



# **Multi-country workshop for patent offices and innovation policy makers from the European Neighbouring Countries**

INNOVATION POLICIES AND PATENT SYSTEMS  
INT MARKT 45926

organized in cooperation with the EPO

## **Proceedings**

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**Table of content\_Toc309808923**

Programme .....	4
Proceedings Day 1 .....	7
1. Opening session .....	7
2. Session 1: Patents, innovation and economic growth.....	7
3. Session 2: The contribution of the national patent offices to the national innovation policies.....	8
3.1. Best practices of the Czech Republic in supporting innovation .....	8
3.2. Bringing IP expertise to SMEs, the IP pre-diagnosis .....	9
3.3. Strengthening the national patent attorney profession: training and examination in Bulgaria .....	10
3.4. From "Patent Review Sites" to "Patent Information Centres" .....	10
3.5. The example of Ukraine .....	11
3.6. The example of Morocco .....	12
4. Session 3: Patent system(s) and patent office(s) .....	12
4.1. The French patent system: how national (FR), regional (EP) and international (WO) applications are processed .....	13
4.2. The benefit of regional co-operation: bundling competences for an overall increased efficiency: the business case of Tunisia.....	13
4.3. Regional co-operation on patents in the EU Neighbourhood: the validation of EP patents as a contribution to the national innovation .....	14
4.4. Economical and Legal impact of regional co-operation : national sovereignty, EU association .....	15
4.5. Republic of Moldova: The Evolution of the National Patent System .....	16
5. Session 4: Conclusions and perspectives .....	16
Proceedings Day 2: Round table .....	17
1. Study on effects of the European patent extension in Republic of Moldova .....	17
2. Algeria: Patents and innovation .....	17
3. Armenia: the innovation strategy .....	18
4. Azerbaijan.....	18
5. Belarus .....	18
6. Georgia.....	18
7. Israel.....	18
8. Jordan.....	19
9. Moldova: the national innovation strategy.....	19
10. Morocco .....	19
11. Palestinian Territory .....	20
12. Tunisia .....	20
13. Ukraine.....	20
Annex 1: Addresses and presentations .....	22
Annex 2: List of participants.....	23

**Aim of the meeting :**

The workshop aims at highlighting how national patent offices can practically take concrete action targeting a direct support to innovation strategies. It will address certain features of the national patent systems and propose possible strategic directions which could potentially increase its value for innovation. The workshop will also suggest how regional co-operation with the EPO can contribute to these efforts.

**This meeting is being organised by the  
Technical Assistance Information Exchange Instrument  
of the European Commission**

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## Programme

### Day 1 – Tuesday October 25, 2011

	Registration of participants
08.30	
09.00 - 09.30	Welcome allocution <i>Ms Lilia Bolocan, Director General, State Agency on Intellectual Property of the Republic of Moldova (AGEPI)</i>
	Welcome <i>Mr Valentín Mir, Director International Co-operation, European Patent Office</i>
	Short presentation of TAIEX and organisational issues <i>Mr Pascal Phlix, European Patent Office</i>

#### Session 1: Introductory session

*Objective of the session: to introduce the workshop in highlighting the impact of a patent system on national innovation.*

09.30-10.00	Patents, innovation and economic growth <i>Mr Nikolaus Thumm, Chief economist, European Patent Office</i>
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#### Session 2: The contribution of the national patent offices to the national innovation policies

*Objective of the session: to illustrate through concrete examples how national patent offices can play an active role in supporting national innovation. Speakers will each present a concrete activity and detail the corresponding resources that are involved within the patent office.*

10.00-10.20	Valorising R&D at universities: synergy university - patent office <ul style="list-style-type: none"><li><i>Ms Radka Stupkova, Head of Legal Department, Czech Patent and Trademark Office (Czech Republic)</i></li></ul>
10.20-10.40	Bringing IP expertise to SMEs. the IP pre-diagnosis <ul style="list-style-type: none"><li><i>Ms Céline Mathevet, Deputy Head of Regional Agency Rhône Alpes, National Institute for Industrial Property (INPI), France</i></li></ul>
10.40-11.00	Strengthening the national patent attorney profession: training and examination <ul style="list-style-type: none"><li><i>Ms Zdravka Gyozielva, Head, Central Patent Library, Information &amp; Documentation Department, Bulgarian Patent Office (Bulgaria)</i></li></ul>
11.00-11.20	Coffee break
11.20-11.40	Providing patent innovation and turning it into an asset for innovation: from "Patent Information Centres" to "Innovation Information Centres" <ul style="list-style-type: none"><li><i>Mr Roger Hildebrandt, Senior Expert in Section "Co-operation with Patent Information Centres and other institutions", German patent and Trademark Office (Germany)</i></li></ul>

- 11.40-12.20 Initiatives in the European Neighbourhood
- The example of Ukraine  
*Ms. Lyubov Morozova, Head, Division of Innovations, Ukrainian Industrial Property Institute, "Ukrainian Center of Innovations and Patent Information Services" (Ukraine);*
  - The example of Morocco,  
*Mr Moncef Elafia, Head of the patent department, Moroccan Office for Industrial and Commercial Property (OMPIC), Morocco*

12.20-12.45 Conclusion of session 2

12.45-13.30 Lunch break

### Session 3: Patent system(s) and patent office(s)

*Objective of the session. to analyse the conditions that are favourable for a small to medium sized national patent office to become an active actor of the national innovation system.*

- 13.30-13.50 The French patent system: how national (FR), regional (EP) and international (WO) applications are processed
- *Ms Céline Mathevet, Deputy Head of Regional Agency Rhône Alpes, National Institute for Industrial Property (INPI), France*
- 13.50-14.10 The benefits of regional co-operation: bundling competences for an overall increased efficiency: the business case of Tunisia
- *Mr Nafaa Boutiti, Head of Patent Division, National Institute for Normalisation and Industrial Property (INNORPI), Tunisia*
- 14.10-14.30 Regional co-operation on patents in the EU Neighbourhood: the validation of EP patents as a contribution to the national innovation
- *Mr Pascal Phlix, European Patent Office*
- 14.30-14.50 Economical and legal impact of regional co-operation: national sovereignty, EU association
- *Mr Adil Elmaliki, General Director, OMPIC (Morocco)*
- 14.50-15.10 Coffee break
- 15.10-15:30 The evolution of the patent system in Moldova
- *Ms Liliana Vieru, Deputy Director of the IP Promotion and Publishing Department, Head of the International Cooperation and European Integration Division, State Agency on Intellectual Property (AGEPI) of the Republic of Moldova (Moldova)*

### Session 4: Conclusions and perspectives

- 15.30-15.40 Findings of the previous sessions,  
*Mr Pascal Phlix, European Patent Office*
- 15.40-16.30 Round table discussion and questions

16.30-16.45 Conclusion of the first day, perspectives

*Evening Dinner hosted by the EPO*

## Day 2– Wednesday October 26,2011

08.30 Registration of participants

### Session 5: National perspectives

Objective of the session: fact finding session.

09.00-10.30 Each delegation is invited to present (10-15 minutes)

- the main features of the national innovation strategy (mid term, long term objectives and structure),
- the status quo of the involvement of the national patent office in the implementation of the national innovation strategy in specific projects,
- the developments that are foreseen or that would be necessary in the patent system and at the patent office for a more efficient support of the patent system to the national innovation.

*animated by host country and EPO.*

*Coffee break*

10.30-12.00 Continuation of round table

12.00-12.30 General conclusions and final round table  
*animated by host country and EPO*

End of event

## Proceedings Day 1

### 1. OPENING SESSION

**Ms Lilia Bolocan, Director General of the State Agency on Intellectual property of the Republic of Moldova (AGEPI)**, welcomes the participants and thanks the organisers, the EEAS, TAIEX and the EPO for having organised the seminar in Chisinau. Ms Bolocan presents an overview of the evolution of the IP framework during the last 20 years and underlines the significance of the European Neighbourhood Policy for Moldova.

**Mr Valentin Mir, Director International Co-operation at the European Patent Office (EPO)**, expresses his gratitude to the EEAS and to TAIEX for the organisation of the workshop, as well as to the AGEPI and to the Moldovan Authorities for the support in delivering visas upon arrival.

Mr Mir presents the questions to be addressed by the seminar in a strategic perspective: while the impact of the patent system on the economic development is nowadays an established economic fact, Mr Mir underlines that both the quality of the granted patents and the overall efficiency of the national and of the global patent systems are important factors to be taken into consideration when evaluating a patent system: can any national patent office afford to develop a sound examination system while developing the necessary innovation supporting services? This is in particular true in countries where the patent offices are confronted with a lack of human and technical resources, but this is also a reality for larger patent offices, as demonstrated by the development of the technical partnership between the EPO and its partners within the IP 5 .

**Mr Ghenadie Cernei, Director General of the Moldovan Agency for Innovation and Technology Transfer**, briefly presents the Agency and wishes also a warm welcome to the participants, wishing that the workshop will facilitate the exchange of best practices between the countries represented.

In conclusion to the opening session, **Mr Pascal Phlix, responsible at the EPO for European Neighbourhood, Arab and African Countries**, presents the services offered by TAIEX: participating countries, areas of intervention, beneficiary groups, main forms of assistance, types of expertise funded by TAIEX, activation and application mechanisms. The flexibility offered by the TAIEX instrument is underlined, in particular the very short delay between request time and event organisation (6 to 10 weeks, depending on the size of the event). Mr Phlix encourages the participants to make use of the services offered by TAIEX, in particular for the organisation of short term expert missions to the beneficiary institutions or study visits to comparable European institutions. Mr Phlix underlines the complementarities existing between this assistance framework and less flexible frameworks such as annual / multi-annual technical assistance programmes.

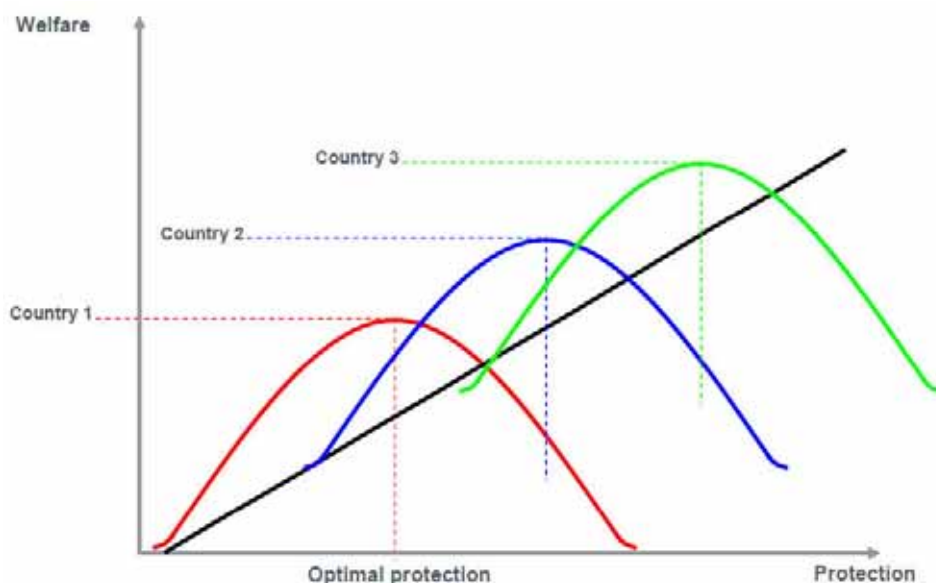
### 2. SESSION 1: PATENTS, INNOVATION AND ECONOMIC GROWTH

In his presentation on “Patents, Innovation and Economic Growth”, **Mr Thumm, Chief Economist at the EPO**, underlines many key aspects that should be envisaged when assessing the impact of the national patent system on economy, in order to design the adequate national patent system:

- a) The globalization of the patent system in general: subsequent PCT national Phase entries represent nowadays almost 45% of the total number of filings;
- b) The importance of a deep coordination between the national patent office and the other (numerous) actors in the innovation area;
- c) The key role of the SMEs in the development of an innovation based economy;

- d) The necessity to develop the national policies that would create the conditions for the IP system to fully play its economic role (example: policy to raise the IP awareness of SMEs); also internationally, the impact of policies on patenting behaviours is noticeable (“Kyoto effect”: licensing of green technologies)

Mr Thumm concludes his presentation underlining that the necessary patent protection for a certain country at a certain moment in time is also a policy matter: is more or less patent protection necessary? (example given of the biotech area in Switzerland, where a too high number of patents in that area does not serve the R&D community). A regular assessment of the type of protection needed is necessary (example: full examination, registration; etc.) and has to be reflected in a corresponding national policy.



### 3. SESSION 2: THE CONTRIBUTION OF THE NATIONAL PATENT OFFICES TO THE NATIONAL INNOVATION POLICIES

All the presentations given during this session show the importance for national patent offices to dispose of a core team of experts in the fields of industrial property: the information or education services developed greatly rely on these competences. Similarly, the provision of tools, in particular in the form of databases, is essential.

The presentations also underline the importance of national policies that define the proper framework to supporting activities: IP – pre-diagnosis as one measure targeting SMEs, decision regarding the level of patent protection in Morocco, set-up of a patent representative profession in Bulgaria, etc.

Finally, the concentration of knowledge at the national patent or IP authorities needs to be complemented by a national network of partners: the PIT in Germany, the TISC network in Morocco, the partners of the French INPI to conduct IP pre-diagnosis in the regions, etc.

#### 3.1. BEST PRACTICES OF THE CZECH REPUBLIC IN SUPPORTING INNOVATION

**Ms Radka Stupkova, Head of the Legal Department at the Czech Industrial Property Office,** presents a comprehensive list of measures implemented by the Industrial Property Office to support national innovation. The Czech Office employs 200 staff members and has a long record of history. The richness of these services greatly relies on the history of this office.



Two types of services are developed by the Czech Office:

- **Information services:** the employees of the Office are trained to deliver information services to the public, regarding technical or legal information linked to IP rights, either in a classical form or via databases; to provide patents / TM search services; to participate to awareness raising campaign based on documentation developed by the Office.  
To be noted a database of IPR cases and the “Technological Profile of the Czech republic, that is a database of innovation potential and of contacts of co-operation in innovation activities;
- **Education services:** the Czech Office concentrates its education programmes on the Industrial Property Training Institute that offers a 2 years training programme on IP; deeply co-operates with the Metropolitan University Prague in the development of curricula on IP, the staff of the IPO being teachers at the university; organises workshops and seminars on IP, in co-operation with Czech and external partners;

In the Czech Republic, the innovation is driven essentially by :

- the Ministry of Education, Youth and Sports, that is the central administrative office for scientific research (marketing support for engineering / scientific studies; it promotes scientific research and engineering; organises scientific contest for primary school pupils and high-school students; promotes abroad the Czech R&D to facilitate international networking; as and by the Ministry of Industry and Trade.
- The Ministry of Industry and Trade, that develops the national innovation policy and integrates the Czech innovation into the EU initiative “Innovation Union”. The Agency CzechInvest, created by the Ministry, focuses its activities on the development of FDI, acts a facilitator for Czech SMEs regarding the EU funded programmes (structural funds). The number of R&D projects funded via the mechanisms offered by the Ministry amounted 84 in 2010.

### 3.2. BRINGING IP EXPERTISE TO SMES, THE IP PRE-DIAGNOSIS

**Ms Céline Mathevet, Deputy Head of Regional Agency Rhône Alpes, INPI (France)**, presents the IP pre-diagnosis, that is a personal and confidential evaluation methodology offered to SMEs to assess the IP assets. Conducted by experts from the INPI or by experts from national partners trained to the methodology by INPI, the IP pre-diagnosis is financially funded by INPI (1500€ per pre-diagnosis). Over 5600 SMEs benefited from this measure since 2004: 95% of these companies would recommend the approach to other companies, 43 % of these companies have applied for an industrial property right after the pre-diagnosis, 60% have taken action in the field of IP and 73 % intend to apply for an IP right.

The pre-diagnosis are offered to SMEs with less than 1000 employees and that have not applied for a patent during the last 5 years. Technology incubators and public R&D centres can also apply for a pre-diagnosis.

The pre-diagnosis approach results from a study carried out by INPI in 2007 that showed that, among the SMEs that filed at least one patent application, 88% of them filed only one. SMEs generally consider IP as being expensive, complicated and “reserved” for high tech fields.

The systematic implementation of the methodology is therefore a policy measure and accompanies other policy measures such as the reduction by 50% of the main patent fees for companies with less than 1000 employees and the ratification of the London Protocol regarding the language regime of patents.

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The pre-diagnosis methodology underlines the importance of policy measures in the field of IP and also the importance of national networking between the patent office and its partners.

### **3.3. STRENGTHENING THE NATIONAL PATENT ATTORNEY PROFESSION: TRAINING AND EXAMINATION IN BULGARIA**

**Ms Zdravka Gyoziieva, Head, Central Patent Library, Information and Documentation Department, Patent Office of the Republic of Bulgaria**, introduces her presentation in explaining that the central role of the Bulgarian Patent Office (BPO) in education and training in the field of IP is based on the fact that the BPO staff are the national experts in the field.

The legal framework embraces the Law on Patents and Utility Models Registration, the Regulations on the Industrial Property Representatives and the Instructions on the Training, Examination and Registration of the Industrial Property Representatives.

The training for Industrial Property Representatives has been organised at least once a year and is subject to the payment of a fee. It comprises 2 modules on patents / utility models and trade marks / geographical indications / industrial designs, volume: 150 hours over 5 weeks. BPO staff participate as trainers.

The examination has two phases: written and oral.

25-30% of the candidates pass successfully the exam.

Since 1993, the BPO maintains the register of the industrial property representatives that comprises 394 names (by the end of July 2011)

This profession is essential and acts as an interface between the applicants or potential applicants and the Office. The role of IP representatives goes beyond the simple administrative support before the BPO and is essential in view of the increase of the quality of the filed applications. However, applicants cannot always afford the services of an IP representative. This situation could advantageously be addressed by specific policy measures.

### **3.4. FROM "PATENT REVIEW SITES" TO "PATENT INFORMATION CENTRES"**

One duty of the German Patent and Trademark Office (DPMA) is providing information to the public about industrial property rights. **Mr Roger A. Hildebrandt, Senior expert in section "Co-operation with Patent Information Centres and other Institutions", DPMA**, explains the regional / national complementarities existing between the national German Patent and Trade Mark Office and the 23 regional Patent Information Centres (PIZ) This collaboration is in particular due to the Federal structure of Germany, where the "Federal States" are responsible for business promotion, including information about Industrial Property Rights..

The Technical Information Centre Berlin at DPMA acts as the national co-ordinator of the PIZ network and supports and assists the PIZ, among other, with training and exclusive access to data bases wherefore the PIZ warrant the public access to IP documents and technical literature in the field of Intellectual Property Rights in the regions (one stop shop for IPR related information (Patent, Trade Mark, Utility Model, Design). The basis of this collaboration is a cooperation contract between DPMA and PIZ which comprises unique requirements for the partners such as service quality and quantity, reporting duties, etc.

Each PIZ is managed in an independent manner and does not receive any financial means from DPMA. Instead, the PIZ use various co-funding sources, most of all fees for their offered services as well as federal grants and European Structural Funds.

In the last decades the PIZ changed from mere information providers to innovation promoters through many new "ad on services" such as assistance in search and usage of the libraries,

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collaboration and networking with other Patent Information Centres (PATLIB centres) and more and better technical equipment. Worth to be noted as good practice is a free 30 minutes consultation for inventors through patent attorneys and a focus on patent management and enforcement issues.

Therewith the PIZ are important drivers for the diffusion of information in the regions and play an important role in the national innovation strategy when it comes to the fostering of SME capacities in the IPR field. To fulfil this job in a proper way, research shows that the qualification of the employees is the key factor whereas costs for the offered services are less significant..

### **3.5. THE EXAMPLE OF UKRAINE**

**Ms Lyubov Morozova, Head, Division of Innovations, Ukrainian Industrial Property Institute, Ukrainian Center of Innovations and Patent Information Services**, presents the support to innovation that is provided by the Ukrainian National IP Authority.

The Center was created in 2001 as a branch office of the Ukrainian Institute of Industrial Property State Enterprise. Its mission: informational support and organizational assistance for innovative business. The staff of the Center is made of experts and intellectual property professionals: knowledge, experience and corporate standing represent highly estimated and trusted values by the clients.

The objectives of the centre are:

- Assistance in the field of inventive activities, especially for young people:
  - Building up, presentation and support of the Workshop of Ideas website;
  - Cooperation with Centers of Creative Youth;
  - Background work for young inventors to participate in WIPO contests;
  - Young inventors' encouragement for participation in the Invention of the Year Contest.
- Rendering of full range of patent information services including:
  - Consulting, researches, analytical surveys etc.;
  - Providing consultations concerning all intellectual property issues;
  - Performing of work package to file a national application for any IPR subject matter;
  - Performing of patent researches;
  - Performing of informational searches;
  - Digital patent library services;
  - Publishing of information products on CD;
- Assistance in establishing partnership for commercializing of IPR subject matters and technology transfer:
  - Establishing of partnership with local and foreign innovative organizations;
  - Support of Perspective Inventions of Ukraine website;
  - Provision of Internet-based Industrial Property Exchange functioning;
  - Presentation of IPR subject matters for investors, manufacturers and businessmen;
  - Negotiation process organization, respective contracts drafting;
- Organization of various events to promote the best inventions, for IPR issues coverage and sharing of experience between IP professionals. Popularization of principles and fundamentals of IP.
  - Operating as Organizing Committee of Actual Problems of Intellectual Property international scientific and practical Conference;
  - Carrying out of educational workshops;

- Operating as Organizing Committee of national Invention of the Year annual contest;
- Participation in Invention and Innovations exposition events;
- Operating as Organizing Committee of national Create, Realize, Acquire placard contest for young artists;
- Preparation of IP popularization publications;
- Assistance in the process of extrajudicial conflict settlement in the IP sphere;
  - Definition of the matter of conflict and its elucidation to the conflicted parties;
  - Conflicted parties assistance in the process of selection and appointment of a conflict moderator/mediator;
  - Participation in the negotiation process to ensure the effectiveness of mediation proceedings.

### 3.6. THE EXAMPLE OF MOROCCO

The Moroccan Office for Industrial and Commercial Property (OMPIC) is managed on the basis of strategic development plans that are intended to facilitate OMPIC to fully play its role as a national actor of the economic development.

**Mr Moncef El Afia, Head of the Patent Department**, explains the evolution of the patent system over the last 5 years. The current law (17/97), also in compliance with TRIPS, does not foresee any kind of examination of the application by OMPIC. OMPIC took the strategic decision to introduce a systematic search report accompanied by a preliminary examination report within 9 months after filing in Morocco. This new system will offer the possibility for the applicant to amend the claims and for third parties to file observations.

Considering the numerous education and information activities to which the OMPIC examiners participate, it was necessary for OMPIC to find a way to compensate for the increased volume of work to this preliminary examination without increasing the number of examiners in a non reasonable manner. The solution was seen in the systematic validation of the patents examined and granted by the EPO.

As 80% of the patent filed with OMPIC are also filed with the EPO (globalization of the patent system) the validation system offers to OMPIC the opportunity to concentrate its resources to the pre-examination of applications filed directly in Morocco by Moroccan applicants.

This is the most direct contribution of the OMPIC to the national innovation strategy of Morocco that aims at introducing in the Kingdom a knowledge based society. The OMPIC further delivers education and information services, that are based on one hand on its IPR databases and on the other hand on the regional focal points (TISC) developed by OMPIC. The OMPIC, like the DPMA on Germany, is therefore the co-ordinator of various innovation supporting activities.

The global Moroccan innovation strategy relies on a systematic development of all the resources and capacities that should play a role in the growth of innovation in the country: infrastructure, funding, human policy, but also importation of specific technologies through licensing and invitation of foreign researchers.

## 4. SESSION 3: PATENT SYSTEM(S) AND PATENT OFFICE(S)

The presentations of the session show that co-operation with a regional office like the EPO offers flexibilities to national patent offices (that are members of the regional Organisation or not) to focus their precious and specialised resources on a direct support to the national innovation. The basic principle behind such strategies is that the examination work done by the EPO (examination of foreign patent applications, that represent in average 80% of the filings in the European

Multi-country workshop for patent offices and innovation policy makers from the European Neighbouring Countries: Innovation policies and patent systems

Neighbouring Countries, but also search and preliminary reports in the case of France) is not repeated by the national offices.

#### **4.1. THE FRENCH PATENT SYSTEM: HOW NATIONAL (FR), REGIONAL (EP) AND INTERNATIONAL (WO) APPLICATIONS ARE PROCESSED**

**Ms Céline Mathevet** presents the French patenting context. INPI France receives 16 500 patent application (first filings) a year and employs around 80 examiners, active in 4 technological clusters, and 40 administrative staff.

Within 5 months after filing (first filings), INPI forwards the application to the EPO that carries out a search report and a complete preliminary examination opinion. This opinion is intended to facilitate the decision of the applicant to continue her / his application with a PCT procedure. The preliminary search report with opinion, drawn up by the EPO, are sent to the applicant within 6 to 9 months after filing. The applicant is given a 3-month time limit to reply to this report, to modify the claims. Upon the applicant's reply, INPI draws the final search report and grants the patent or refuses the application. While the inventive step is considered in the final search report, it is not taken into consideration by INPI in its decision to grant / refuse the application. .

The national procedure can therefore be seen as a preparation for the international (PCT or EP) procedure, should the applicant decide to go for this procedure (40% of Fr application are extended to EP procedure). In this context, substantial savings take place, the EPO being the administration in charge of national (FR) search, international (PCT) search and regional (EP) search / examination for the same priority. It is therefore a strategic decision of INPI to have only one international search authority (ISA). The co-operation with the EPO at this level ensures also a high degree of quality to the French procedure.

The technical workload on the INPI regarding PCT and EP application is reduced to the formality examination and to the national defence examination (like any FR application) upon filing. On a total of 9000 EP applications and 7000 PCT applications each year filed by French applicants, 2500 EP applications and 3800 PCT applications are filed yearly through INPI.

Through his regional co-operation model with the EPO, the INPI can ensure a fast procedure, a high quality with a modest structure of examiners.

#### **4.2. THE BENEFIT OF REGIONAL CO-OPERATION: BUNDLING COMPETENCES FOR AN OVERALL INCREASED EFFICIENCY: THE BUSINESS CASE OF TUNISIA**

The Tunisian National Institute for Normalisation and Industrial Property (INNORPI) is developing a comprehensive strategic plan to fully play its role in the national the national economy that is being more and more based on technological development, including R&D and industry.

**Mr Nefaa Boutiti, Head of the Patent Sector at INNORPI**, present the five pillars of this strategic development:

- Legal framework: law and procedure;
- Human resources (at INNORPI);
- Material and technical resources;
- Actions to support innovation;
- Promotion of the role of the INNORPI.

A comprehensive co-operation and partnership with the EPO will enable to tackle a certain number of these issues:

Multi-country workshop for patent offices and innovation policy makers from the European Neighbouring Countries: Innovation policies and patent systems

- The introduction of the validation system for EP applications and patents, that represent 80% of all the filings in Tunisia, will permit the introduction of a new patent system offering more legal certainty than the current registration system: introduction of the systematic search report with preliminary opinion, drawn up by INNORPI examiners;
- The co-operation with the EPO will cover the legal support for the introduction of the validation system, the development of the human resources that are necessary for processing the Tunisian first filings only, as well as the introduction at INNORPI of the necessary tools and procedures, including the training of the examining staff;
- The exchange of modules with the European Patent Academy of the EPO will enable the INNORPI to speed up the operational start of the Tunisian Academy for Intellectual Property focusing its first activities on a core of proven training and educational programmes.

In parallel, the INNORPI will develop core competences regarding particular innovation support activities, such as technology transfer offices and TISC network.

#### **4.3. REGIONAL CO-OPERATION ON PATENTS IN THE EU NEIGHBOURHOOD: THE VALIDATION OF EP PATENTS AS A CONTRIBUTION TO THE NATIONAL INNOVATION**

The European Patent System consists in a unique procedure from filing of the application to grant of the patent, including search, examination, opposition and appeal procedures. The European patents resulting from this procedure are in fact a bundle of national patents for each designated state (today up to 40 European States), that after grant enter the national phase and are fully subjected to the national law.

The challenges to any country that wishes to increase the value of its national patent system have been illustrated by the other presentations:

- Need to guarantee a certain legal certainty through a high quality of the granted patents; in average 80% of these patents come from abroad (globalisation of the patent system);
- Need to guarantee the best possible efficiency of the patent system, in other words to avoid unnecessary spending for unnecessary resources;
- Role of the national patent authority in the development of an innovation based economy that requires the patent authority to develop the corresponding services and resources.

**Mr Pascal Phlix** summaries the essential challenges to which a national patent office is confronted and presents a quick analysis of their impact on the structure of the national office:

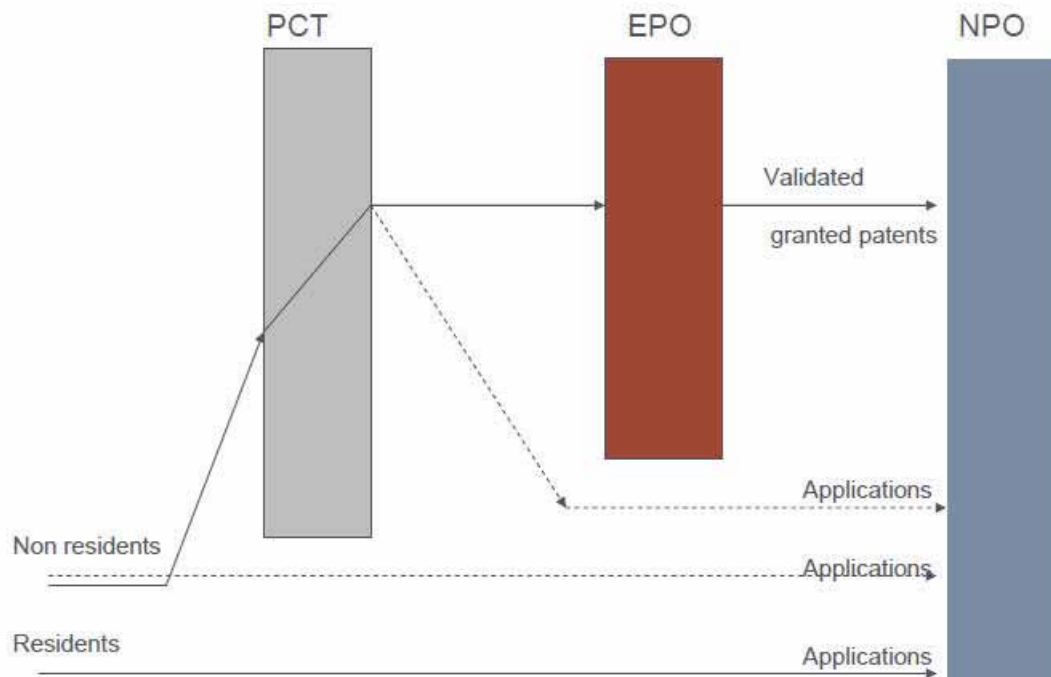
- human resources (recruitment, training, HR policy, critical number of examiners, recruitment in supporting services (IT, HR, etc.);
- development of regional branches;
- development of technical infrastructure (IT infrastructure, databases, various systems, etc.)
- financial resources (financial independence, financial governance, etc.)

The EPO proposes as a model for regional co-operation the validation system for EP applications and EP patents, through which an applicant can decide to validate the legal effect of EP applications and patents to the territory of a state that is not a member of the EPO.

This system is governed by an International Agreement negotiated and signed between the Government of the validation country and the European Patent Organisation.

The negotiations consists merely in the analysis of the legal adaptation of the national patent law to bring it into conformity with the EPC, in order to ensure the same level of legal certainty for the users of the EP system, independently of the territory for which the patent is granted.

The system foresees that the applicant choosing to designate the validation country pays a validation tax to the EPO that is shared between the EPO and the validation country in order to compensate for the loss of certain procedural fees in the national procedure.



The validation system is a direct contribution to the national innovation, at least for the following reasons:

- The foreign filings will take the international (PCT) and the regional (EPO) route to designate the validation country: as they represent 80% of the total filings in average in a neighbouring country, the national patent office will be released in the same proportion from superfluous examination workload. The corresponding resources can be focussed exclusively on national first filings, in other words, on the patents issued from the national innovation;
- As an effect of the simplification of the global procedure, the validation country is designated during the entry of the regional phase (EPO) by a number of applicants that is much larger than the number of international applicants filing directly to the country. This contributes to a potential increase of the FDI.
- The patents validated to the territory of the validation country are examined by the EPO, which represents a protection of the national economy against rogue patents that might otherwise be simply registered by the national office.

#### 4.4. ECONOMICAL AND LEGAL IMPACT OF REGIONAL CO-OPERATION : NATIONAL SOVEREIGNTY, EU ASSOCIATION

Morocco and the EPO have signed a validation agreement in December 2010 that is expected to enter into force in early 2012.

**Mr Adil El Maliki, Director General of the OMPIC**, points out that a national patent system is part of the global patent system and that each office is confronted to the same question:

Legal certainty of IP rights ↔ Efficiency of IP Office

A solution is particularly difficult to be found for small sized Offices, where the challenges are the same as in larger offices: optimisation and stabilization of the staff, development / maintenance of

Multi-country workshop for patent offices and innovation policy makers from the European Neighbouring Countries: Innovation policies and patent systems

complex automation systems, development of financial resources. In parallel, the patent system is one actor of the innovation strategy: Mr El Maliki names the patent office “a tool for innovation”.

The national sovereignty is given by the national legal framework. Regarding patents, this means the national patent law, the enforcement system for of the IP rights and the possibility to contest a patent before a national court.

In this context, the regional co-operation in the form of the validation system is simply a way to address technical issues but also resources issues that cannot be solved in an isolated way by a country. The national sovereignty is guaranteed exclusively by the national law to which any validated patent is subject.

Finally, for ENP countries, the validation system can take another dimension regarding the EU association agenda of each country.

#### **4.5. REPUBLIC OF MOLDOVA: THE EVOLUTION OF THE NATIONAL PATENT SYSTEM**

**Ms Gușan Ala, Head of Inventions, Plant Varieties Department, AGEPI**, gives a very detailed overview of the Moldovan patent system. Over the last 20 years, that have followed the independence of the Republic of Moldova, the IP system has been created, harmonised with international standards and in a third (current) phase is being harmonised with the EU *acquis communautaire*. This last phase of development is particular to a European Neighbouring country and illustrates the policy of the Moldovan Government to strengthen, at all levels, the links between Moldova and the EU institutions.

Regarding patents, the Republic of Moldova is currently negotiating with the EPO a partnership agreement that would give applicants using the EPO system to validate the legal effect of the European patent applications and patents to the territory of Moldova.

### **5. SESSION 4: CONCLUSIONS AND PERSPECTIVES**

**Mr Pascal Phlix** wraps up the discussions of the first day:

- The patent system is global;
- The challenges to which a patent office is confronted are the same in all countries and are summarized by Mr El Maliki formula:

- 

**Legal certainty of IP rights ↔ Efficiency of IP Office**

- The legal certainty of IP rights has an increasing cost, while the resources available at patent offices (human, technical, financial) are not extendable *ad infinitum*;
- Co-operation is being developed between all the offices, including between the 5 largest patent offices in the world (IP5 group), with the objective to streamline as much as possible the global system: sharing of work is one element of the solution, however, the quality of the granted patents should not suffer from a global harmonisation;
- At the regional level of the European neighbourhood, the validation system as developed by the EPO gives the possibility to national patent offices to eliminate 80% of their examination workload and to develop and focus their resources on services offered to nationals in the framework of a national innovation strategy;
- Validated patents are national patents and therefore are managed under the national legal framework (patent law, enforcement, appeal procedures, etc.). The validation system is therefore perceived as a technical measure that facilitates the national patent offices to fulfil their obligations as an important actor of the national innovation strategy.



## Proceedings Day 2: Round table

Each delegation is given 10 minutes to present the latest development in their country regarding innovation and patent system.

The invited delegations of Egypt, Lebanon, Libya and Syria could not attend the seminar.

### 1. **STUDY ON EFFECTS OF THE EUROPEAN PATENT EXTENSION IN REPUBLIC OF MOLDOVA**

Ms Lilia Bolocan Director General AGEPI, presents the facts that have supported the decision of the Republic of Moldova to enter a deeper association with the EPO. The Republic of Moldova, independent since 1991, has chosen a deeper association with the EU and therefore needs to harmonize its legal framework with the *acquis communautaire*.

Regarding patents this means the deepest possible integration with the EPC. While Moldova is member of the EAPO, there was a need to study the filing figures in Moldova: what would be the impact on filing behaviours in Moldova following a move of Moldova from the EAPC system toward the EPC system?

Foreign applicants origin	EAPO countries	Non EAPO countries	EPO countries	EU countries	Non EPC, non EAPO
% of filed applications (2010)	9.4	90.6	56	47.6	34.6
% of granted patents	4	96	66	53	30
% of MD designation via for EAPO patents	10	90	55	47	35

It results from this analysis that 90% of the applicants designating Moldova, 90.6% of the applications filed via the EAPO and 96% of the granted patents are not originating from EAPO countries. Respectively 55%, 56% and 66% originate from EPC countries, and 35%, 34.6% and 30% from non EAPO and non EPC countries (US, Japan, etc.)

The study concluded that offering the possibility to designate Moldova through the EPC system would not be prejudicial to the applicants using the Moldovan patent system.

Consequently, Moldova and the EAPO are establishing the mechanisms that would permit this change of regional system for Moldova.

### 2. **ALGERIA: PATENTS AND INNOVATION**

The delegation of Algeria points out the attention of the participants to the following main initiatives:

- The INAPI, in co-operation with the WIPO, is in the process of modernizing its technical infrastructure: installation of a software for the management of IP rights and digitalization of the applications and granted rights;
- The Algerian patent system is a simple registration system with no examination. INAPI employs 5 patent examiners and receives 800 applications a year, 85% being foreign second filings.
- L'INAPI is creating a national network of CATI (Technology and Innovation Support Centres). Their mission will be to facilitate access to the patent technical information for R&D centres and SMEs.
- The INAPI, in co-operation with the WIPO, is developing an National IP strategy.

### **3. ARMENIA: THE INNOVATION STRATEGY**

Armenia is engaged in the implementation of a mid-term strategy (2020) with three timelines:

- 2012 - 2014: gap analysis, with some EU funded support for specific activities;
- 2014 -2017: institutional strengthening aiming at a better national networking and knowledge transfer;
- 2017 - 2020: attraction of global companies to Armenia and internationalisation of Armenian companies.

The national strategy of innovation, published in 2011 (<http://www.mineconomy.am/en/15/>) includes a series of accompanying measures, such as legal, educational and financial measures. In parallel, the patent law is under revision: integration of a Utility Model system and harmonisation with the biotech directive of the EU.

### **4. AZERBAIJAN**

The delegation from Azerbaijan has prepared a comprehensive presentation on the national innovation system (see annex) and orally presents the main line thereof:

- Like all the former CIS countries, Azerbaijan is confronted to structures inherited from the past and this is an additional challenge;
- A great focus is put on universities (adoption of the Bologna process) and the development of young talents;
- The elements for an innovation strategy are in place and should be formalised in a policy document in 2012.

### **5. BELARUS**

As a small country disposing of few natural resources, Belarus is developing knowledge and IP as economic development factors. A corresponding strategy is in place until 2015 and is based on a sectoral approach, such as energy saving, as well as on a systematic development of innovation, addressing:

- Management and funding of innovation (SMEs, public / private partnerships)
- Increase of FDI;
- Development of infrastructures
- Focus on innovative products

The Patent Office takes its share in this strategy and is active on the following areas: legislation, infrastructures, development of the patent attorney profession, IP courts, regionalisation of IP, monitoring of IP, awareness programmes, development of mandatory IP curricula in universities.

### **6. GEORGIA**

SAKPATENTI is developing a network of external partners: EPO, DKPTO, ILPO, USPTO, GIZ, WIPO to strengthen its role as national IP agency. With the support of the German GIZ, a specific programme targeting Technology Transfer Offices is being implemented, that is complemented by a TISC programme (co-operation with WIPO) and the creation of the Georgian Technology Transfer Centre, aiming at developing a national network for supporting innovation.

### **7. ISRAEL**

Patents are seen in Israel both as an economic growth factor and as a source of information. The Israeli Patent and Trademark Office (ILPTO) depends from the Ministry of Justice. From within the Ministry of Trade and Labour, the Office of the Chief Scientist (OCS) acts as the national support to R&D.

Multi-country workshop for patent offices and innovation policy makers from the European Neighbouring Countries: Innovation policies and patent systems

The ILPTO is mainly responsible for the registration, the examination (including ruling disputes and appeals) of patents, trademarks and designs; it is also responsible nationally and internationally for the IP agenda of Israel, acts as the IP advisor to the Government, including IP legislation.

The main contributions of the ILPTO regarding innovation lie in the quality of the examination of patents, in developing information and awareness services for the public. A strong focus is given to green applications (classification and accelerated examination) as part of a national strategy.

The OCS is responsible for the implementation of the “Encouragement of Industrial R&D law”. The OCS supports in particular patent applications filing (20 to 50% of up to 22 000 USD for up to 5 applications), the applicants refunding up to 3% of the revenues linked to the patent (“Risk sharing”).

## **8. JORDAN**

There is currently no national innovation strategy in Jordan. The priority is currently to continue building capacities at the patent office: automation, data publication, as well as to develop awareness programmes to the attention of the national R&D community. There is also the need to develop a sound patent representatives profession.

The Jordanian Patent Office, employing 5 examiners, receives yearly approximately 500 filings and grants about 60 patents. Currently the examination backlog amounts to approximately 1000 applications.

## **9. MOLDOVA: THE NATIONAL INNOVATION STRATEGY**

The republic of Moldova is developing a national strategy for innovation for the period 2012-2010. The leadership is with the Agency for Innovation and Technology Transfer ([www.aitt.md](http://www.aitt.md)).

The goal of this strategy is to define

- the vision: by 2020 at least 25% of the national GDP will be generated by innovation activities;
- the objectives and
- the measures to be implemented

for creating a sustainable economy based on knowledge and innovation in the Republic of Moldova.

The funding of the implementation is both national and international, where the participation of Moldova to the FP7 plays a major role. The implementation focuses on three dimensions:

- Regulations
- Incentives
- Financial instruments.

As a performance indicator, the European Innovation Scoreboard (EIS) is used (<http://www.proinno-europe.eu/inno-metrics/page/innovation-union-scoreboard-2010>)

## **10. MOROCCO**

In complement to the presentation made the first day by Mr El Afia, the Moroccan delegation indicates that the Kingdom is engaged in a thorough innovation policy that involves all the sectors of the society:

- Governance and legal framework;
- Infrastructures;
- Funding;

- Mobilisation of talents.

The details of the measures taken by all the involved national institutions can be found in the press file published at the occasion of the second national summit on innovation (March 2011).

<http://www.mcinet.gov.ma/mciweb/MLM/DossierPresseSommetInnovation.pdf>

As to the role of the national patent Office, the Moroccan delegation underlines the importance of a multi-annual strategic development plan for the Office that is customised to the needs of the overall national innovation strategy, the national patent office being only one actor of the overall strategy. The delegation also underlines the importance of a strong IT infrastructure (management and publication of IP rights) as a key tool of the strategic development of the Office.

## **11. PALESTINIAN TERRITORY**

The Palestinian patent system is a pure registration system with no examination. With the support of the WIPO, efforts are currently concentrated on the development of a new legislation system, training of staff and also on the creation of a Palestinian Commission on Intellectual Property.

Regarding the development of innovation, an important effort is dedicated to the development of IP awareness within the Palestinian universities (more than 200 000 students). Palestinian R&D centres are being created in the following strategic technological areas: nanotechnologies, solar energy, computing sciences and agriculture.

The development of international partnerships is equally a priority: with the EU (FP7, TEMPUS), the QIF projects funded by the World bank and the German GIZ foundation. The Palestinian Authority funded in cooperation with the EC the connection of PAL National Research and Education Network (NREN) with EUMEDCONNECT3 and the Arab States for Research and Education Network (ASREN).

## **12. TUNISIA**

In complement to the presentation made the first day by Mr Boutiti, the Tunisian delegation indicates that the Tunisian Innovation strategy focuses on the development of knowledge, human skills and Infrastructures.

## **13. UKRAINE**

The Ukrainian Center of Innovations and Patent Information Services was created in 2001 as a branch office of the Ukrainian Institute of Industrial Property State Enterprise. Its mission: informational support and organizational assistance for innovative business. The staff of the Center is made of experts and intellectual property professionals: knowledge, experience and corporate standing represent highly estimated and trusted values by the clients.

The objectives of the centre are:

- Assistance in the field of inventive activities, especially for young people:
  - Building up, presentation and support of the Workshop of Ideas website;
  - Cooperation with Centers of Creative Youth;
  - Background work for young inventors to participate in WIPO contests;
  - Young inventors' encouragement for participation in the Invention of the Year Contest.
- Rendering of full range of patent information services including:
  - Consulting, researches, analytical surveys etc.;

Multi-country workshop for patent offices and innovation policy makers from the European Neighbouring Countries: Innovation policies and patent systems

- Providing consultations concerning all intellectual property issues;
- Performing of work package to file a national application for any IPR subject matter;
- Performing of patent researches;
- Performing of informational searches;
- Digital patent library services;
- Publishing of information products on CD;
  
- Assistance in establishing partnership for commercializing of IPR subject matters and technology transfer:
  - Establishing of partnership with local and foreign innovative organizations;
  - Support of Perspective Inventions of Ukraine website;
  - Provision of Internet-based Industrial Property Exchange functioning;
  - Presentation of IPR subject matters for investors, manufacturers and businessmen;
  - Negotiation process organization, respective contracts drafting;
  
- Organization of various events to promote the best inventions, for IPR issues coverage and sharing of experience between IP professionals. Popularization of principles and fundamentals of IP.
  - Operating as Organizing Committee of Actual Problems of Intellectual Property international scientific and practical Conference;
  - Carrying out of educational workshops;
  - Operating as Organizing Committee of national Invention of the Year annual contest;
  - Participation in Invention and Innovations exposition events;
  - Operating as Organizing Committee of national Create, Realize, Acquire placard contest for young artists;
  - Preparation of IP popularization publications;
  
- Assistance in the process of extrajudicial conflict settlement in the IP sphere;
  - Definition of the matter of conflict and its elucidation to the conflicted parties;
  - Conflicted parties assistance in the process of selection and appointment of a conflict moderator/mediator;
  - Participation in the negotiation process to ensure the effectiveness of mediation proceedings.

## **Annex 1: Addresses and presentations**

- Opening addresses (available in electronic format) and TAIEX presentation;
- Presentation of session 1;
- Presentations of session 2;
- Presentations of session 3;
- Presentations made by the participants during the round table (day 2) that are available in electronic format.

**Annex 2: List of participants**