

Protection of inventions and patentability issues under Albanian and European legislation

Ervis Çela

Doctor of Law, Professor
University of Tirana

1010, 4 Mother Teresa Sq., Tirana, Albania
<https://orcid.org/0009-0004-1630-3644>

Endi Kalemaj*

PhD in Law

University of Tirana
1010, 4 Mother Teresa Sq., Tirana, Albania
<https://orcid.org/0009-0001-0172-2019>

Maksim Qoku

Doctor of Law, Professor
University of Tirana

1010, 4 Mother Teresa Sq., Tirana, Albania
<https://orcid.org/0009-0005-0173-6057>

Article's History:

Abstract

Received: 06.10.2025

Revised: 09.01.2026

Accepted: 26.02.2026

Published: 27.03.2026

The purpose of the study was to identify the legal gaps, institutional conflicts, and practical enforcement problems within the regulation of invention protection in Albania. The institution of Albanian patent law is examined through the prism of a systemic and legal approach, which has made it possible to trace the relationship between national norms and European standards of invention protection. The research has established that Albania's system of invention protection has undergone stages of institutional transformation driven by the transition to a market economy and integration into the European legal space. Based on an analysis of

Suggested Citation:

Çela, E., Kalemaj, E., & Qoku, M. (2026). Protection of inventions and patentability issues under Albanian and European legislation. *Law. Human. Environment*, 17(1), 154-173. doi: 10.31548/law/1.2026.154.



*Corresponding author

Copyright © The Author(s). This is an open access article distributed under the terms of the Creative Commons Attribution License 4.0 (<https://creativecommons.org/licenses/by/4.0/>)

institutional, procedural, and expert factors, five key groups of challenges have been identified that limit the effectiveness of the legal protection system for inventions: institutional, procedural, expert, personnel, and informational. The analysis of judicial decisions revealed that national courts tend to focus on procedural and administrative aspects of patent protection, while the technical assessment of novelty and inventive step remains insufficiently developed. Case analysis of judicial rulings and the formal legal method enabled the identification of typical errors in interpreting the criteria of novelty and inventive step, as well as the formulation of proposals for improving the examination of patent applications. The analysis has demonstrated that establishing a dedicated Invention Examination Unit within the General Directorate of Industrial Property, introducing systematic professional development for examiners supported by the European Patent Office (EPO) and the World Intellectual Property Organization (WIPO), and integrating modern information resources (such as Espacenet) would enhance the accuracy of the techno-legal analysis of patent applications and reduce the number of contradictory decisions. The findings of this study may be applied in the work of legislative bodies, patent examiners, judges, and intellectual property law educators with the aim of harmonising national practice with European standards

Keywords: technological leadership; law enforcement practice; technical expertise; institutional capacity; appeal

Introduction

The development of an innovation-driven economy and the intensifying global competition among states for technological leadership create specific challenges for the legal protection of intellectual property, particularly inventions. For countries seeking integration into the European legal framework, such as Albania, ensuring an effective patent protection mechanism constitutes a strategic prerequisite for economic development. Although Albanian legislation formally complies with European standards thanks to recent reforms such as the Law of Albania No. 53/2025 (2025) and accession to the European Patent Convention (EPC) (1973), in practice there are still significant differences in the procedures for filing, examining, and defending patent applications (Albania adopts new law..., 2025). This results in legal uncertainty for inventors, complicates the international commercialisation of research outputs, and reduces the country's investment attractiveness. Moreover, inconsistencies are observed

between the provisions of national legislation and the practice of the European Patent Office (EPO), leading to difficulties in recognising Albanian patents within the European Union (EU). Another problematic aspect concerns the effectiveness of judicial protection of invention rights in Albania. The absence of specialised intellectual property courts, a limited expert base, and the underdeveloped level of patent law enforcement diminish the confidence of the innovative business sector in the legal system (Muçmataj & Liçenji, 2025). At the same time, within the context of European integration processes, Albania is obliged to ensure the adaptation of its national legislation to the EU *acquis communautaire*, which requires a comprehensive analysis of gaps, duplications, and conflicts within the legal framework governing patent protection.

The issue of patent protection in both the European and Albanian contexts has been addressed in contemporary scholarly literature.

Researchers emphasise the correlation between the quality of normative criteria, the level of institutional capacity, and the economic outcomes of intellectual property protection. In the work of L. Beqiraj (2025), it was demonstrated that the rapid implementation of artificial intelligence technologies in Albania has created a paradoxical situation: although the country's innovative potential is growing, the legal uncertainty surrounding the status of AI-generated results introduces new risks into patent law. It was underscored that the ambiguity in defining authorship complicates the work of both experts and courts, while the absence of adapted provisions in the Law of Albania No. 9947 (2008) hinders the development of technological entrepreneurship. In the study by T.A. Dyer *et al.* (2024), it was established that the quality of patent disclosure directly determines the effectiveness of the innovation process: comprehensive and technically accurate descriptions of inventions enhance investor confidence, accelerate technology commercialisation, and reduce the number of appeals in the patenting sphere. The authors concluded that improving the requirements for patent documentation is a key condition for ensuring transparency within the intellectual property protection system and for enhancing the competitiveness of national economies.

The research by L. Garattini *et al.* (2021) analysed the efficiency of the existing model of patent protection in the EU pharmaceutical sector. The authors found that excessive patent protection for minor drug modifications (known as evergreening) creates artificial barriers to the generic market and slows down the introduction of genuine therapeutic innovations. Based on empirical data, it was proven that the current criteria for assessing "inventive step" are overly flexible, resulting in reduced efficiency of the patent system. The issue of harmonising enforcement regimes within the EU was examined by A. Gill and D. Heller (2024), who demonstrated that unified judicial and

administrative procedures enhance the economic value of intellectual property. Their conclusions, indicating an increase in investment attractiveness in jurisdictions with predictable enforcement practices, directly highlight the necessity of establishing a specialised Intellectual Property Chamber in Albania.

Comparison of national patent law systems was conducted by P. Hutukka (2023), who emphasised that the efficiency of patent examination depends not only on legal norms but also on the existence of mechanisms for information exchange and mutual learning among patent offices. The author concluded that countries integrated into international databases for technical solutions demonstrate higher-quality patent examination. In the study by J. Lerner and A. Seru (2022), the impact of patent data quality on the reliability of economic research and the assessment of companies' innovative activity was analysed. The authors found that inaccuracy, fragmentation, or duplication of records in patent databases lead to systematic errors in financial analytics, particularly to the overestimation of the market value of technological assets and the misidentification of the effectiveness of innovation investments. Based on cross-sectoral data, it was demonstrated that the accuracy and completeness of patent information are crucial for the stability of the innovation market and investor confidence. The issue of international cooperation between patent offices was explored by N. Syam (2022), who concluded that a combination of local expert autonomy and work sharing with the EPO ensures the highest efficiency. Such an approach is particularly relevant for smaller states with limited technical resources.

The research by Ö.Ö. Yildiz and S. Görkey (2024) empirically confirmed that patent activity has a direct impact on economic growth, but only under conditions of effective law enforcement. The authors demonstrated that only

consistent judicial practice and coherent administrative policy create a favourable environment for innovation. In turn, E. Xhuvani (2023) traced the course of harmonisation of Albanian legislation with EU law and found that technical implementation proceeds faster than institutional adaptation. It is precisely the lack of human capacity and the imperfect structure of administrative procedures that hinder full approximation to the *acquis communautaire*. This conclusion is consistent with the concept of institutional strengthening of the General Directorate of Industrial Property (GDIP) (2025) and the necessity of establishing specialised judicial structures.

Summarising the results of the analysed studies, it can be stated that the efficiency of a patent system is determined by three interrelated factors: the quality of regulatory criteria, the professional capacity of expert institutions, and the level of procedural organisation. Scholars concur that only the combination of harmonised legal norms with technically competent structures allows for a balance between the stimulation of innovation and the prevention of abuses in the field of patenting. However, most works focus on the pan-European dimension and only partially address the specificities of small states such as Albania.

The aim of the study was to identify regulatory gaps, procedural conflicts, and practical enforcement problems within the legal regulation of invention protection in Albania, evaluating them against the standards of the European patent system. To achieve this aim, the study set out the following objectives: to analyse the Albanian legal framework in the field of patent law and its compliance with major international agreements and European directives; to investigate practical problems of law enforcement in the field of invention protection in Albania, including judicial practice, the activities of expert institutions, and the role of the Patent Office; and to substantiate recommendations for improving the national

system of patent protection in light of the requirements of European legislation and the experience of EU Member States.

Materials and Methods

The methodological basis of the study was the systemic-legal approach, which made it possible to consider the institute of patent law in Albania as an integrated legal system interlinked with international and European regulatory mechanisms. In the course of the research, the comparative-legal method was applied to identify similarities and differences between the provisions of the Law of Albania No. 9947 (2008) and the EPC (1973), as well as to assess the degree of compliance of Albanian legislation with EU directives – specifically, Directive of the Council of European Union No. 98/44/EC (1998) and Directive of the Council of European Union No. 2004/48/EC (2004). The normative-dogmatic method was used to interpret the provisions of international treaties to which Albania is a party, including the Paris Convention for the Protection of Industrial Property (1883), the Patent Cooperation Treaty (PTC) of Albania (1970), and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) (1994). In addition, approaches of legal conflict studies (collisiology) were applied to identify normative inconsistencies and conflicts between the provisions of Albanian patent legislation and European legal standards.

The study of the practical aspects of patent protection enforcement in Albania was conducted using an integrated approach combining comparative-legal, formal-legal, systemic analysis, and case study methods. The empirical basis of the research comprised judicial decisions reflecting actual enforcement practice in the field of patent protection. In particular, Judgment of Tirana District Court of Albania No. 298 (2019) and Judgment of Administrative Chamber of Supreme Court of Albania No. 00-017-2270 (2017) were analysed

as representative examples of judicial interpretation in patent law. The comparative context of the study was enhanced by including Decision of the Technical Board of Appeal of the European Patent Office No. T 1389/10 – 3.2.04 (2011) and Decision of the Technical Board of Appeal of the European Patent Office No. T 2472/13 – 3.2.01 (2015), as well as the recent landmark Decision of the Enlarged Board of Appeal of the European Patent Office No. G 0002/21 (2023) and Decision of the Technical Board of Appeal of the European Patent Office No. T 0553/22 – 3.2.05 (2024), which allowed for the identification of differences in approaches to the determination of inventive step and the assessment of technical effect between European and national practices.

The formal-legal method enabled the analysis of the internal consistency of the provisions of Albanian patent legislation, the degree of its harmonisation with European standards, and the identification of existing gaps in the regulatory framework of patent examination procedures. The research on the improvement of the patent protection system in Albania was conducted using a comprehensive approach combining the analysis of legislative acts and the comparative study of international experience, particularly the practice of the EPO and the norms of the EPC (1973). The comparative-legal method was employed to correlate national provisions with the requirements of the EPC and the Guidelines for Examination in the European Patent Office (2025), which facilitated the identification of legislative gaps and the formulation of proposals for harmonisation.

Results

Regulatory and legal framework for the protection of inventions in Albania in the context of international and European standards. The legal regulation of intellectual property protection, particularly with respect to inventions, in Albania has undergone a process of transformation

corresponding to the country's socio-economic changes and its international commitments. Historically, the system of patent protection acquired a formal legal structure following the fall of the communist regime and the governmental reforms of the 1990s. Prior to this period, rights relating to inventions and "rationalisations" were governed within the general provisions of civil and commercial law, without a clearly defined special institution of patent protection similar to those established in Western European countries. In 2008, a fundamental legislative act was adopted – Law of Albania No. 9947 (2008). This law laid the foundation for the system of legal protection of industrial property, including inventions, utility models, industrial designs, trade marks, and geographical indications. The Act defines the objects of protection, establishes the principles and procedures for registration, specifies the rights and obligations of proprietors, and provides for protective measures.

The body responsible for granting patents and protecting inventions is the GDIP (2025), which functions as the central executive authority within the system of state management of intellectual property. Established through the reorganisation of the former Directorate of Patents and Trademarks, the GDIP has become the key institution in the implementation of state policy regarding the legal protection of industrial property, including the patenting of inventions. The GDIP operates under the supervision of the Ministry of Economy and Innovation of the Republic of Albania (2025) and performs functions relating to the receipt, examination, registration, and publication of industrial property objects. Its competence encompasses both formal and substantive examination of patent applications, the conduct of administrative procedures in cases of opposition or revocation, and the maintenance of official registers and publication of bulletins. Furthermore, within the structure of the GDIP there are

specialised units – the Board of Appeal, the Chamber for Objections Examination, and the Chamber for Repeal/Invalidation, which perform quasi-judicial functions by reviewing decisions and resolving disputes in the field of industrial property.

From an organisational and legal perspective, the GDIP (2025) functions not only as a registration authority but also as an essential component of the national innovation system, as its activities aim to create a favourable legal environment for the development of scientific research, the stimulation of inventive activity, and the commercialisation of the results of intellectual labour. The Directorate consistently focuses on the implementation of electronic services, the promotion of transparency in administrative procedures, and the harmonisation of internal processes with the Guidelines for Examination in the European Patent Office (2025) and the World Intellectual Property Organization (WIPO) (2025).

Albania's international legal obligations in the field of invention protection have been a determining factor in shaping its modern patent law system, since it is international standards that define the level of protection, registration procedures, and mechanisms for recognising the rights of foreign applicants. Since the early 1990s, during the course of political and economic reforms, Albania has gradually acceded to the principal international treaties in the field of intellectual property, thereby establishing a comprehensive legal framework compatible with European and global approaches to invention protection. The first step was Albania's accession in 1995 to the Paris Convention for the Protection of Industrial Property (1883). This convention established the fundamental principles of international protection of inventors' rights, notably the principle of national treatment, the right of priority, and the independence of patents granted in different states. For Albania, participation in the Paris Convention for the Protection of Industrial Property

entailed the obligation to ensure an equal level of legal protection for both national and foreign applicants, as well as to develop mechanisms guaranteeing adherence to international norms within the patenting procedure.

The second international instrument was the PTC of Albania (1970). Participation in the PCT enabled Albanian inventors to file international patent applications through the GDIP (2025), which acts as a receiving office. This significantly facilitated access to the global system of patent protection, reduced the financial and procedural burden on applicants, and promoted broader international recognition of Albanian scientific developments.

The third element within the international legal architecture is the Agreement on TRIPS (1994), which constitutes part of the legal system of the World Trade Organization (2025). This Agreement sets out the minimum standards for the protection of intellectual property rights across all categories of subject matter, including inventions. In accordance with the Agreement on TRIPS, Albania undertook to ensure patent protection for inventions in all fields of technology, provided they meet the criteria of novelty, inventive step, and industrial applicability, and to guarantee effective legal remedies in cases of patent infringement.

In the context of further development of its national intellectual property protection system, Albania has consistently pursued a policy of harmonising its legislation with EU legal standards. This process forms part of the country's broader strategy of European integration, enshrined in the Stabilisation and Association Agreement between the European Communities and their Member States No. O.J. (L 107) 166 (2006), which identifies the adaptation of industrial property legislation as a priority area of cooperation. European integration in the sphere of patent law is viewed as a mechanism for modernising the national legal system and enhancing its responsiveness to

contemporary technological and scientific challenges. The main reference point in this process is the EPC (1973), which establishes harmonised approaches to granting legal protection for inventions across the EPO member states. Although Albania is not yet a member of the EPO, its national patent legislation has been actively aligned with the provisions of the EPC and EU directives, notably Directive of the Council of European Union No. 98/44/EC (1998) and Directive of the Council of European Union No. 2004/48/EC (2004). One of the key directions of harmonisation involves aligning the definitions and criteria of patentability with the provisions of the EPC (Hall & Helmers, 2019). In particular, Article 52 of the EPC (1973) establishes three essential requirements – novelty, inventive step, and industrial applicability, which must be simultaneously satisfied for a patent to be granted (Table 1). Law of Albania No. 9947 (2008) provides for analogous

criteria; however, in practical application certain discrepancies persist, arising from less detailed regulation of the concepts of “inventive step” and “unity of invention”. In the European system, these aspects are comprehensively elaborated in the Guidelines for Examination in the European Patent Office (2025), which ensure a high level of legal predictability for applicants. Furthermore, differences between the EPC (1973) and Albania’s national legislation can be observed in the organisation of the examination procedure for patent applications. The Albanian patent system primarily relies on formal examination, whereas the EPO applies a full substantive examination, encompassing an assessment of the technical level of the invention, its novelty, and inventive step based on international searches. This underlines the necessity of further refinement of national procedures to enhance the quality of patent decisions and ensure conformity with EU standards.

Table 1. Comparative analysis of key provisions of the EPC (1973) and Law of Albania No. 9947 (2008)

Criterion	EPC (1973)	Law of Albania No. 9947 (2008)	Key differences
Criteria for patentability	Establishes three mandatory criteria: novelty, inventive step, industrial applicability (Art. 52)	Similar criteria are defined in Art. 5 of the Law; however, the interpretation of the concepts is less detailed	Insufficient specification of the concept of “inventive step” in the national law
Concept of novelty	Absolute novelty: any disclosure worldwide is grounds for refusal of a patent	Also provides for absolute novelty; however, verification mechanisms are based on limited access to international databases	Limited search capabilities beyond national registries
Unity of invention	Requires a single general inventive concept unifying the claimed elements	Unity of invention is recognised, but the criteria are formulated in general terms without practical examples	Lack of detailed methodological guidelines analogous to the Guidelines for Examination in the European Patent Office (2025)
Examination procedure	Full substantive examination, includes international search and assessment of the inventive step	Predominantly formal examination; substantive assessment is conducted on a limited basis	Absence of an international search mechanism; need to establish a system for substantive examination
Term of patent protection	20 years from the filing date (subject to payment of annual fees)	20 years from the filing date	No differences
Publication of application	18 months from the filing date or priority date	Similarly – after 18 months from the filing date	Minimal differences

Table 1. Continued

Criterion	EPC (1973)	Law of Albania No. 9947 (2008)	Key differences
Opposition and appeal	Provides for a two-tier system: Boards of Appeal (2025) and the Enlarged Board of Appeal of the EPO	Possibility of appeal – to the Appeal Commission at the GDIP (2025)	The Albanian system lacks an independent judicial mechanism equivalent to the Boards of Appeal

Source: compiled by the authors

In accordance with the recommendations of the European Commission (Albania Report 2023, 2023), Albania must enhance the mechanisms for judicial protection of intellectual property rights, including improving judges' qualifications in the field of patent law and introducing specialised judicial chambers. Such measures will contribute to strengthening the confidence of European investors and to the development of the innovative sector of the economy. Thus, although Albania has not yet obtained the status of an EPO Member State, its legal policy demonstrates a clear orientation towards the future implementation of the provisions of the EPC (1973). The consistent approximation of national legislation to the EU *acquis communautaire* creates the prerequisites for effective integration into the unified European system for the

protection of inventions and for ensuring equal participation of Albanian applicants in international patent procedures.

Practical aspects of patent law enforcement in Albania.

In practice, the application of patent legislation in Albania is accompanied by a range of institutional, procedural, and expert challenges that affect the overall efficiency of the intellectual property protection system. Despite the formal harmonisation of national legislation with European standards, the practical implementation of these norms remains limited. In particular, there are systemic difficulties in conducting comprehensive examinations of patent applications, ensuring the appropriate quality of technical assessments, and resolving disputes arising during the registration and protection of patent rights (Table 2).

Table 2. Key institutional, procedural, and expert challenges in the application of patent law in Albania

Category of challenges	Problem description	Root causes	Implications for legal enforcement
Institutional	Insufficient capacity of the GDIP (2025) to ensure comprehensive examination of applications and monitoring of patent rights compliance	Limited funding, shortage of technical specialists, small number of qualified patent examiners	Low quality of initial decisions, increase in the number of appeals and litigation cases
Procedural	Imperfect procedures for appealing GDIP decisions and delays in application processing	Absence of specialised courts for intellectual property matters; complexity of coordination between administrative and judicial instances	Prolonged duration of case resolution, diminished confidence in the rights protection system
Expert	Insufficient quality of technical expertise in assessing novelty and inventive step	Lack of independent expert institutions, limited access to international databases of technical knowledge	Errors in determining patentability, increased risk of patent annulment

Table 2. Continued

Category of challenges	Problem description	Root causes	Implications for legal enforcement
Human Resources	Small number of specialists possessing both legal and technical training	Absence of a system for specialised education and professional certification of patent attorneys	Low level of staff training, formalistic approach to application examination
Information	Limited level of digitalisation in the processes of filing and processing patent applications	Insufficient integration of GDIP electronic services with EPO and WIPO (2025) platforms	Slower processing of applications, reduced transparency of administrative procedures
International legal	Partial application of Agreement on TRIPS (1994) and EPC (1973) norms in national practice	Lack of full implementation of examination procedures and criteria in accordance with EU standards	Limited mutual recognition of patents, barriers to international patenting

Source: compiled by the authors based on Invention patents, 85 applications in Albania in the last 5 years (2023), Patent Profession in the EPC Contracting states (2025)

To overcome the identified imbalances, it is necessary to introduce a system of continuous professional training for patent examiners, strengthen the analytical function of the GDIP (2025), expand judicial specialisation in the field of intellectual property, and develop a national expert base. These measures would ensure a more predictable, efficient, and trustworthy system of legal protection for inventions in Albania. In this context, the analysis of judicial practice reflects the real challenges in applying the provisions of patent legislation. Judicial decisions serve both as a means of interpreting legal norms and as an important indicator of the level of their practical implementation, as well as of the ability of the national legal system to adequately integrate European standards (Ilieva and Ivanov, 2025). One of the illustrative examples that allows tracing the differences between the approaches of the EPO and Albanian national authorities is the case Decision of the Technical Board of Appeal of the European Patent Office No. T 1389/10 – 3.2.04 (2011). In this case, the application concerned a protective case for delicate items featuring an elastic structure for securing the object inside. The EPO refused to grant a patent, referring to Article 54 of the EPC (1973), which establishes the novelty requirement. During the examination, it was

determined that the main technical characteristics of the invention – shape, material, and function – had already been disclosed in prior patent documents (specifically, in documents D7 and D8). The EPO concluded that minor changes in the design or adaptation of a product to a new type of object cannot be regarded as “new” if the essential technical function remains unchanged. Accordingly, the patent was rejected for lack of novelty, as the claimed solution did not produce any new technical effect compared with the known state of the art.

In comparison with this practice, the Albanian patent law system is currently in the stage of convergence with EU standards but faces difficulties in the proper interpretation of the concepts of “novelty” and “inventive step”. As noted by L. Çami and X. Skënderi (2023), in Albanian national practice, courts and experts demonstrate a limited understanding of the concept of technical distinction between inventions, which leads to inconsistent decisions concerning similar applications. This situation is caused not only by the insufficient detail of the provisions of the Law of Albania No. 9947 (2008) but also by the limited expert capacities of the GDIP (2025).

In the case Decision of the Technical Board of Appeal of the European Patent Office No. T 2472/13 – 3.2.01 (2015), the subject of the

application was an invention related to a bicycle wheel equipped with a quick-release mechanism, specifically, the design of the hub and fastening system allowing the wheel to be removed without the use of tools or with minimal intervention, by means of a lever or similar mechanism. The applicant claimed that this design provided improved ergonomics, ease of transportation or maintenance, and enhanced functionality compared with known wheels.

However, in its decision under Article 56 of the EPC (1973), the EPO found that the invention lacked the required inventive step. In EPC, assessing the inventive step requires a rigorous techno-legal test to determine if the proposed solution offers a genuine technical advancement. The commission analysed whether the inventor's contribution went beyond what would be obvious to a specialist in the field, that is, whether the invention represented a non-obvious development of already known solutions.

In this case, the Board concluded that the applicant had merely proposed an alternative design that was an obvious modification of a previously known hub and fastening mechanism. Crucially, the analysis revealed that the proposed changes did not introduce a new technical effect or a technological solution substantially different from the prior art. Consequently, the patent application was refused, as it did not meet the strict inventive step criterion required by the EPC (1973). This rigorous application of European doctrinal expectations regarding prior art and technical effect stands in contrast to the current Albanian patent law system, which is still in the stage of convergence and faces difficulties in properly interpreting and analysing the concept of "inventive step".

An examination of Albanian practice demonstrates that national courts and administrative bodies also address a broad spectrum of patent disputes – ranging from issues of validity and interpretation of patent rights to disputes

concerning remuneration for employee inventions. However, the focus of their decisions tends to shift towards questions of the actual use of patents, proper registration procedures, and the legal consequences of administrative acts issued by the GDIP (2025). For instance, in Judgment of Tirana District Court of Albania No. 298 (2019), the court examined a complex set of issues related to the enforcement of patent owners' rights, the pursuit of compensation for the commercial use of an invention, and related administrative procedures concerning the recognition of patents before administrative authorities. In this decision, the court conducted a detailed analysis of the circumstances surrounding the actual implementation of the invention, previous administrative acts, and appeal procedures within the national system, which illustrates an emphasis on the procedural and legal dimension of disputes.

Similarly, the final decision in Judgment of Administrative Chamber of Supreme Court of Albania No. 00-017-2270 (2017) concerned issues of patent infringement and the assessment of the legal consequences of administrative decisions. However, because general administrative courts currently lack the necessary technical expertise, their tendency to focus heavily on procedural aspects creates significant risks for fair dispute resolution, including inconsistent decisions and a decline in confidence in the patent protection system. To avoid these risks and ensure rulings are grounded in accurate techno-legal analysis, it is critical to establish a specialised chamber for intellectual property matters, modelled on the Boards of Appeal (2025), that includes both judges and technical experts.

The urgency of establishing this specialised technical capacity is underscored by the widening gap between national practice and European standards. While Albanian courts are still mastering foundational technical assessments, European practice has further evolved to address modern

complexities surrounding the proof of technical effects during the assessment of inventive step. This advanced approach is evidenced by the Decision of the Enlarged Board of Appeal of the European Patent Office No. G 0002/21 (2023), which clarified the reliance on post-published evidence for technical effects, and the Decision of the Technical Board of Appeal of the European Patent Office No. T 0553/22 – 3.2.05 (2024), which reinforced the problem-solution approach for technically independent partial problems. Without specialised judicial bodies capable of engaging with such sophisticated techno-legal doctrines, Albania risks falling further behind the European patent space.

The analysis of European cases, such as Decision of the Technical Board of Appeal of the European Patent Office No. T 1389/10 – 3.2.04 (2011) and Decision of the Technical Board of Appeal of the European Patent Office No. T 2472/13 – 3.2.01 (2015), clearly demonstrates that the criterion of inventive step in European practice is applied as a precise techno-legal test. This rigorous evaluation is strongly supported by doctrinal reasoning concerning prior art and the specific technical effect achieved by the invention. Furthermore, European practice continues to refine its approach to complex proofs of technical effects, as evidenced by recent rulings like Decision of the Enlarged Board of Appeal of the European Patent Office No. G 0002/21 (2023) and Decision of the Technical Board of Appeal of the European Patent Office No. T 0553/22 – 3.2.05 (2024).

In contrast, an examination of Albanian national practice, illustrated by Judgment of Tirana District Court of Albania No. 298 (2019) and Judgment of Administrative Chamber of Supreme Court of Albania No. 00-017-2270 (2017), reveals a different approach. While Albanian national institutions exhibit notable activity in adjudicating patent disputes, their rulings have a marked focus on the procedural and operational aspects of patents rather than conducting substantive

technical evaluations. Because general administrative courts currently lack specialised technical expertise, they tend to default to evaluating proper registration procedures and the legal consequences of administrative acts.

To narrow the gap between European doctrinal expectations and national practice, it is necessary to fundamentally strengthen the technical and expert capacity of the GDIP (2025) and the judiciary. This requires active cooperation with international institutions such as the EPO and the WIPO (2025). Furthermore, to avoid inconsistent decisions, Albania must implement methodological guidelines and enhance access to international prior art sources. Adopting such measures would directly contribute to improving the quality of decisions on patentability and reducing the number of appeals based on technical ambiguity or the inadequacy of expert opinions.

Improving the patent protection system in Albania with regard to European experience.

The process of improving the patent protection system in Albania is linked to the need for harmonising national legislation with the provisions of the EPC (1973) and the Guidelines for Examination in the European Patent Office (2025). To achieve this, amendments should be introduced to the Law of Albania No. 9947 (2008) to provide clear definitions of key concepts stipulated in Articles 52-56 of the EPC (1973), namely “invention”, “novelty”, “inventive step”, and “industrial applicability”. This would allow for the unification of approaches to assessing patentability and reduce the risk of inconsistent decisions during the examination of applications. At the same time, it would be appropriate to introduce procedures analogous to those set out in the Guidelines for Examination in the European Patent Office (2025), which detail the criteria of inventive step and technical effect. Such measures would enhance the quality of expert opinions and the predictability of decisions.

A further stage in improving the Albanian patent protection system involves strengthening the institutional capacity of the GDIP (2025). At present, the existing structure of the GDIP demonstrates limited ability to conduct high-quality techno-legal examination of patent applications, which creates a risk of erroneous determinations of patentability and an increase in the number of appeals. One of the measures to overcome these issues is the establishment of a dedicated Invention Examination Unit specialising in comprehensive techno-legal analysis of submitted applications. Such an organisational structure would allow the concentration of resources and expertise, ensuring a systematic approach to the assessment of novelty, inventive step, and industrial applicability of inventions in accordance with EPC (1973) standards.

In parallel, it is advisable to introduce a continuous mechanism for enhancing the qualifications of GDIP (2025) patent examiners with the support of international organisations, particularly the EPO and WIPO (2025). The Academic Research Programme (2017) provides an effective model for organising training and experience exchange, including expert internships, participation in seminars, and access to analytical materials, enabling the improvement of national specialists' techno-legal competence. Systematic implementation of such programmes would ensure the regular updating of knowledge in the field of modern patentability criteria and prior art assessment methodologies, thereby reducing the number of inconsistent decisions and strengthening confidence in the patent protection system.

Another direction in strengthening the institutional capacity of the GDIP (2025) is the integration of advanced information resources used by the EPO for the verification of novelty and inventive step. In particular, connecting the GDIP to the Espacenet platform, which enables the search for technical solutions in international

databases and the analysis of prior art, would improve the quality of technical examinations and standardise the criteria for assessing inventions. The use of such tools would contribute to a more effective implementation of Articles 52-56 of the EPC (1973) and reinforce Albania's position within the international patent protection system.

The effectiveness of the patent protection system in Albania depends not only on the quality of application examinations but also on the organisation of appellate and judicial proceedings in patent disputes. At present, most intellectual property disputes are adjudicated by general administrative courts which lack the necessary technical expertise. This situation entails significant risks for fair and professional dispute resolution, as courts are unable to assess the technical aspects of inventions and their compliance with the criteria of novelty and inventive step. Consequently, this leads to inconsistent decisions, procedural delays, and a decline in confidence in the patent protection system. To enhance enforcement efficiency, it would be advisable to establish a specialised chamber for intellectual property matters within the Tirana Court of Appeal (2025). Such a chamber should operate following the model of the Boards of Appeal (2025) of the Guidelines for Examination in the European Patent Office (2025), where decisions are rendered with the participation of judges and technical experts possessing relevant sectoral expertise. The specialised chamber would centralise the adjudication of patent disputes, ensure the consistency of judicial practice, and shorten the duration of proceedings, thereby increasing the predictability and stability of enforcement mechanisms.

Improvement of appellate and judicial procedures should also involve the introduction of clear time limits for case consideration, standardised procedures for submitting evidence and requests to technical experts, as well as the publication of reasoned decisions, which would contribute to

enhancing transparency and public trust in the patent protection system. The combination of a specialised judicial approach and the active involvement of technical experts creates preconditions for the stable implementation of Articles 52-56 of the EPC (1973) into national practice and will strengthen Albania's position in the sphere of international patent protection.

Thus, the improvement of Albania's patent protection system requires a comprehensive approach combining regulatory harmonisation with EPC (1973) provisions, institutional strengthening of the GDIP (2025), and the reform of appellate and judicial procedures. Alignment of national legislation with European standards, the introduction of high-quality techno-legal expertise, the integration of modern information resources, and the establishment of specialised judicial structures will contribute to enhancing the quality, predictability, and transparency of law enforcement. Implementation of these measures will ensure more effective protection of patent rights, reduce the number of inconsistent decisions and appeals, and promote Albania's integration into the European patent space, thereby stimulating innovation and increasing the competitiveness of the national economy.

Discussion

The findings of the study demonstrate that the evolution of Albania's patent law system correlates with the processes of European integration and international legal unification. The identified trends in the harmonisation of national legislation with the EPC (1973) and EU directives, namely, Directive of the Council of European Union No. 98/44/EC (1998) and Directive of the Council of European Union No. 2004/48/EC (2004), confirm that Albania's legal framework is acquiring the features of the European model of intellectual property regulation.

The results of this study are consistent with the conclusions drawn by L. Pöld (2024), who determined that the effectiveness of a patent law system depends not only on formal harmonisation with international instruments but also on the existence of institutional mechanisms for preserving technological and commercial secrecy. In her research, the author emphasised that excessive openness of patent procedures may undermine the level of technological security in states undergoing structural reforms. This conclusion partially correlates with the Albanian context, where the implementation of electronic services and the expansion of access to GDIP (2025) databases create challenges in maintaining a balance between the transparency of administrative procedures and the protection of inventors' confidential information. Accordingly, the analysis confirms that effective implementation of European norms in the field of patent law requires consideration of national specificities of institutional security and commercial policy.

Comparison of the obtained results with the research conducted by H. Ullrich (2023) provides grounds to assert that Albania faces similar regulatory challenges to those within the European patent system. In particular, the author identifies the phenomenon of patent dependency as a structural problem associated with the unequal distribution of rights between primary and dependent patent holders, which weakens the innovation potential of small states. Within the Albanian legal system, such dependency manifests itself in the dominance of foreign applicants in the structure of patent registrations and the limited capacity of national inventors to commercialise their developments. Thus, the results confirm that even under conditions of formal harmonisation with EPC (1973) standards, it remains necessary to establish mechanisms for preventing patent concentration and to support innovation among small and medium-sized

enterprises by facilitating access to international PTC of Albania (1970) procedures.

The position of K. Walsh *et al.* (2022) on the transformation of the European patent landscape further confirms the relevance of the identified patterns. The researchers noted that the modernisation of European patent law aims not only at unification but also at enhancing the efficiency of judicial and administrative protection of intellectual property. The authors emphasised that the gradual implementation of the Unitary Patent System and the establishment of the Unified Patent Court are intended to reduce the fragmentation of patent regulation in Europe. In this context, the analysis of Albanian legislation demonstrates that the absence of an independent judicial body equivalent to the Boards of Appeal (2025) remains one of the main barriers to full integration into the European patent area. This inconsistency underscores the importance of improving institutional mechanisms for patent dispute resolution and enhancing judicial expertise in the field of intellectual property.

The results of the practical analysis of enforcement in Albania's patent protection domain confirm the existence of structural problems related to institutional capacity, the quality of examinations, and the efficiency of appellate procedures. The findings indicate that formal harmonisation of national law with European legislation does not automatically ensure improved enforcement without the proper development of expert and organisational mechanisms. In F. Mezzanotti's (2021) study, it was demonstrated that an excessive number of legal disputes and protracted patent protection procedures create a so-called "roadblock to innovation" – an institutional barrier that reduces the incentive for corporate innovation. In comparison with that author's conclusions, the results of the analysis of the Albanian system reveal a similar effect, though caused not by the intensity of litigation,

but rather by its lengthy character and the insufficient quality of technical expertise. In Albanian practice, delays in appealing GDIP (2025) decisions and the absence of specialised courts have a similarly negative impact on the innovation environment, confirming F. Mezzanotti's universal conclusion regarding the institutional influence of patent enforcement on corporate innovation. At the same time, unlike in Western jurisdictions, where the problem lies in the excessive number of lawsuits, in Albania the key factor is weak institutional capacity and a shortage of qualified personnel, which hinders the timely examination of applications (Bodi *et al.*, 2021).

The study by N. Papageorgiadis and W. Sofka (2020), in which the Patent Enforcement Index for 51 countries was developed, revealed significant cross-national variation depending on the degree of development of their legal systems, access to judicial mechanisms, and the extent of compliance with international standards. A comparison of this approach with the results of the Albanian case indicates that Albania ranks at lower levels of the index with regard to such parameters as predictability of judicial decisions and procedural transparency. N. Papageorgiadis and W. Sofka (2020) emphasised that countries with low levels of TRIPS compliance demonstrate a higher degree of uncertainty in the field of patent protection, which, in turn, reduces the confidence of investors and innovative actors. The conclusions obtained in the course of the present research fully correlate with these observations: incomplete implementation of the Agreement on TRIPS (1994) and EPC (1973) provisions in Albania's national practice results in heterogeneity of law enforcement and an increased number of appeals. Thus, the empirical findings confirm the cross-national regularities described in the Patent Enforcement Index.

The study by T. Shu *et al.* (2022) highlights another important aspect – the relationship

between the quality of patent examination, companies' market value, and investors' reactions. The authors demonstrated that the "overload" of patent examiners leads to a decline in the quality of decisions and, consequently, to market undervaluation of innovations. This observation directly corresponds with the findings obtained from the analysis of the Albanian system. In Albania, where the number of qualified experts is limited and the technical infrastructure of the GDIP (2025) remains inadequate, a similar tendency can be observed. The shortage of expert resources leads to errors in the assessment of novelty and inventive step, thereby diminishing overall confidence in patent decisions (Kubiczek *et al.*, 2025). Hence, the conclusions of T. Shu *et al.* possess strong explanatory power for interpreting the causal relationship between the quality of patent examination and the effectiveness of legal protection in Albania.

The obtained results indicate that regulatory alignment with EU and EPO standards is a prerequisite for enhancing the efficiency of the national patent system. This is consistent with the findings of researchers who emphasise that the unification of legal regimes in the field of intellectual property contributes to the reduction of legal uncertainty, stimulates innovative activity, and ensures greater predictability of law enforcement. In particular, the study by M. Kafouros *et al.* (2021) demonstrated that the stability of the patent system and the quality of its institutional framework have a direct impact on the economic efficiency of enterprises, particularly on their ability to obtain profits in the event of patent disputes. The authors underline that in countries with underdeveloped systems of examination and judicial patent protection, enterprises face high risks of losing intangible assets and a decline in investment attractiveness. These conclusions directly correlate with the identified issues in the operation of the GDIP (2025) in Albania, where limited expert capacity leads to an increase in

appeals and inconsistent decisions. The measures proposed in the study – the establishment of a specialised division for invention examination and the introduction of continuous professional development programmes for experts – may mitigate these risks and enhance the efficiency of patent management, which aligns with the recommendations of M. Kafouros *et al.* (2021).

The results also correspond with the findings of W. Sofka *et al.* (2025), which demonstrate that deficiencies in national patent systems increase the strategic risks faced by international corporations, particularly in litigation outside their own jurisdictions. The authors note that companies from countries with "weak" patent regimes are more frequently subject to patent disputes in states with developed judicial practice. This indicates a close interrelationship between the quality of a national patent infrastructure and the international competitiveness of businesses (Teta and Xhafka, 2024). In this context, the harmonisation of Albanian legislation with the EPC (1973) and the implementation of procedures analogous to the Guidelines for Examination in the European Patent Office (2025) may be regarded as instruments for strengthening institutional trust, potentially reducing the risks of international litigation and enhancing the country's reputation in the field of intellectual property protection.

In the study by K. Walsh (2019), attention was drawn to the significance of judicial dialogue between European jurisdictions as a means of ensuring the consistency of practice in the field of patent law. The author emphasised that the establishment of sustainable communication channels between national courts and the Boards of Appeal (2025) fosters the development of common approaches to the interpretation of key concepts, in particular "novelty" and "inventive step". These ideas directly relate to the proposal to establish a specialised chamber for intellectual property matters within the Tirana Court of Appeal (2025),

which should operate following the model of the Boards of Appeal. Such a step could ensure uniformity of law enforcement, enhance the technical competence of courts, and promote Albania's integration into the European patent area.

The findings of the research indicate that the reform of the patent protection system in Albania has not only a regulatory but also a strategic dimension. Harmonisation with European law creates a foundation for strengthening trust in national institutions, reducing business transaction costs, and stimulating innovative activity.

Conclusions

As a result of the conducted research, it was established that the system of legal regulation of invention protection in Albania underwent a consistent evolution – from fragmented regulation within the framework of general civil legislation to a comprehensive normative and legal system harmonised with international and European standards. Analysis of the legislative framework showed that the adoption of the Law on Industrial Property became a key stage in the formation of a modern patent law institution corresponding to the fundamental provisions of the EPC, Agreement on TRIPS and PCT of Albania.

It was proven that the establishment and functioning of the GDIP provided the institutional foundation of the industrial property protection system. Structural analysis of the GDIP's activity determined that it performed the full cycle of administrative procedures, from the receipt and examination of applications to appellate review, and aligned its processes with the practices of the EPO and WIPO. At the same time, several shortcomings in law enforcement were identified, particularly the absence of a substantive examination mechanism and insufficient specification of the criteria for "inventive step" and "unity of invention".

Five systemic groups of problems determining the state of law enforcement in the field of

patent protection were identified: institutional, procedural, expert, personnel-related, and informational. Analysis of judicial practice, particularly the Judgment of Tirana District Court of Albania No. 298 and the Judgment of the Administrative Chamber of the Supreme Court of Albania No. 00-017-2270, demonstrated that Albanian courts primarily focused on procedural and administrative matters, while the evaluation of novelty and inventive step remained limited.

A comparative analysis with the Guidelines for Examination in the European Patent Office, notably in the Decisions of the Technical Board of Appeal of the European Patent Office No. T 1389/10 – 3.2.04 and No. T 2472/13 – 3.2.01, revealed conceptual differences in approaches to determining technical novelty and inventive step. The European model involved a rigorous application of techno-legal criteria and systematic examination of prior art, whereas Albanian practice relied more on procedural interpretation of legal norms.

It was established that improving the patent protection system in Albania was necessary to ensure harmonisation of national legislation with the EPC and the practice of the EPO. The analysis showed that amending the Law of Albania No. 9947 by introducing precise definitions of "invention", "novelty", "inventive step", and "industrial applicability" would facilitate the unification of patentability assessment criteria and reduce contradictory decisions during application examination.

The practical outcomes of the study indicated that strengthening the institutional capacity of the GDIP through the creation of a separate division for invention examination, the systematic training of patent examiners, and the integration of information resources such as Espacenet would improve the accuracy of techno-legal analysis of applications. The research also demonstrated that effective appellate and judicial review of patent disputes required the establishment of a specialised Intellectual Property Chamber within

the Tirana Court of Appeal, the mandatory involvement of technical experts, and the adoption of clear procedures and timeframes for case consideration. Prospects for further research lay in extending the comparative analysis of the law enforcement practices of Western Balkan states and studying the effectiveness of electronic platforms for interaction between the GDIP, EPO, and WIPO.

Acknowledgements

None.

Funding

None.

Conflict of Interest

None.

References

- [1] Academic Research Programme. (2017). Retrieved from <https://surl.li/izbcvi>.
- [2] Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). (1994, April). Retrieved from https://www.wto.org/english/tratop_e/trips_e/trips_e.htm.
- [3] Albania adopts new law on patents, utility models and SPCs. (2025). Retrieved from <https://www.hmh.al/post/albania-adopts-new-law-on-patents-utility-models-and-spcs>.
- [4] Albania Report 2023. (2023, November). Retrieved from https://enlargement.ec.europa.eu/albania-report-2023_en.
- [5] Beqiraj, L. (2025). The impact of artificial intelligence on intellectual property rights in Albania: Between innovation and regulatory challenges. *Balkan Journal of Interdisciplinary Research*, 11(2), 43-51. doi: 10.2478/bjir-2025-0014.
- [6] Boards of Appeal. (2025). Retrieved from <https://www.epo.org/en/case-law/appeals>.
- [7] Bodi, I., Piperi, E., Xhafka, E., Teta, J., & Kosta, M. (2021). Role of Industry 4.0 in Albanian Industry Transformation: An Integrated Understanding of Industry 4.0. *Lecture Notes in Networks and Systems*, 233, 251-259. doi: 10.1007/978-3-030-75275-0_29.
- [8] Çami, L., & Skënderi, X. (2023). Biotechnology and intellectual property law: Theoretical and practical reflections on Albanian national law and jurisprudence in comparison with EU Acquis and ECJ Case Law. *Biotechnology Law Report*, 42(3). doi: 10.1089/blr.2023.29309.x.
- [9] Decision of the Enlarged Board of Appeal of the European Patent Office in Case No. G 0002/21. (2023, March). Retrieved from <https://surl.li/bxkkfd>.
- [10] Decision of the Technical Board of Appeal of the European Patent Office in Case No. T 1389/10 – 3.2.04. (2011, September). Retrieved from <https://surl.li/odiqmh>.
- [11] Decision of the Technical Board of Appeal of the European Patent Office in Case No. T 2472/13 – 3.2.01. (2015, December). Retrieved from <https://surli.cc/gglgzk>.
- [12] Decision of the Technical Board of Appeal of the European Patent Office in Case No. T 0553/22 – 3.2.05. (2024, January). Retrieved from <https://surl.li/skdqyv>.
- [13] Directive of the Council of European Union No. 2004/48/EC “On the Enforcement of Intellectual Property Rights”. (2004, April). Retrieved from <http://data.europa.eu/eli/dir/2004/48/oj>.
- [14] Directive of the Council of European Union No. 98/44/EC “On the Legal Protection of Biotechnological Inventions”. (1998, July). Retrieved from <http://data.europa.eu/eli/dir/1998/44/oj>.
- [15] Dyer, T.A., Glaeser, S., Lang, M.H., & Sprecher, C. (2024). The effect of patent disclosure quality on innovation. *Journal of Accounting and Economics*, 77(2-3), article number 101647. doi: 10.1016/j.jacceco.2023.101647.

- [16] European Patent Convention (EPC). (1973, October). Retrieved from <https://surl.li/zsxsbd>.
- [17] Garattini, L., Badinella Martini, M., & Mannucci, P.M. (2021). Pharmaceutical patenting in the European Union: Reform or riddance. *Internal and Emergency Medicine*, 17(3), 937-939. doi: [10.1007/s11739-021-02887-6](https://doi.org/10.1007/s11739-021-02887-6).
- [18] General Directorate of Industrial Property (GDIP). (2025). Retrieved from <https://surl.li/zvvhon>.
- [19] Gill, A., & Heller, D. (2024). Leveraging intellectual property: The value of harmonized enforcement regimes. *Journal of Banking Finance*, 163, article number 107169. doi: [10.1016/j.jbankfin.2024.107169](https://doi.org/10.1016/j.jbankfin.2024.107169).
- [20] Guidelines for Examination in the European Patent Office. (2025). Retrieved from <https://www.epo.org/en/legal/guidelines-epc>.
- [21] Hall, B.H., & Helmers, C. (2019). The impact of international patent systems: Evidence from accession to the European Patent Convention. *Research Policy*, 48(9), article number 103810. doi: [10.1016/j.respol.2019.103810](https://doi.org/10.1016/j.respol.2019.103810).
- [22] Hutukka, P. (2023). Patent law in comparative context: Differences and similarities of patent law in the European Union, the United States and China. *Maastricht Journal of European and Comparative Law*, 30(3), 273-311. doi: [10.1177/1023263X231206007](https://doi.org/10.1177/1023263X231206007).
- [23] Ilieva, R.K., & Ivanov, A.S. (2025). Controversial issues in the action for annulment of the resolutions of the general meeting of the commercial companies in the Republic of Bulgaria. *Balkan Social Science Review*, 25(25), 27-43. doi: [10.46763/BSSR25252527ki](https://doi.org/10.46763/BSSR25252527ki).
- [24] Invention patents, 85 applications in Albania in the last 5 years. (2023). Retrieved from <https://politiko.al/english/e-tjera/p-e-shpikjeve-85-aplikime-ne-shqiperi-ne-5-vitet-e-fundit-i490375>.
- [25] Judgment of Administrative Chamber of Supreme Court of Albania in Case No. 00-017-2270. (2017, November). Retrieved from <https://www.wipo.int/wipolex/en/judgments/details/1473>.
- [26] Judgment of Tirana District Court of Albania in Case No. 298. (2019, January). Retrieved from <https://www.wipo.int/wipolex/en/judgments/details/1413>.
- [27] Kafouros, M., Aliyev, M., & Krammer, S.M.S. (2021). Do firms profit from patent litigation? The contingent roles of diversification and intangible asset. *Research Policy*, 50(6), article number 104263. doi: [10.1016/j.respol.2021.104263](https://doi.org/10.1016/j.respol.2021.104263).
- [28] Kubiczek, J., Roszko-Wójtowicz, E., Koczy, J., Waszkiewicz, I., & Woś, K. (2025). Harnessing AI for business transformation: strategies for effective implementation and market advantage. *Statistics in Transition New Series*, 26(2), 199-213. doi: [10.59139/stattrans-2025-022](https://doi.org/10.59139/stattrans-2025-022).
- [29] Law of Albania No. 53/2025 of July 3, 2025 "On Patents, Utility Models and Supplementary Protection Certificates". (2025, July). Retrieved from <https://surl.li/eaioyri>.
- [30] Law of Albania No. 9947 "On Industrial Property". (2008, August). Retrieved from <https://www.wipo.int/wipolex/en/text/490034>.
- [31] Lerner, J., & Seru, A. (2022). The use and misuse of patent data: Issues for finance and beyond. *Review of Financial Studies*, 35(6), 2667-2704. doi: [10.1093/rfs/hhab084](https://doi.org/10.1093/rfs/hhab084).
- [32] Mezzanotti, F. (2021). Roadblock to innovation: The role of patent litigation in corporate R&D. *Management Science*, 67(12), 7362-7390. doi: [10.1287/mnsc.2020.3816](https://doi.org/10.1287/mnsc.2020.3816).
- [33] Ministry of Economy and Innovation of the Republic of Albania. (2025). Retrieved from <https://ekonomia.gov.al/>.

- [34] Muçmataj, I., & Liçenji, A. (2025). Copyright and related rights legislation in Albania: From traditional to digital protection. *Access to Justice in Eastern Europe*, 8(4). doi: [10.33327/AJEE-18-8.4-r000133](https://doi.org/10.33327/AJEE-18-8.4-r000133).
- [35] Papageorgiadis, N., & Sofka, W. (2020). Patent enforcement across 51 countries – patent enforcement index 1998-2017. *Journal of World Business*, 55(4), article number 101092. doi: [10.1016/j.jwb.2020.101092](https://doi.org/10.1016/j.jwb.2020.101092).
- [36] Paris Convention for the Protection of Industrial Property. (1883, March). Retrieved from https://www.unido.org/sites/default/files/2014-04/Paris_Convention_0.pdf.
- [37] Patent Cooperation Treaty (PTC) of Albania. (1970, June). Retrieved from <https://surl.li/cvzbry>.
- [38] Patent Profession in the EPC Contracting states. (2025). Retrieved from <https://surl.li/tabpvy>.
- [39] Pöld, L. (2024). [Preserving secrecy within the patent system to safeguard western countries' technological innovation](#). *International Law*, 33.
- [40] Shu, T., Tian, X., & Zhan, X. (2022). Patent quality, firm value, and investor underreaction: Evidence from patent examiner busyness. *Journal of Financial Economics*, 143(3), 1043-1069. doi: [10.1016/j.jfineco.2021.10.013](https://doi.org/10.1016/j.jfineco.2021.10.013).
- [41] Sofka, W., Papageorgiadis, N., Sahasranamam, S., & Mukundhan, K.V. (2025). Strategic vulnerabilities of emerging market MNCs – how litigation experiences in weak patent systems increase the risks of patent litigation abroad. *Journal of World Business*, 60(3), article number 101624. doi: [10.1016/j.jwb.2025.101624](https://doi.org/10.1016/j.jwb.2025.101624).
- [42] Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Albania, of the other part – Protocols – Declarations No. O.J. (L 107) 166. (2006, June). Retrieved from <https://surl.li/ebzhlx>.
- [43] Syam, N. (2022). Robust patent examination or deep harmonization? Cooperation and work sharing between patent offices. In *Access to medicines and vaccines* (pp. 241-276). Cham: Springer. doi: [10.1007/978-3-030-83114-1_9](https://doi.org/10.1007/978-3-030-83114-1_9).
- [44] Teta, J., & Xhafka, E. (2024). The Qualitative Impact of Foreign Direct Investment in the Albanian Clothing Industry. *Apuntes Del Cenes*, 43(78), 51-68. doi: [10.19053/uptc.01203053.v43.n78.2024.17251](https://doi.org/10.19053/uptc.01203053.v43.n78.2024.17251).
- [45] Tirana Court of Appeal. (2025). Retrieved from <https://surl.li/vbpbvhv>.
- [46] Ullrich, H. (2023). Patent dependency under European and European Union Patent Law – a regulatory gap. *GRUR International*, 72(12), 1107-1124. doi: [10.1093/grurint/ikad109](https://doi.org/10.1093/grurint/ikad109).
- [47] Walsh, K. (2019). Promoting harmonisation across the European patent system *Through Judicial Dialogue and Cooperation*, 50, 408-440. doi: [10.1007/s40319-019-00808-x](https://doi.org/10.1007/s40319-019-00808-x).
- [48] Walsh, K., McMahon, A., & Hawkins, N. (2022). [Special issue: Patents in a changing Europe](#). *European Intellectual Property Review*, 44(4), 192-197.
- [49] World Intellectual Property Organization (WIPO). (2025). Retrieved from <https://surl.li/liswhv>.
- [50] World Trade Organization. (2025). Retrieved from <https://www.wto.org/>.
- [51] Xhuvani, E. (2023). Case study on integration process of Albania towards Eu: Harmonisation of domestic legislation with that of EU. *Access to Justice in Eastern Europe*, 6(4). doi: [10.33327/AJEE-18-6.4-n000404](https://doi.org/10.33327/AJEE-18-6.4-n000404).
- [52] Yildiz, Ö.Ö., & Görkey, S. (2024). Causal links between patents and economic growth: Empirical evidence from OECD countries. *International Journal of Innovation*, 12(2), article number e26107. doi: [10.5585/2024.26107](https://doi.org/10.5585/2024.26107).

Захист винаходів та питання патентоспроможності за албанським та європейським законодавствами

Ервіс Чела

Доктор юридичних наук, професор
Тиранський університет
1010, пл. Матері Терези, 4, м. Тірана, Албанія
<https://orcid.org/0009-0004-1630-3644>

Енді Калемай

Кандидат юридичних наук
Тиранський університет
1010, пл. Матері Терези, 4, м. Тірана, Албанія
<https://orcid.org/0009-0001-0172-2019>

Максим Коку

Доктор юридичних наук, професор
Тиранський університет
1010, пл. Матері Терези, 4, м. Тірана, Албанія
<https://orcid.org/0009-0005-0173-6057>

Анотація

Метою дослідження було виявлення законодавчих прогалин, інституційних конфліктів та практичних проблем застосування норм щодо захисту винаходів в Албанії. Інститут патентного права Албанії розглядається через призму системного та правового підходу, що дозволило простежити взаємозв'язок між національними нормами та європейськими стандартами захисту винаходів. У дослідженні було встановлено, що система захисту винаходів в Албанії пройшла етапи інституційної трансформації, зумовлені переходом до ринкової економіки та інтеграцією у європейський правовий простір. На основі аналізу інституційних, процедурних та експертних факторів було визначено п'ять основних груп викликів, які обмежують ефективність системи правового захисту винаходів: інституційні, процедурні, експертні, кадрові та інформаційні. Аналіз судових рішень показав, що національні суди схильні зосереджуватися на процедурних та адміністративних аспектах патентного захисту, тоді як технічна оцінка новизни та винахідницького рівня залишається недостатньо розвиненою. Аналіз судових справ та застосування формально-правового методу дозволили виявити типові помилки у тлумаченні критеріїв новизни та винахідницького рівня, а також сформулювати пропозиції щодо вдосконалення експертизи патентних заявок. У дослідженні було продемонстровано, що створення спеціального підрозділу з експертизи винаходів у складі Генеральної дирекції промислової власності, впровадження системного професійного розвитку для експертів за підтримки Європейської патентної організації (EPO) та Всесвітньої організації інтелектуальної власності (WIPO), а також інтеграції сучасних інформаційних ресурсів (таких як Espacenet) підвищить точність техніко-правового аналізу патентних заявок та зменшить кількість суперечливих рішень. Результати цього дослідження можуть бути застосовані у роботі законодавчих органів, патентних експертів, суддів та викладачів права інтелектуальної власності з метою гармонізації національної практики з європейськими стандартами.

Ключові слова: технологічне лідерство; практика застосування закону; технічна експертиза; інституційний потенціал; апеляція