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Approximation of Azerbaijani Legislation with *TRIPS* and *EU Acquis*

The Constitution

The Article 30 of the Constitution of the Republic of Azerbaijan guarantees protection of all forms of intellectual property within its territory.

WTO Membership

The Republic of Azerbaijan applied for membership to the World Trade Organization (WTO) eight years ago. Joining the organisation is a complex and lengthy process, which however depends to a large extent on the political will of the acceding country.

By applying to WTO membership Azerbaijan will have to take certain commitments, which consist among others of adjusting its legislation and putting it in conformity with the WTO Agreements.

The Azerbaijani intellectual property legislation is strictly oriented to existing fundamental international instruments (Berne Convention, Paris Convention, PCT, TRIPS etc.) and also most WIPO recommendations, which were considered when drafting the law.

Why to approximate with EU Acquis?

Azerbaijan Republic did not apply for EU Membership. Moreover, this issue is not on agenda for the next years.

Nevertheless, Azerbaijan seeing itself as European country and willing to gain from European experience on protection of IP rights, taking into consideration that IP developing simultaneously with the development of technology and science and emphasizing that European Union IP legislation to some extent *run far beyond* the provisions of existing international conventions. Moreover, approximation with EU Acquis automatically envisages the approximation with TRIPS, which is helpful for WTO membership.

Intellectual Property rights are playing an important role in strengthening economic links between the Republic of Azerbaijan and the Community and according to the Article 42.1 of the PCA¹, the

¹ The Partnership and Cooperation Agreement (PCA) between Azerbaijan and the European Union (EU) was signed in 22 April 1996 and entered into force on 1 July 1999.

In line with the requirements of the Article 43 of the PCA, the Republic of Azerbaijan has an intention to approximate its legislation to make it compatible with the Community.

Republic of Azerbaijan is bound to protect the intellectual, industrial and commercial property rights on a level which is similar to that existing in the Community, including the effective means of enforcing such rights.

Team of Experts on EU legislation produced analytical “Scoreboard Report”, where Azerbaijani IP legislation was compared with respective provisions of EU Acquis and TRIPS. According to this Report some parts of national legislation is in line with TRIPS but still should be approximated with EU Acquis.

After the presentation of the Scoreboard Report to governmental bodies, Experts received comments and recommendations, where it was proposed to update the Scoreboard Report due to continuous changes in EU Acquis. The governmental bodies also stressed that the Scoreboard Report would play the role of road-map in future approximation of national legislation with TRIPS and EU Acquis.

At the present on the basis of this Report, the chapter on Intellectual Property was included to the ***Draft of National Program on Approximation of Legislation with EU Acquis for 2007-2009***. After the approval of President of Republic of Azerbaijan the National Program will be automatically enforced.

Benefits of advanced IPR legislation for developing countries

At the moment the state authorities of Azerbaijan is working on Draft of Law on Enforcement of Intellectual Property rights and counterfeiting and piracy.

This law is very actual because of affecting of national companies, through loss of sales, reputation, jobs, and ultimately of their viability.

This will also support the prestige of the country in future investment attraction, considering that Azerbaijan as oil produced country wishes to attract investments to non-oil sector (telecommunications and information technologies, agriculture etc.).

As for the potentially dangerous counterfeit goods - such as pharmaceuticals, foodstuffs or drinks, car or airplane spare-parts, electrical devices or industrial machinery - threaten consumers' or users' health and safety. Consumers in the poorest countries are particularly exposed to sales of these dangerous products.

From the other side this unpleasant situation also connected with mentality and psychological elements of local society. Even if consumer buys counterfeit medicine in the nearest shop, he/she will rarely raise claim. This situation happens because normally physical or legal persons do not like to protect their rights via Courts.
