned to be drafted in the near future.

There have been no further trainings identified, undertaken to support the innovation infrastructure organisations and ecosystem actors (technology transfer centres, techno parks, business incubators, accelerators, etc.).

Across the range of knowledge domains where, according to the EU practice, SMEs get IP-related consultancy, there are areas in which services are generally not provided in the Armenian market: IP audit; consulting on IP strategy and IPR issues emerging around publicly funded R&D.

Area 2. IPR Helpdesk for start-ups and SMEs

As of June 2020, there is no one stop shop IPR Helpdesk raising awareness of start-ups and SMEs on IPR issues and serving as a gateway and conduit to the ecosystem of specialised consulting services. It is planned



that in the result of expanding the AIPA capacities, as included in the Agenda of reforms in IPR sector in Armenia, AIPA will provide consulting services to start-ups and SMEs on IPR issues.

No published online information is available on the [website](#) of AIPA or any other public institution, including general description of the regulatory framework, links to relevant laws (where applicable), dispute resolution procedures, description of the knowledge domain and its importance in a simple language on:

- trade secrets;
- plant variety rights;
- topographies of semiconductor products;
- domain names.

No materials on IPR management or IPR enforcement are published or made available by AIPA or any other public institution – neither in form of description of the importance to consider these issues, nor the references to the organisations providing relevant consultations and services.

Area 3. Mapping consulting and support services and networking actors

Currently, no Armenian actors on IPR, innovation, technology transfer are registered at the [European IP Helpdesk's Signposting Directory](#).

Only two organisations are registered as the [EEN local Network contact point – Investment Support Centre \(SMEDNC\)](#) and [National Academy of Sciences of the Republic of Armenia \(NAS RA\)](#).

IP attorneys are [listed](#) on the AIPA website, however, this list does not contain information on the specialisation of the IP attorneys, which makes it difficult for customers to understand whom to consider for their specific needs.

There is no online tool allowing the search for services delivered by the key organisations active in the field of intellectual property rights protection, SMEs support and specialised consulting organisations in Armenia.

Area 4. Awareness raising of SMEs

Field research of the EU4Digital Facility has identified only general description of the regulatory framework and links to relevant laws on webpage of the AIPA [available online](#), including the [published](#) description (in Armenian) of the knowledge domain and its importance, concerning the following IPR types:

- patents;
- utility models;
- trademarks;
- industrial designs;
- copyright;
- geographical indications.

More detailed online awareness raising materials or training courses online tailored to start-ups and SMEs with description of the IPR-related knowledge domains, their economic importance and guide of the necessary steps in a simple language is not available.

Clarifications to SMEs on issues of IP emerging around digital technologies (Artificial Intelligence, blockchain, cloud technologies, Big data, etc.) (definition of patent scope; cybersquatting, etc.) are not addressed by AIPA or any other public institution. IP advisory firms are essentially the sole source that may deal with such issues when raised by their clientele.

Area 5. Public support to SMEs

According to the RA Law on State Duties, individuals, legal entities with up to 25 employees [may](#) enjoy 75% discount for some activities related to registration of patent on invention or utility model, and legal entities with 25 to 100 employees enjoy 50% discount. This is however is a small reduction comparing to costs of consultations from patent attorneys, professional consultants, and especially comparing to costs of patenting abroad, to which the national discounts do not apply.

Except for this discount, there is no public support available in form of grants, vouchers, loans, subsidies) for IPR registration, management and enforcement (for example, for consultations on IPR and development of IPR strategy).

There are no tax incentives related to IPR registration and ownership available under the Armenian legislation.

The gaps can be summarised as follows:

1. capacity building of the ecosystem actors providing support to SMEs;



2. IPR Helpdesk for start-ups and SMEs;
3. mapping consulting and support services and networking actors;
4. awareness raising of SMEs;
5. public support to SMEs.

The potential improvement areas can be summarised as follows:

1. Capacity building of the ecosystem actors providing support to SMEs. The capacity of Armenian public agencies and innovation ecosystem actors (technology transfer centres, techno parks, business incubators, accelerators, competence centres, external consultants etc) needs to be increased to create favourable framework and provide support to start-ups and SMEs and consultations with focus on IP audit; IP strategy and IPR issues emerging around publicly funded R&D.
2. IPR Helpdesk for start-ups and SMEs. Online and onsite support tailored to start-ups and SMEs materials needs to be proposed via IPR Helpdesk, including IPR management, IPR enforcement and link to online tool for handling the full application process for IPR.
3. Mapping consulting and support services and networking actors. The visibility of services delivered by the key institutions active in the field of intellectual property support and by specialised consulting organisations needs to be improved via online tools and platforms, to improve their channelling to SMEs and the linkages among ecosystem actors in Armenia.
4. Awareness raising of SMEs. The awareness raising of start-ups and SMEs on the importance of IP issues needs to be supported by online materials, trainings and via available business consultancy channels.

Public support in form of grants, vouchers, loans, subsidies needs to be provided for IPR registration, management and enforcement (for example, for consultations on IPR and development of IPR strategy).

8.3 Recommendations

Goal 1. Capacity building of the ecosystem actors providing support to SMEs

Increase capacity of Armenian public agencies and innovation ecosystem actors (technology transfer centres, techno parks, business incubators, accelerators, competence centres, external consultants etc) to create favourable framework and provide support to start-ups and SMEs and consultations with focus on IP audit; IP strategy and IPR issues emerging around publicly funded R&D.

❖ What?

1. **Facilitate the increase of AIPA capacity by:**
 - a. extending the available [online tool for filing and processing applications](#) into an online tool for handling the full application process for IPR and other relevant processes, including court disputes, alternative dispute resolution, etc.;
 - b. targeted trainings of AIPA staff and its external consultants in patent substantive examination, challenging and enforcing patent and other IP rights, including capacity building of judges;
 - c. expanding the AIPA capacities, which will allow “permitting AIPA to have independent hiring and employment decision-making capacity, including hiring specialists and hiring independent contractors” (in line with the ABA recommendations);
 - d. practical transfer of the EU experience to AIPA and related regulators of building the innovation ecosystem in the partnership of public and private stakeholders around IPR.
2. **Introduce the international training programme to the group of consultants.** The correct identification of various actors and consultants is very important for the effective implementation of this activity. Beyond AIPA, also the other actors and service providers, like students of juridical faculties specialising in IP should be the audience. Consider the following logics of this activity realisation:
 - a. the bigger group to be trained online at WIPO distant courses (open call);
 - b. the ‘good trainees’ to receive grants from the state to be further trained onsite;
 - c. the ‘best trainees’ to make an internship at WIPO, EPO or national patent offices;
 - d. further they can become the management of the newly established Centre ‘IP for SMEs’, staffed with “good trainees”;
 - e. the other “good trainees” to be staffed by the innovation infrastructure organisations and ecosystem actors (technology transfer centres, techno parks, business incubators, accelerators, etc) that help bringing innovations to market.



3. Promote staffing by **innovation infrastructure organisations and ecosystem actors** (technology transfer centres, techno parks, business incubators, accelerators, etc.) of patent attorneys and patent agents, to be able to better support start-ups and SMEs.
4. **Promote among innovation infrastructure organisations and ecosystem actors the list of services** that they can master and deliver to local start-ups, as well as potential counterparts from 33 countries (see [PRO INNO](#) list); **networking with these organisations** and **transfer their** experience in the joint projects; **establish partnership with organisations in the EU** (see [list from PROINNO](#)) for cross-country consultations in case of projects related to these countries.
5. Promote among the innovation infrastructure organisations the training opportunities of their staff at WIPO and other relevant knowledge hubs on IP management issues.
6. Consider introducing by [Enterprise Europe Network Armenia](#) of services similar to those provided by [Enterprise Europe Network](#) in the EU.
7. **Develop participation in the international working groups** specialised in issues of IPR in the digital economy, e.g., for capacity building related to creation and enhancement of Independent and neutral arbitration body to deal with the issues related to the domain name industry issues, including but not limited to the issues on disputes on domain name registration procedure and termination.

❖ Why?

The reports of IPR enforcement expert group evaluation group from Centre for Strategy and Evaluation Services working at request of the EC ([2007a](#), [2007b](#), [2013](#)) point among major principles of the efficient IPR support ecosystem the importance to provide intellectual asset management skills rather than increase IP rights registration.

This is because registration of IPR per se does not create any economic effect for the inventor – it only implies costs for registration and maintaining the patent. The positive effects from registration per se might emerge in two cases:

- If the patent is strong enough and is not easy to patent around (tacit knowledge), plus the country where the patent rights are obtained is an attractive market, it may happen that a company interested to work with the patented solution in this country would approach the inventor with request to grant the license.
- If the patenting around is easy to a company with good experts, the publication of patent will bring positive economic effects to those companies (usually the strongest global players), who will use the patented information for their technological advancement without any expenditures for patent purchase and R&D. No revenue will be gained by inventors in this case.

Thus, gaining positive effects from registration of IPR is only possible if the patent owners behave in a proactive way, if they suit the patent portfolio with the business strategy and have a clear vision about the partners, competitors, and the tactics of using their IP assets. The function of the awareness raising on proper IPR management is logical to be performed by organisations that maintain start-ups and SMEs along different innovation process stages. The capacity of these organisations needs to be accordingly enhanced.

Generally, the capacity of innovation ecosystem regulators, public agencies to collaborate with private sector is advised to be built up with account of the EU experience.

Though currently the national expertise in advanced technologies may be not the most advanced in the world or rare, it is nevertheless important for local start-ups to be informed about the developments in regulation at the global markets, in order to not lose market because of lack of information.

While generally these technology areas do not have a special legal framework in most advanced IPR jurisdictions, EPO and WIPO try to address the problematics by preparing focused publications, organizing discussions with technology experts, organising webinars for awareness raising of SMEs on which problems may arise related to these technologies and how to handle the infringements.

Also, for national IP agency and external consultants it would be useful to know the aspects of protection and arguments in enforcement of IP linked to digital technologies, to offer the best service to local digital companies.

Networking with existing professional actors will allow the ecosystem organisations in the Eastern partner countries to quickly learn about the progress and failures in regulation and business models, to map the E&P platforms and raise interest of the EU investors and collaborate in joint cross border projects.

❖ Relevant EU organisations (non-exhaustive list):

- [WIPO eLearning centre](#) has a portfolio of courses on IP tailored to different target audiences: inventors and creators, business managers and IP professionals, policy makers and government officials of IP institutions, diplomats, students and teachers of IP and the civil society. Courses combine traditional face-to-face and distance learning methodologies.



- [WIPO Academy](#) is the “centre of excellence for intellectual property (IP) education and training for WIPO member states, in particular developing countries, least-developed countries (LDCs) and countries in transition”.
 - **List of Support Services** embracing 279 organisations from 33 countries in [The Report ‘Benchmarking national and regional support services for SMEs in the field of intellectual and industrial property’](#) prepared by **PRO INNO Europe**.
 - [DIGITALEUROPE](#) hosts a working group including over 130 members and addressing the issues of trade secrets; unitary patent; IPR Enforcement in third countries.
 - [Index of AI initiatives in IP offices](#) mapped by WIPO includes 64 initiatives in the EU, Japan, Australia, Brazil, Canada, Chile, China, Japan, Morocco, Philippines, Republic of Korea, Russian Federation, Singapore, UK, USA and Uruguay.
 - [Working Group at Europarliament on Intellectual Property Rights and Copyright Reform \(2016\)](#) – a track of discussion of interface between copyright and digital platforms.
 - [Intellectual Property Rights Experts Group](#) Asia-Pacific Economic Cooperation (APEC) – has prepared the Guidelines on the Best Licensing Practices of Collective Management Organizations.
 - [Permanent Working Group Intellectual Property Rights](#) is a group of representatives of European Federation of Academies of Sciences and Humanities (ALLEA). Central themes of the group include:
 - access to scientific information (Open Access, etc.);
 - the European Commission initiatives, in particular concerning research and the digital agenda;
 - the unification of patent and copyright laws in Europe;
 - the impact of artificial intelligence and the need to improve data governance;
 - patenting in stem cell research and other areas of cutting-edge biotechnology.
- ❖ **Potential counterparts in Armenia**
- Armenian Intellectual Property Agency;
 - Intellectual Property Rights Centre Armenia;
 - IP Owners Club;
 - Advise Law & Business Consulting Firm;
 - American Chamber of Commerce;
 - Armenian British Chamber of Commerce;
 - Union of Advanced Technology Enterprises (UATE);
 - Union of Employers of Information and Communication Technologies (UE ICT);
 - Intellectual Property Rights Centre Armenia;
 - Chamber of Commerce & Industry;
 - National Academy of Sciences of the RA.

Goal 2. IPR Helpdesk for start-ups and SMEs

Establish an IPR Helpdesk providing online and onsite support tailored to start-ups and SMEs materials. Develop an online tool for handling the full application process for IPR.

❖ What?

1. Establish centre(s) ‘IP for SMEs’, serving as an IPR Helpdesk for start-ups and SMEs.
 - a. *Institutional setting*: such centre(s) might be established under AIPA or in cooperation with existing competence centres (including law companies), as a public agency or as an NGO uniting private consulting companies or experienced sectorial business associations in Armenia.
 - b. *Services*:
 - i. The core form of service to be provided by the centre is the oral consultation of start-ups and SMEs.
 - ii. *Awareness-raising* services are to be provided *free of charge*, including confidential first-line advice on:
 - registering formal IPRs (such as patents, trademarks or design rights);



- managing intellectual property as business assets;
 - dealing with intellectual property rights infringements;
 - information and training on related topics.
- c. The advanced *services* may be delivered by trained consultants on *paid basis* (may be covered by innovation vouchers mode of consultations with affordable costs for SMEs depending on their size).
 - d. With economic growth in the country (or with support of international finance organisations), the receipt of services by all SMEs free of charge or covered by innovation vouchers is recommended to be strived.
 - e. Possible performing by the centre as an operator of state support (innovation vouchers) in related to IPR.
 - f. Possible establishment under the framework of the centre of the working groups on IP issues related to digital technologies.
2. Deployment of work:
- a. staff the centre with trained experts (see Recommendation 4);
 - b. a mentorship of [European IPR Helpdesk](#), [IP Booster](#) and [organisations from PROINNO list](#) might be sought.
3. Develop an online toolkit for SMEs, including:
- a. description of the business importance of IPR, particular knowledge domains (all covered by WIPO) and instructions for SMEs on the steps recommended, starting from confidentiality agreement (its model to be placed online);
 - b. easy to understand description of the regulatory framework and links to relevant laws;
 - c. reference to the [online tool for filing and processing applications](#) and its extensions for handling the full application process for IPR and other relevant processes, including court disputes, alternative dispute resolution, etc.;
 - d. promote the EU practices of SMEs protection against cybersquatting and counterfeit trade via e-shops infringing trademarks via specific domain names (i.a. *preventive system for avoiding trademark infringement by domain name registrants* and *dispute resolution procedures*) to assist SMEs in using Internet as an international marketing channel;
 - e. references to training opportunities;
 - f. mapping of the specialised consulting and support services for start-ups and SMEs.

❖ Why?

The reports of special evaluation groups ([2007a](#), [2007b](#), [2013](#)) point among major principles of the efficient IPR support ecosystem the need to *take a client-service attitude towards SMEs*.

❖ Relevant EU organisations (non-exhaustive list):

- [European Union Intellectual Property Right Office \(EUIPO\)](#) with a number of online services, including a fast track application for a trademark and design, eSearch case law, Ideas powered for business.
- [IP Booster](#). The experts of IP Booster examine the case of any organisation that has benefited from the EU funding and guide them towards the best intellectual property strategy, at no cost to this organisation and fully supported by the EC.
- [EU4Business](#) tool can be considered by SMEs looking for advanced consultation services as well as by Centre as a business support organisation.
- National IP Helpdesks in the EU member states as potential partners and mentors during establishment of Helpdesk in Armenia.
- The [European IPR Helpdesk](#), including active [Helpline in case of suspected Infringement of intellectual property rights](#).
- Three specialised helpdesks support European SMEs in [China](#), [South-East Asia](#) and [Latin America](#).
- [Instructions by EPO](#) on IP protection, including steps before applying for a European patent; application procedure; filing and formalities examination; search; publication of the application and provisional protection on the invention in the states designated in the application; substantive examination; the grant of a patent; validation; opposition; limitation/revocation; appeal.



- The [ip4inno \(Intellectual Property for Innovation\)](#) project aims to help SMEs enhance their understanding and use of intellectual property rights to promote innovation and competitiveness.
- [Your Europe EU Portal](#) provides instructions on IP licensing and selling, including recommendation of a non-disclosure agreement; IP due diligence investigation; licensing agreement; possibilities to [confront infringement](#), simple description of IP economic value and [basic IP commercialisation principles](#).
- IPR Helpdesk provides recommendation in case of suspected IPR infringement, counterfeit, [alternative dispute resolution](#).
- [TAXUD portal](#) containing reference to competent national customs department to detain the counterfeit goods.
- [Enforcement Database](#) of [European Union Intellectual Property Office](#) (EUIPO) for **protecting products against counterfeit**.
- [Anti-Counterfeiting Rapid Intelligence System](#) (ACRIS) for the EU companies wishing to report a counterfeit in a country outside the EU.
- [ICANN alternative proceedings](#) for protection against the **cybersquatting** (dispute over domain names).
- BiSSAP [Software](#) designed to facilitate the creation of sequence listings for patent applications containing biological sequences.
- ❖ **Potential counterpart in Armenia**
 - Armenian IP Office (AIPA);
 - IPR Centre Armenia.

Goal 3. Mapping consulting and support services and networking actors

Increase the visibility of services delivered by the key institutions active in the field of intellectual property support and by specialised consulting organisations via online tool, to improve their channelling to SMEs and the linkages among ecosystem actors in Armenia.

❖ What?

1. Register major actors on IPR, innovation, technology transfer as a [EEN local Network contact point](#) and at the [European IP Helpdesk's Signposting Directory](#).
2. Complement the list of IP attorneys available at AIPA's website with additional information on the specialisation of the IP attorneys, to help customers understand whom to consider for their specific needs.
3. Launch a searchable online database of organisations delivering support and consulting on the IPR assets protection and management issues (take existing classifications from WIPO and European IPR Helpdesk). Consider the options of having it as a national or regional (EaP or other) platform.
4. Combine this database with a "SME journey" advising the list of services relevant to the stage of development and challenges of the business (online questionnaire can be developed).
5. Develop systematic collaboration of the Armenian IP Office and innovation ecosystem actors (technology transfer centres, techno parks, business incubators, accelerators, competence centres, external consultants/attorneys/legal firms) in form of organisation of discussions on relevant issues, conferences, joint projects.
6. Consider introducing a voluntary certification and maintaining a database of trusted external consultants/companies on certain issues in all lifecycle stages of IP and related rights management – both related to those in jurisdiction of AIPA and those beyond the jurisdiction.

❖ Why?

Online database of organisations delivering support and consulting on the IPR assets protection and management issues should be available to SMEs and organisations guiding them in the challenges and the vast number of organisations for various IPR issues. This platform shall serve at least the following functions:

- map the existing expertise and allow SMEs to quickly find consultations;
- map the gaps in the services to increase supply in response to demand;
- foster competition among existing law firms and their customer-oriented approach.



The reports of special evaluation groups ([2007a](#), [2007b](#), [2013](#)) point among major principles of the efficient IPR support ecosystem the need to *ensure links between IP specialist support and general business support (e.g. National Intellectual Property Offices and more general innovation support)*. “The best way to offer IPR support was to deliver it as part of general business support” (IPorta project [report](#)).

Since national IP agency works in a framework of certain mandate that is fixed by the available list of regulations (the mandate is stipulated under the Law on Trademarks, the Law on Inventions, Useful Models, Industrial Samples, the Civil Code and others, as well as secondary legislation; there is no one document laying down the mandate), and does not have capacity to communicate with all SMEs looking for advice on business strategy, the best option is to “establish cooperation among national IP office and intermediaries, which might be more efficient in delivering to SMEs the services on IPR strategy with account of industries specifics”.

From the viewpoint of a start-up/SMEs, it is important to be available to quickly find an appropriate counterpart that can professionally treat any issue related to IP and related rights.

❖ Relevant EU organisations (non-exhaustive list):

- [Enterprise Europe Network](#) provides basic IP support for transnational projects of SMEs through:
 - expertise, contacts and events to connect SMEs with the right international partners;
 - expert advice for growth and expansion into international markets;
 - solution-driven services to help SMEs turn your innovative ideas into international commercial successes.
- The [European IP Helpdesk's Signposting Directory](#) is a dynamic database providing access to key institutions and services active in the fields of intellectual property, research and/or business support, at the EU level and at national and regional level in each of the 28 EU Member States as well as in the [COSME countries](#). It includes contact details for national IP offices, national data protection offices, customs authorities, funding agencies, and more.

❖ Potential counterpart in Armenia

- Armenian IP Office (AIPA);
- [Enterprise Europe Network Armenia](#);
- Innovation *infrastructure organisations* (technology transfer centres, techno parks, business incubators, accelerators, private consultancies, etc.).

Goal 4. Awareness raising of SMEs

Increase awareness of start-ups and SMEs on the importance of IP issues by online materials, trainings and via available business consultancy channels.

❖ What?

1. **Develop the online materials** to explain in a simple language the main principles of IP protection and management in the underrepresented areas, with references to laws and competence centres that can provide further consultations; publish them online (website of AIPA or a newly developed portal for start-ups and SMEs).
2. **Develop introductory training courses in Armenian** in collaboration with WIPO and European IPR Helpdesk for delivery via WIPO eLearning platform (negotiate direct access to materials; contribution for translation by the EaP country; hosting of materials and monitoring of the online training at the resources of these organisations).
3. **Communicate to start-ups** via AIPA, innovation infrastructure organisations, business associations, chambers of commerce the existence of such information.
4. **Promote the usage of available training courses and webinars** by start-ups and SMEs, i.a. perform the tracking the open trainings and produce a newsletter for innovation infrastructure organisations, business associations and other interested subscribers, for their further dissemination to SMEs and start-ups.

❖ Why?

A lot of efforts have already been made in the world to elaborate easy to understand and inspiring to act online materials. Their usage by the EaP SMEs is the way to better understanding of the logics of European and U.S. SMEs that learn on the same materials. Learning in English provides the best actuality of materials.

Development of partnership with WIPO and European IPR Helpdesk is the best option for quickest update of the materials in the EaP country language.



Plant variety rights and topographies of semiconductor products are knowledge domains where consultation was rarely sought by innovators in Armenia previously. However, with the development of digital technologies, experimenting, making designs and prototypes becomes possible even beyond the walls of large R&D institutes. AI, gene engineering and 3D printing with a range of materials can give a rise to a global start-up. The expertise of these types of IPR protection and enforcement may be limited within the country, however, the ecosystem should communicate via innovation infrastructure organisations the basic principles of IP protection in these areas and bridge local innovators with qualified experts abroad. The central IP agency can contribute to the IP support ecosystem as an actor that, along with its core functions, performs the **awareness-raising** about the importance of IP issues among SMEs (advises not only to seek patents but also to undertake regular management of IP assets in conjunction with business strategy). Specific support to innovators and SMEs is to be provided by **specialised** external consultants with deep thematic expertise and practice.

- ❖ **Relevant EU organisations and practices (non-exhaustive list):**
 - [Regular Webinars](#) of the European IPR Helpdesk, an initiative of the European Commission.
 - [IP for Business Series for SMEs of the](#) European IPR Helpdesk is a training that includes a selection of SME case studies published by the EPO, an update on filing strategies and various contributions from local IP and innovation support stakeholders like the national patent offices and the Enterprise Europe Network.
 - [WIPO eLearning centre](#) has a portfolio of courses on IP tailored to different target audiences: inventors and creators, business managers and IP professionals, policy makers and government officials of IP institutions, diplomats, students and teachers of IP and the civil society. Courses combine traditional face-to-face and distance learning methodologies.
 - [WIPO Academy](#) is the “centre of excellence for intellectual property (IP) education and training for WIPO member states, in particular developing countries, least-developed countries (LDCs) and countries in transition”.
 - [Instructions by EPO](#) on IP protection, including steps before applying for a European patent; application procedure; filing and formalities examination; search; publication of the application and provisional protection on the invention in the states designated in the application; substantive examination; the grant of a patent; validation; opposition; limitation / revocation; appeal.
- ❖ **Potential counterparts in Armenia**
 - Armenian IP Office (AIPA);
 - IPR Centre Armenia.

Goal 5. Public support to SMEs

Provide public support in form of grants, vouchers, loans, subsidies for IPR registration, management and enforcement (for example, for consultations on IPR and development of IPR strategy).

- ❖ **What?**
 1. Develop **financial framework for the national innovation ecosystem development** (*including tax reliefs, grants, vouchers, loans, subsidies for SMEs and framework to support IPR-related ecosystem services*), to be used as a basis when considering the introduction of specific financial tools for IPR ecosystem. Development and implementation of the financial framework will benefit from expertise and advice from experienced international experts, including diaspora (i.e. Armenian Bar Association) and its networks. The localization must be done taking into consideration the legislation of RA. In case of some missing points in the RA legislation, develop the appropriate normative acts.
 2. Consider introducing **tax benefits and co-investments scheme for patenting abroad**, complemented with expertise and advice from experienced international experts (for example, see EU practice of [IP boxes/patent boxes taxation regimes for IP](#)). Such team of experts may be compound from diaspora (i.e. Armenian Bar Association) and its networks.
 - a. This co-investment might be done by a dedicated public fund (from the state budget), or be a private-public fund, or a fund established with assistance of international financial organisations (WB, EIB, USAID).
 - b. Co-investments in patenting may be part of the package offering co-investments for business development together with business angels, access to specific infrastructure etc. The advisory council could be sought from the EU/international business angel/patent attorneys/valuation expert communities.



- c. [TAIEX](#) and [TWINNING](#) are the EU support tools that could be supportive in transfer of particular EU tax benefits scheme in the EaP countries by the EU supervision during policy elaboration.
3. Consider introducing the **innovation vouchers for advanced consultations** to be provided to start-ups and innovative SMEs via state support (consultations by accredited patent attorneys, law firms and valuation firms). Seek mentoring of [Business Finland](#) (formerly Tekes) and [Vinnova](#).

❖ **Why?**

Introducing tax benefits and co-investments scheme for patenting abroad could further maintain the presence of Armenian businesses at the EU and US markets, especially if complemented with expertise and advice from experienced international experts.

❖ **Relevant EU organisations (non-exhaustive list):**

- [InnovFin Technology Transfer](#) (**deadline of application is September 2020**) – part of the InnovFin Equity umbrella managed by EIF and targets investments into technology transfer funds operating in the pre-seed (including proof of concept) and seed stages. InnovFin Technology Transfer aims to accelerate technological innovations, especially in the areas of key enabling technologies by maturing technologies, including the promotion of intellectual property (IP) by assigning of or licensing-out intellectual property rights (IPRs) and supporting spin off activities.
- [Vinnova](#), Finland, is funding the [development of IP strategies](#). Applications are accepted from private SMEs; vouchers in amount of SEK 100,000 (about EUR 9,400) are allocated for investigation of the situation in particular company and development of its IP strategy related to business strategy.
- [Business Finland](#) offers innovation voucher funding for SMEs engaged in well-established business, who have a new product or service idea with international growth potential and for which the company needs external expertise. The voucher is valued at €6,200 (€5,000 + VAT) and can be used to purchase e.g. IPR-related research or analyses without the need for self-financing. Innovation vouchers can also be used towards registration services for patents and trademarks.

❖ **Potential counterpart in Armenia**

- Ministry of Finance;
- Ministry of Economy;
- Ministry of High-Tech Industry.



Annex 1. List of organisations and experts consulted during verification process

Organisation	Expert position
Armenian Intellectual Property Agency	Acting Head of Agency Head of Inventions and Utility Models Department
Adwise Law & Business Consulting Firm	Partner
National Assembly	MP and a former practicing advocate
EY Law	Senior Manager

Annex 2. List of stakeholders

	Name of organisation
Regulators	<ul style="list-style-type: none"> • Ministry of High-Tech Industry; • State Revenue Committee; • Ministry of Economy; • Ministry of Finance; • Ministry of Education, Science, Culture and Sport.
National R&D organisations	<ul style="list-style-type: none"> • National Academy of Science; • Foundation for Armenian Science and Technology;
National IP office	<ul style="list-style-type: none"> • Armenian Intellectual Property Agency
IP consulting organisations	<ul style="list-style-type: none"> • Intellectual Property Rights Centre Armenia
	<ul style="list-style-type: none"> • IP Owners Club
	<ul style="list-style-type: none"> • Adwise Law & Business Consulting Firm
	<ul style="list-style-type: none"> • Legelata Law Firm
	<ul style="list-style-type: none"> • AM Law Firm
	<ul style="list-style-type: none"> • Ernst & Young
Business associations	<ul style="list-style-type: none"> • Knyazyan & Partners
	<ul style="list-style-type: none"> • American Chamber of Commerce • Armenian British Chamber of Commerce



Annex 3. Legal framework regulating IPR in Armenia

Laws (20)

Constitution / Basic Law

- [Constitution of the Republic of Armenia \(as amended up to December 6, 2015\)](#) (2015).

Main IP Laws: enacted by the Legislature

- [Law of the Republic of Armenia of December 16, 2016, on Amendments to the Law of the Republic of Armenia on Trademarks](#) (2017);
- [Law of the Republic of Armenia of September 28, 2016, on Amendments to the Law of the Republic of Armenia on Geographical Indications](#) (2016);
- [Law of the Republic of Armenia of September 28, 2016, on Amendments to the Law of the Republic of Armenia on Trademarks](#) (2016);
- [Law of the Republic of Armenia of December 17, 2014, on Amendments to the Law of the Republic of Armenia on Trademarks](#) (2015);
- [Law of the Republic of Armenia of June 15, 2006, on Copyright and Related Rights \(as amended on September 30, 2013\)](#) (2013);
- [Law of the Republic of Armenia of March 18, 2013, on Amendments to the Law of the Republic of Armenia on Copyright and Related Rights](#) (2013);
- [Law of the Republic of Armenia of September 30, 2013, on Amendments to the Law of the Republic of Armenia on Copyright and Related Rights](#) (2013);
- [Law of the Republic of Armenia of May 26, 2011, on Amendments to the Law of the Republic of Armenia on Trademarks](#) (2011);
- [Law of the Republic of Armenia of April 29, 2010, on Geographical Indications](#) (2010);
- [Law of the Republic of Armenia of April 29, 2010, on Trademarks](#) (2010);
- [Law of the Republic of Armenia of June 10, 2008, on Inventions, Utility Models and Industrial Designs](#) (2009);
- [Law of the Republic of Armenia of April 3, 2001, on Amendments to the Law of the Republic of Armenia on Trade Names](#) (2001);
- [Law of the Republic of Armenia of November 23, 1999, on Trade Names](#) (2000);
- [Law of the Republic of Armenia of February 3, 1998, on the Legal Protection of Topographies of Integrated Circuits](#) (1998).

IP-related Laws: enacted by the Legislature

- [Civil Code of the Republic of Armenia of May 5, 1998 \(as amended up to February 20, 2017\)](#) (2017);
- Custom regulation of the Republic of Armenia of 17 December 2014;
- [Law of the Republic of Armenia November 6, 2000, on Protection of Economic Competition \(as amended up to July 1, 2014\)](#) (2014);
- [Criminal Code of the Republic of Armenia of April 18, 2003](#) (2003);
- [Law of the Republic of Armenia of December 27, 2012, on State Duty](#) (1997).

Implementing Rules/Regulations on Intellectual Property (12)

- [Regulation on Filing and Examination of Applications for Registration of Trademark Licenses, and Cancellation or Modification Thereof \(Annex 4 of Decision No. 1538-N of November 18, 2010, as amended by Decision No. 1017-N of August 10, 2017, of the Government of Republic of Armenia\)](#) (2017);
- [Regulation on Filing and Examination of Trademark Applications \(Annex 3 of Decision No. 1538-N of November 18, 2010, as amended by Decision No. 1017-N of August 10, 2017, of the Government of Republic of Armenia\)](#) (2017);
- [Regulation on the Application for Renewal of Trademark Registration and the Examination Thereof \(Annex 5 of Decision No. 1538-N of November 18, 2010, as amended by Decision No. 1017-N of August 10, 2017, of the Government of Republic of Armenia\)](#) (2017);



- [Regulation on the Conversion of Collective Mark Applications into Trademark Applications or Vice Versa \(Annex 2 of Decision No. 1538-N of November 18, 2010, as amended by Decision No. 1017-N of August 10, 2017, of the Government of Republic of Armenia\) \(2017\);](#)
- [Regulation on the Maintenance of the State Register of Trademarks and Provision of the Extracts Therefrom \(Annex 1 of Decision No. 1538-N of November 18, 2010, as amended by Decision No. 1017-N of August 10, 2017, of the Government of Republic of Armenia\) \(2017\);](#)
- [Regulations on Filing and Examination of Applications for Geographical Indications, Appellations of Origin and Traditional Specialities Guaranteed \(2011\);](#)
- [Regulations on the Determination of Secrecy Level of Inventions, Utility Models and Industrial Designs Containing Information on State and Official Secrets, their Use and Publication of Information Thereon \(2010\);](#)
- [List of Information Published in the Official Bulletin of the Intellectual Property Agency under the Ministry of Economy of the Republic of Armenia \(2009\);](#)
- [Regulations on Filing and Examination of Applications for Inventions, Utility Models and Industrial Designs \(2009\);](#)
- [Regulations on Filing and Examination of Oppositions and Appeals to the Board of Appeal of the Intellectual Property Agency under the Ministry of Economy of the Republic of Armenia \(2009\);](#)
- [Statute of the Board of Appeal of the Intellectual Property Agency under the Ministry of Economy of the Republic of Armenia \(2009\);](#)
- [Decision of the Government of the Republic of Armenia of January 7, 2000, on Approval of the Rules for Requesting Permission for Use of Names and Titles of Well-Known Persons as Trade Names and Use of Portraits or Facsimiles of Well-Known Persons as Trademarks \(2000\).](#)

Treaty Membership (88), WIPO-Administered Treaties

- [Patent Law Treaty \(17 September 2013\);](#)
- [Singapore Treaty on the Law of Trademarks \(17 September 2013\);](#)
- [Hague Agreement Concerning the International Registration of Industrial Designs \(13 July 2007\);](#)
- [Locarno Agreement Establishing an International Classification for Industrial Designs \(13 July 2007\);](#)
- [Strasbourg Agreement Concerning the International Patent Classification \(6 December 2005\);](#)
- [Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure \(6 March 2005\);](#)
- [Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks \(6 March 2005\);](#)
- [Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks \(6 March 2005\);](#)
- [WIPO Copyright Treaty \(6 March 2005\);](#)
- [WIPO Performances and Phonograms Treaty \(6 March 2005\);](#)
- [Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms \(31 January 2003\);](#)
- [Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations \(31 January 2003\);](#)
- [Berne Convention for the Protection of Literary and Artistic Works \(19 October 2000\);](#)
- [Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks \(19 October 2000\);](#)
- [Brussels Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite \(13 December 1993\);](#)
- [Convention Establishing the World Intellectual Property Organization \(22 April 1993\);](#)
- [Madrid Agreement Concerning the International Registration of Marks \(25 December 1991\);](#)
- [Paris Convention for the Protection of Industrial Property \(25 December 1991\);](#)
- [Patent Cooperation Treaty \(25 December 1991\).](#)

IP Regional Treaties



- [Agreement on Cooperation in the Area of Legal Protection of Intellectual Property and on Establishment of Interstate Council on Legal Protection of Intellectual Property](#) (24 August 2011);
- [European Convention on Cinematographic Co-Production](#) (1 April 2005);
- [Agreement on the Producing of a Regional Informational Patent Publication on CD-ROM](#) (22 May 2001);
- [Agreement on Mutual Preservation of Inter-State Secrets in the Area of Legal Protection of Inventions](#) (31 January 2000);
- [Agreement on Measures for the Prevention and Repression of the Use of False Trademarks and Geographical Indications](#) (4 June 1999);
- [Agreement on Cooperation in the Repression of Offenses in the Field of Intellectual Property](#) (19 January 1999);
- [Eurasian Patent Convention](#) (27 February 1996);
- [Agreement on Cooperation in the Field of the Protection of Copyright and Neighbouring Rights](#) (12 February 1996);
- [Agreement concerning the Measures of Protection of Industrial Property and Establishing the Interstate Council for the Industrial Property](#) (12 March 1993).

IP-related Multilateral Treaties

- [Council of Europe Convention on the counterfeiting of medical products and similar crimes involving threats to public health](#) (1 June 2016);
- [Convention and Statute on Freedom of Transit](#) (21 August 2013);
- [Convention on Transit Trade of Land-locked States](#) (29 June 2013);
- [Protocol \(III\) additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem](#) (12 February 2012);
- [Protocol to the Agreement on the Importation of Educational, Scientific or Cultural Materials](#) (23 February 2011);
- [Convention on the Rights of Persons with Disabilities](#) (22 October 2010);
- [Agreement on the Importation of Educational, Scientific and Cultural Materials](#) (23 August 2010);
- [United Nations Convention on Contracts for the International Sale of Goods](#) (1 January 2010);
- [International Treaty on Plant Genetic Resources for Food and Agriculture](#) (18 June 2007);
- [Convention on the Protection and Promotion of the Diversity of Cultural Expressions 2005](#) (27 May 2007);
- [Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems](#) (1 February 2007);
- [Convention on Cybercrime](#) (1 February 2007);
- [Convention for the Safeguarding of the Intangible Cultural Heritage](#) (18 August 2006);
- [Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict](#) (18 August 2006);
- [International Plant Protection Convention](#) (9 June 2006);
- [WHO Framework Convention on Tobacco Control](#) (27 February 2005);
- [Kyoto Protocol to the United Nations Framework Convention on Climate Change](#) (16 February 2005);
- [Cartagena Protocol on Biosafety to the Convention on Biological Diversity](#) (29 July 2004);
- [Stockholm Convention on Persistent Organic Pollutants](#) (17 May 2004);
- [Agreement establishing the World Trade Organization \(WTO\)](#) (5 February 2003);
- [World Trade Organization \(WTO\) - Agreement on Trade-Related Aspects of Intellectual Property Rights \(TRIPS Agreement\) \(1994\)](#) (5 February 2003);
- [United Nations Convention on the Law of the Sea](#) (8 January 2003);
- [Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters](#) (30 October 2001);
- [Vienna Convention for the Protection of the Ozone Layer](#) (30 December 1999);



- [Convention on the Recognition and Enforcement of Foreign Arbitral Awards](#) (29 March 1998);
- [United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa](#) (30 September 1997);
- [Convention relating to the Status of Stateless Persons](#) (16 August 1994);
- [United Nations Framework Convention on Climate Change](#) (21 March 1994);
- [International Convention on the Harmonization of Frontier Controls of Goods](#) (8 March 1994);
- [Convention on Biological Diversity](#) (29 December 1993);
- [International Covenant on Economic, Social and Cultural Rights](#) (13 December 1993);
- [Convention \(I\) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field](#) (7 December 1993);
- [Convention \(II\) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea](#) (7 December 1993);
- [Convention \(III\) relative to the Treatment of Prisoners of War](#) (7 December 1993);
- [Convention \(IV\) relative to the Protection of Civilian Persons in Time of War](#) (7 December 1993);
- [Protocol \(I\) Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts](#) (7 December 1993);
- [Protocol \(II\) Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts](#) (7 December 1993);
- [Convention on International Civil Aviation](#) (18 July 1992);
- [Convention concerning the Protection of the World Cultural and Natural Heritage](#) (23 September 1991);
- [Convention for the Protection of Cultural Property in the Event of Armed Conflict](#) (23 September 1991);
- [Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property](#) (23 September 1991);
- [Protocol to the Convention for the Protection of Cultural Property in the Event of Armed Conflict](#) (23 September 1991).

IP-relevant Bilateral Treaties

- [Agreement between the Government of the Republic of Finland and the Government of the Republic of Armenia on the Promotion and Protection of Investments](#) (20 April 2007);
- [Agreement on Educational and Cultural Cooperation between the Government of the United Mexican States and the Government of the Republic of Armenia](#) (16 August 2003);
- [Agreement between the Government of the Republic of Austria and the Government of the Republic of Armenia for the Promotion and Protection of Investments](#) (1 February 2003);
- [Agreement between the Government of the Republic of Lithuania and the Government of the Republic of Armenia on Trade and Economic Cooperation](#) (29 January 2003);
- [Agreement between the Government of the Republic of Armenia and the Government of the Republic of Kazakhstan on Free Trade](#) (25 December 2001);
- [Treaty between the Republic of Armenia and the Federal Republic of Germany concerning the Encouragement and Reciprocal Protection of Investments](#) (4 August 2000);
- [Agreement on Trade and Economic Cooperation between the Government of the Republic of Armenia and the Swiss Federal Council](#) (1 January 2000);
- [Agreement on Cooperation in the Fields of Culture, Education and Science between the Government of the Republic of Cyprus and the Government of the Republic of Armenia](#) (10 August 1999);
- [Agreement between the Government of Canada and the Government of the Republic of Armenia for the Promotion and Protection of Investments](#) (29 March 1999);
- [Agreement on Free Trade between the Government of the Republic of Georgia and the Government of the Republic of Armenia](#) (11 November 1998);
- [Agreement between the Government of the Arab Republic of Egypt and the Government of the Republic of Armenia for the Promotion and Protection of Investments](#) (8 May 1997);
- [Agreement between the Government of the Republic of Armenia and the Government of Turkmenistan on Free Trade](#) (7 July 1996);



- [Treaty between United States of America and the Republic of Armenia concerning the Encouragement and Reciprocal Protection of Investment](#) (29 March 1996);
- [Agreement between the Government of the Republic of Armenia and the Government of the Republic of Moldova on Free Trade](#) (21 December 1995);
- [Agreement between the Republic of Armenia and the Argentina Republic for the Promotion and Reciprocal Protection of Investments](#) (20 December 1994);
- [Agreement between the Government of the Republic of Armenia and the Government of the Russian Federation on Free Trade](#) (25 March 1993);
- [Agreement on Trade Relations between the United States of America and the Republic of Armenia](#) (7 April 1992).

Regional Economic Integration Treaties

- [Treaty on the Customs Code of the Eurasian Economic Union](#) (1 January 2018);
- [Protocol on the Protection of Industrial Designs to the Eurasian Patent Convention](#) (Ratified on 11 May 2020).



Annex 4. Code of Practice for Universities and Other Public Research Organisations Concerning the Management of Intellectual Property in Knowledge Transfer Activities⁴

This Code of Practice consists of three main sets of principles.

The principles for an internal intellectual property (hereinafter IP) policy constitute the basic set of principles which public research organisations should implement in order to effectively manage the intellectual property resulting from their – own or collaborative – activities in the field of research and development.

The principles for a knowledge transfer (hereinafter KT) policy complement those relating to IP policy by focusing more specifically on the active transfer and exploitation of such intellectual property, regardless of whether or not it is protected by IP rights.

The principles for collaborative and contract research are meant to concern all kinds of research activities conducted or funded jointly by a public research organisation and the private sector, including in particular collaborative research (where all parties carry out R&D tasks) and contract research (where R&D is contracted out to a public research organisation by a private company).

Principles for an internal intellectual property policy

- Develop an IP policy as part of the long-term strategy and mission of the public research organisation, and publicise it internally and externally, while establishing a single responsible contact point.
- That policy should provide clear rules for staff and students regarding in particular the disclosure of new ideas with potential commercial interest, the ownership of research results, record keeping, the management of conflicts of interest and engagement with third parties.
- Promote the identification, exploitation and, where appropriate, protection of intellectual property, in line with the strategy and mission of the public research organisation and with a view to maximising socioeconomic benefits. To this end, different strategies may be adopted — possibly differentiated in the respective scientific/technical areas — for instance the ‘public domain’ approach or the ‘open innovation’ approach.
- Provide appropriate incentives to ensure that all relevant staff play an active role in the implementation of the IP policy. Such incentives should not only be of a financial nature but should also promote career progression, by considering intellectual property and knowledge transfer aspects in appraisal procedures, in addition to academic criteria.
- Consider the creation of coherent portfolios of intellectual property by the public research organisation — e.g. in specific technological areas — and, where appropriate, the setting-up of patent/IP pools including intellectual property of other public research organisations. This could ease exploitation, through critical mass and reduced transaction costs for third parties.
- Raise awareness and basic skills regarding intellectual property and knowledge transfer through training actions for students as well as research staff and ensure that the staff responsible for the management of IP/KT have the required skills and receive adequate training.
- Develop and publicise a publication/dissemination policy promoting the broad dissemination of research and development results (e.g. through open access publication), while accepting possible delay where the protection of intellectual property is envisaged, although this should be kept to a minimum.

Principles for a knowledge transfer policy

- In order to promote the use of publicly funded research results and maximise their socioeconomic impact, consider all types of possible exploitation mechanisms (such as licensing or spin-off creation) and all possible exploitation partners (such as spin-offs or existing companies, other public research organisations, investors, or innovation support services or agencies), and select the most appropriate ones.

⁴ Source: [Recommendation 2008/416/EC on the management of intellectual property in knowledge transfer activities and Code of Practice for universities and other public research organisations](#) (OJ L 146, 5.6.2008, pp. 19–24).



- While proactive IP/KT policy may generate additional revenues for the public research organisation, this should not be considered the prime objective.
- Ensure that the public research organisation has access to or possesses professional knowledge transfer services including legal, financial, commercial as well as intellectual property protection and enforcement advisors, in addition to staff with technical background.
- Develop and publicise a licensing policy, in order to harmonise practices within the public research organisation and ensure fairness in all deals. In particular, transfers of ownership of intellectual property owned by the public research organisation and the granting of exclusive licences⁵ should be carefully assessed, especially with respect to non-European third parties. Licences for exploitation purposes should involve adequate compensation, financial or otherwise.
- Develop and publicise a policy for the creation of spin-offs, allowing and encouraging the public research organisation's staff to engage in the creation of spin-offs where appropriate, and clarifying long-term relations between spin-offs and the public research organisation.
- Establish clear principles regarding the sharing of financial returns from knowledge transfer revenues between the public research organisation, the department and the inventors.
- Monitor intellectual property protection and knowledge transfer activities and related achievements and publicise these regularly. The research results of the public research organisation, any related expertise and intellectual property rights should be made more visible to the private sector, in order to promote their exploitation.

Principles regarding collaborative and contract research⁶

- The rules governing collaborative and contract research activities should be compatible with the mission of each party. They should take into account the level of private funding and be in accordance with the objectives of the research activities, in particular to maximise the commercial and socioeconomic impact of the research, to support the public research organisation's objective to attract private research funding, to maintain an intellectual property position that allows further academic and collaborative research, and avoid impeding the dissemination of the R&D results.
- IP-related issues should be clarified at management level and as early as possible in the research project, ideally before it starts. IP-related issues include allocation of the ownership of intellectual property which is generated in the framework of the project (hereinafter foreground), identification of the intellectual property which is possessed by the parties before starting the project (hereinafter background) and which is necessary for project execution or exploitation purposes, access rights⁷ to foreground and background for these purposes, and the sharing of revenues.
- In a collaborative research project, ownership of the foreground should stay with the party that has generated it but can be allocated to the different parties on the basis of a contractual agreement concluded in advance, adequately reflecting the parties' respective interests, tasks and financial or other contributions to the project. In the case of contract research, the foreground generated by the public research organisation is owned by the private sector party. The ownership of background should not be affected by the project.
- Access rights should be clarified by the parties as early as possible in the research project, ideally before it starts. Where necessary for the purpose of conducting the research project, or for the exploitation of foreground of a party, access rights to other parties' foreground and

⁵ With regard to R&D results having several possible application fields, exclusive licences granted without any limitation to a specific field of use should be avoided.

⁶ When a PRO engages in contract or collaborative research with an industrial partner, the Commission will automatically (i.e. without any notification requirement) consider that no indirect State aid is granted to the industrial partner through the PRO if the conditions set out in the Community Framework for State aid for R&D&I ([OJ C 323, 30.12.2006](#), in particular points 3.2.1 and 3.2.2 thereof) are fulfilled.

⁷ Access rights refer to rights granted by the parties to each other, as opposed to licences to third parties. They should determine which parties can use which pieces of foreground/background, for research purposes and/or for exploitation purposes, and on what conditions.



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background should be available, under conditions which should adequately reflect the parties' respective interests, tasks, and financial and other contributions to the project.