

INTELLECTUAL PROPERTY: AN INSTRUMENT TO ACHIEVE THE BUDGET DEFICIT TARGET

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Abstract: *The latest Commission Convergence Report about the progress made by the Member States in fulfilling their obligations regarding the achievement of economic and monetary union highlights that Romania does not fulfil the conditions for the adoption of the euro. Furthermore, Romania is at present the subject of Council Decision on the existence of an excessive deficit. The aim of this paper is to point out the weight of Intellectual Property in achieving economic growth and, consequently, its role in decreasing the national budget deficit. Analysing the information in the field, we conclude that Intellectual Property is a crucial contributor to economic growth and competitiveness, especially in fields of technology.*

Key words: *convergence criteria, intellectual property, economic growth, budget deficit.*

1. Introduction

Nowadays, the euro is not the currency of all EU Member States. Before a Member State can adopt the euro, it must meet certain conditions. These conditions, also known as "convergence criteria" (or "Maastricht criteria"), are formally defined as a set of macroeconomic indicators which include: price stability, to show that inflation is controlled; soundness and sustainability of public finances, through limits on government borrowing and national debt to avoid excessive deficit; exchange-rate stability and long-term interest rates. Besides, the economic convergence criteria are designed to ensure that a Member State's economy is sufficiently prepared for the adoption of the single currency and can integrate

smoothly into the monetary regime of the euro area.

Literature reveals that intellectual property (IP) has an important role in economy. Moreover, IP is regarded as a crucial contributor to economic growth and competitiveness, especially in fields of technology. [3] Based on these considerations, we aim to analyze the issues related to the fulfilment of Romania's budget deficit through the efficient use of IP rights (IPRs), which enhance national economy.

2. Economic Approaches of Intellectual Property Rights

Intellectual property is the primary resource for value creation in almost all industries. It has come to hold a very important status in society and in our lives.

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Furthermore, it is the foundation of enterprises and even industries in general.

Intellectual property, very broadly, refers to the legal rights which result from the intellectual activity in the industrial, scientific, literary and artistic fields. The World Intellectual Property Organization (WIPO) defines IP as creations of the mind which include: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce.

According to Seville (2003), IPRs allow their owners to prohibit third parties from performing various acts. IPRs definitions are complex and subtle. In addition, it is claimed that “the purposes of the different rights are hotly debated, particularly in their details and at their margins, so it is impossible to give a definitive account”. [3]

The importance of IP is well analyzed by many authors and the conclusion is the same: IP is extremely important for the economy.

Idris (2003) describes IP as a “power tool for economic development and wealth creation that is not yet being used to optimal effect in all countries, particularly in the developing world”. Idris Kamil states that IP is “the commercial application of innovation and creativity to improving and enriching our lives – at both the practical and cultural levels”. It is argued that IP is empowering because it supports and rewards creators and innovators, stimulates economic growth, and promotes human resource development. Additionally, it is stated that due to increasing recognition of its economic value, IP is becoming a major element in corporate business management. The research concludes that it is generally agreed that knowledge and innovation have played an important role in the recent economic growth.

Particularly, it is stated that patents can be used to stimulate economic development in four main ways: patent

information facilitates technology transfer and investment; patents encourage research and development (R&D) at universities and research centres; patents are catalysts of new technologies and businesses; businesses accumulate and use patents in licensing, joint ventures, and other revenue-generating transactions. [2]

On the topic of trademarks, the study reveals that trademarks perform a valuable macro-economic function in terms of identifying the origin of products and technologies and thereby fostering accountability to the consumer. They also play a strategic marketing role in individual enterprises.

Regarding geographical indications, it is stated that, like a trademark, a geographical indication communicates a message. It tells potential buyers that a product is produced in a particular place and has certain desirable characteristics that are only found in that place. Geographical indications may be used strategically to promote regional or national enterprises. [2]

According to Seville (2009), the exploitation and protection of IP is a crucial aspect of the EU’s position in the global economy. It is claimed that the Commission has repeatedly emphasised the importance of IPRs, which underpin innovation, employment, competition and thus economic growth. Nevertheless, IPRs have been territorial in nature. In an economic world where trade is frequently international, and more and more commonly global, this fact gives rise to difficulties and conflicts between national systems. Therefore, this engenders efforts towards cooperation and harmonisation at international levels, in an attempt to reduce obstacles to trade, and to increase the general international standard of protection for intellectual property. [3]

Hoorens, S., Hunt, P., et al (2012) claim that IPRs enable creators, businesses and

investors to protect their tangible and intangible products by preventing unauthorized exploitation of their goods or by allowing such exploitation in return for compensation. As a result, proportionate protection of IPRs plays an important role in innovation, creativity and competitiveness, and is considered crucial for building a knowledge economy.

Mainly, the research focuses on IPRs infringements and reveals that IPRs serve both economic and social functions. In its economic function, an IPR provides the rightful holder a competitive advantage by preventing illicit exploitation by third parties. The wider societal benefits of IPRs include access to up-to-date technical information, facilitation of technology transfer and protection of safety standards.

Additionally, it is stated that the production, distribution, storage and sales of products (such as trademarked or patented products) by non-holders of an IPR is an infringement of IPRs legislation. These are commonly referred to as counterfeit and pirated (C&P) products, and they may include music, film, software, medicines, fertilisers, aircraft and car parts, luxury goods (such as bags and watches) and a wide range of other goods. As explained above, IPRs violations are thought to impact industry and government interests.

Furthermore, counterfeit goods may also have an impact on innovation and growth. Illicit businesses draw on legitimate producers' investments in technology, product development, marketing and brand value. [1]

An important research concerning the economic impact of C&P is that of Frontier Economics, *Estimating the Global Economic and Social Impacts of Counterfeiting and Piracy*. It reveals that government efforts, in order to stabilize the economy and stimulate economic growth, trade and employment, must include the

critical and pervasive role that IP protection plays in driving, innovation, development and jobs. Besides, the massive infiltration of counterfeit and pirated products creates an enormous drain on the global economy – crowding out billions in legitimate economic activity and facilitating an ‘underground economy’ that deprives governments of revenues for vital public services, forces higher burdens on tax payers, dislocates hundreds of thousands of legitimate jobs and exposes consumers to dangerous and ineffective products. [6]

3. European Union Perspective and National Perspective on Intellectual Property Rights

In what follows, we will try to present some ideas on the two IPRs strategies: from the European Union perspective and from a national perspective.

3.1. EU perspective

The abolition of trade borders in Europe does not mean less protection for the rights of consumers and businesses. The four freedoms of movement – of goods, services, people and capital – are underpinned by a range of supporting policies aimed at fighting illegal activities, fostering legitimate trade and protecting the interests of individuals and companies. [7]

When it is about the IP subject, the European Commission is very preoccupied. The European Commission has published a study called “A Single Market for Intellectual Property Rights - Boosting creativity and innovation to provide economic growth, high quality jobs and first class products and services in Europe”, which highlights the role of IPRs.

On the one hand, the study emphasizes that a modern, integrated European IPRs regime will make a major contribution to growth, sustainable job creation and to the competitiveness of our economy – key objectives of the EU 2020 agenda and the

Annual Growth Survey which are essential to sustain the EU's recovery from the economic and financial crisis. Moreover, it will enable the development of sectors such as e-commerce and digital industries which offer the greatest potential for future growth. Innovation not only helps the European economy to flourish. [5]

On the other hand, the study reveals that one of the major objectives of the European Commission is the fight against counterfeiting and piracy. It is stated that products and services based on IPRs can be difficult and expensive to create but cheap to replicate and reproduce. Furthermore, organised and large-scale infringement of IPRs has become a global phenomenon and is causing worldwide concern. Moreover, infringers of IPRs deprive EU creators of appropriate rewards, create barriers to innovation, harm competitiveness, destroy jobs, decrease public finances and possibly threaten the health and safety of EU citizens. Counterfeiting also generates large profits for organized crime groups and distorts the internal market by encouraging illicit practices within businesses. [5]

Furthermore, the European Commission argues that property, whether tangible or not, is crucial to the operation of a market economy. Industrial property rights such as patents, designs and plant variety rights give an incentive to produce new inventions and other innovations by awarding an exclusive right for a limited period. Such industrial property rights facilitate the entry of newcomers to a market by helping to attract venture capital and enabling production to be licensed to incumbents. Moreover, trademark rights are essential for a system of undistorted competition, allowing the customer to distinguish the products and services of undertakings. [4]

According to the European Commission, IPRs have been established to ensure that creative and inventive efforts are rewarded and that investments in new and more efficient products are encouraged. They greatly stimulate the creation of jobs in today's knowledge-based economy. Furthermore, infringements of IPRs are a widespread and worrying phenomenon.

On the one hand, IPRs infringements are harmful as they reduce business and government revenues, stifle investment and innovation and hinder economic growth. They result in job losses and reduced wealth creation (Gross Domestic Product or GDP). On the other hand, IPRs infringing goods risk harming consumers, as they are less likely than others to be manufactured in compliance with health and safety standards.

3.2. Romanian perspective

In general, the national point of view regarding IPRs concurs with EU perspective. Thus, according to the National Strategy on Intellectual Property in the period 2012-2015, IP is regarded as a powerful tool for development and economic welfare, social and cultural development of a country. In this context, it is stated that the protection of IPRs is of great importance, the essence, the goal and purpose is to protect the product of human intelligence and at the same time to ensure that consumers make use of this product.

The R&D and innovation activity, which is a crucial strategic component for the national economic development and social progress, is closely related to intellectual property. Therefore, science, technology and innovation are areas that consistently generate technological progress, guaranteeing a sustainable future development and economic competitiveness. However, innovation and technology transfer are solutions to economic problems and to the permanent renewal of the necessary technology.

At the present time, the Romanian legislation regarding IP was reviewed for full compliance with EU legal acts and international treaties in the field. As a result, Romania has a complex IP law, covering all areas, consistent with the regulations of the EU and complying with treaties and conventions in the field.

In Romania, IP protection is achieved by two main specialized institutions: the State Office for Inventions and Trademarks (OSIM) and the Romanian Copyright Office (ORDA). Furthermore, the enforcement of IPRs represents the responsibility of many public institutions and the vast number of institutions implied in IP protection underlines that IPRs are of great importance for Romania and particularly for its economy.

At national level, the trade in IPRs infringing goods affects companies in different ways. First of all, the lower demand for legitimate goods and services resulting from illicit trade reduces business revenues and creates a competitive advantage for those enterprises that free-ride on the R&D investments to the detriment of the right-holders. Secondly, affected companies incur additional costs for conducting investigations and litigation to protect their IPRs against infringement. Finally, the production and sale of counterfeit products may damage the reputation of the trademarks concerned, inasmuch as those products are defective and/or harmful. This problem is particularly acute for small and medium-sized enterprises.

Moreover, concerning consumers, it is claimed that they can be the victims of deceptive practices when they are sold a fake instead of a genuine product. The quality of the products may be inferior, making them unusable or ineffective. IPRs infringing products may also be harmful to consumers, as they are often produced

without due regard to the health and safety standards applicable on the EU market.

Furthermore, it is well known that the decline in the sales and profits of the companies whose products are copied finally results in job losses. Moreover, the illegal firms that produce counterfeit and pirated goods may not comply with labour legislation.

Finally, IPRs infringements affect society at large. The generalised infringement of IPRs discourages research and innovation, thus making it more difficult and economically unattractive to find a solution to some of the most pressing challenges faced by modern societies. Additionally, public revenues are affected by unpaid duties and taxes. Last but not least, IPRs infringing activities are often carried out by criminal organisations using the profits to finance other illegal activities, thus threatening public security.

Certainly, the impact of IPRs on the national economy is huge. Affecting business, consumers, job holders and job seekers and society at large, it can be claimed that IPRs infringements affect the budget of a state and, particularly, Romania's budget. In 2012, the National Authority of Customs published some newsletters regarding its activity. Accordingly, in the first 11 months of the year, over 4 million of the items which infringe IPRs were detained, their value being estimated to be around € 13.5 million.

As a result, dealing with IPRs infringing goods is the responsibility of everyone and it is a serious problem for each person. Seen as a tool for economic growth, IPRs should be of interest to each government in order to reduce budget deficit. Furthermore, government efforts to strengthen IP enforcement regimes can more appropriately be considered as investments that pay tangible dividends to economic development and society. [6]

4. Conclusions

Intellectual property represents the legal rights which result from intellectual activity in the industrial, scientific, literary and artistic fields. Therefore, we decided to highlight only a few issues concerning the economic role of IPRs.

Consequently, the main conclusions we can draw from our approach are:

(1) IPRs have a great value for the entire economy, as many authors concluded. Consequently, IP is seen as a power tool for economic development.

(2) The exploitation and protection of IP is a crucial aspect of the EU's position in the global economy. From its point of view, IPRs underpin innovation, employment, competition and thus economic growth.

(3) IPRs also have social functions, which include access to up-to-date technical information, facilitation of technology transfer and protection of safety standards.

(4) IPRs violations are thought to impact industry and government interests. Particularly, counterfeit and pirated goods have an impact on innovation and growth. Furthermore, C&P deprives governments of important revenues.

(5) The fight against C&P is one of the major objectives of the European Commission.

(6) IPRs are considered very important for the Romanian economy. Romanian strategy on IP concurs almost in all parts with that of the EU.

(7) At national level, the impact of IPRs on economy is substantial. IPRs infringements affect business, consumers, job holders, job seekers and society at large. As a result, dealing with IPRs

infringing goods is a serious problem for everyone.

(8) Regarded as extremely important for economic growth, IPRs should be of interest to each government in order to decrease the budget deficit.

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