



MENA Commercial Law Strengthening CLS project

The thematic study on:

The Intellectual Property in Lebanon

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Preamble

The issue of Intellectual and Literary Property in Lebanon can not be addressed without parting from two realities that are opposing in terms of appearance but matching in terms of practice:

The first one relates to **legislation, international agreements, legal general principles, the Code of Criminal and Civil Procedures**, and all which we might call Positive Law that has a conceptual, typical, apparent basis and that serves to bridge excuses.

The second one on the other hand, relates in general to the field of literary and artistic property, i.e. IP piracy, or threatening and infringing the rights of the author, and hiding behind what is likable for the public. Copying programs, unlawful broadcasting of television programs, trafficking, impunity... all of this constitutes the reality in Lebanon, for the most part at least.

Therefore, it is impossible to address literary and artistic property and implement its legal system without addressing the above-mentioned starting points:

We must first move from the **reality towards the law** since the first one travels faster than ideas and in parallel, we should move gradually from the **law towards the implementation**, since laws must be respected and valued.

For that reason, no methodology can approach this living controversy without the permanent and insightful controversial interaction between the law and its implementation.

If we were to choose, we would have started from the causes of this chronic disease that is inherent to violations and obstacles.

But here, too, there must be another systematic order:

Is it appropriate to part from the reluctance of law enforcement bodies? Such as the judicial police, public prosecutors, the Consumer Protection Department, the Intellectual Property Protection Office, the judicial police and the customs

department. Each of the aforementioned bodies has causes and excuses stating that "the budget is only a symbol and that there is lack of feasibility".

In addition, while listening to the comments of the departments and the judicial police in general, it is clear that they are fully aware of the seriousness and importance of this matter. Not to mention the lack of coordination between all these bodies and the lack of a High Regulatory Authority dealing with literary and intellectual property.

Or is it better to address and identify what is called today as commercial blocks (المربعات التجارية) that breach and disregard the respect of intangible property (Propriété immatérielle)?

And how can this be determined in the presence of cases of **individual transport and commercial promotion?**

Yes big companies can find many ways to control and prevent piracy, however, these measures, the importance of which grow day after day (Windows programs, for example), remain with limited effectiveness.

Especially since other questions began emerging regarding this issue which may be more serious and more important than the protection of literary, artistic and industrial property (as referred to in the raging battle between Google and Microsoft recently).

For what reason should we protect what has become intrinsic to modern life? Should the Internet or the Fiber-Optic (Fibre Optique), for example, remain monopolized and a source for the collection of fortunes, as is the case for the Industrial Property of drugs and medicines that is of concern to stakeholders and public health as well? And what is the value of the media monopoly and the imposition of high fees during a historical era that is witnessing, altogether, a stunning accumulation of imaginary wealth, while the daily need for communications means has become the bread, water, roads and even the air that people breathe? What is the meaning of freedom and human dignity which are **fundamental goals, if the exercise of freedoms, revolution and expression of opinions depend on the monopolistic ridiculous prices?**

Finland has taken a decisive step in this regard, and has decided to grant each citizen of the five million Finn the "fundamental right" (Droit fundamental) that allows him to have prompt and secure access to High Speed Internet (Haut debit).

We are certainly living in a new era that can not address the issue of invention and intangible intellectual property as things were when Victor Hugo raised the subject of literary property. In other words, searching for what must be done and what must be accepted can only be dealt within the framework of:

- Fundamental freedoms that must remain protected and promoted, without monopolistic restrictions, on the one hand,
- Acceptable and necessary limits in the protection of intellectual property in general.

These are the rules and the basic starting points to be adopted on the protection of intellectual and intangible property in Lebanon.

Part One: Reviewing the IPR Legal Framework in Lebanon

The legal framework of IP rights in Lebanon is centered on legislation and texts on the one hand (**Section One**) and the institutions that ensure their implementation on the other hand (**Section Two**).

Section One: Legislation

To provide a clear and thorough picture on the Lebanese IP legislation, we will review the legal texts first (**I**) and then the legal principles (**II**).

1) Legal Texts

Legal texts are divided to three categories: some are included in domestic legislation in force (**1**); others are related to international conventions to which Lebanon acceded (**2**) and finally legal texts that are still projects that have yet to enter into force (**3**).

One: Domestic Legislation

There are myriad IP domestic legislations including laws and legislative decrees (**I**), and ministerial decrees, Decisions and circulars (**II**).

I- laws and legislative decrees

The majority of laws and legislative decrees that govern intellectual property in Lebanon are divided into two parts: general (**1**), and special (**2**).

a) General Texts

General provisions address or affect the IP subject partially.

The following is a list of these general texts:

- **Code of Land Commerce** promulgated by Legislative Decree No. 304 Date 24/12/1942
- **Penal Code** promulgated by Legislative Decree No. 340 Date 1/3/1943
- **Legislative Decree** No. 34 Date 5/8/1967 on commercial representation
- **Legislative Decree** No. 73 Date 9/9/1983 on the acquisition and trafficking of goods, materials and crops, and its amendments.

- **Telecommunication Law** No. 431/2002 Date 22/7/2002
- **Consumer Protection Law** No. 659 Date 4/2/2005

b) Special Texts:

We mean by special texts those which are directly related to IP. The most prominent of these texts, in historical sequence, are:

- **Law on Allowing the Government the conclusion of the Nice Agreement** on the International Classification of goods and products and services related to brands signed in 15/6/1957, Date 14/12/1959
- **Law No. 4/80 Date 7/4/1980** (Budget Law in 1980) on increasing fees for the protection of intellectual, industrial and commercial property.
- **Law No. 14/87 date of 4 / 5 / 1987** on subjecting the publication of industrial or trademarks in the Official Gazette to a publication fee
- **Law No. 89 Date 7/9/1991** (budget law 1991) on subjecting the publication of industrial drawings and designs, patents and literary and technical property in the Official Gazette to a publication fee
- **Law No. / 382 / dated 4.11.1994** on the television and radio broadcasting. Thee establishment, management, investment and operation of any television or radio institution is subject to prior authorization granted under a decree issued by the Council of Ministers after consultation with the UCIP Liban)
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- **Law No. / 538 / dated 24.7.1996** on the establishment of IP Protection Department in the Ministry of Economy and Trade - Directorate General for Economy and Trade
- **Law No. / 585 / dated 24/7/1996** on allowing the Government the conclusion of the International Rome Convention for the protection of artists, signed in Rome on 26/10/1961
- **Law on the Protection of Literary and Artistic Property No. / 75 / Date April 3, 1999** which cancelled articles 137 to 180 of Decree No. 2385/1924 and articles / 722 / to / 729 / of the Penal Code
- **Patent Law** No. / 240 / Date 7 August 2000
- **Law No. 394 Date 5/6/2002** on allowing the Government to accede to the PCT, held in Washington on 19/6/1970 and amended in 1979 and 1984, and its executive rule amended on 1/10/1997

2) Decisions, Ministerial Decrees, and Circulars

We will review in turn, decisions (1), ministerial decrees (2) and circulars (3).

1- Decisions

The legal nature of IP resolutions in Lebanon differs according to whether they were approved before or after the Lebanese independence. In the first case, the decisions were issued by the High Commissioner and their scope of work and effect were similar to the scope of work and effect of laws (a), while in the second case, the ministerial decisions are issued by the Minister of Economy and Trade (b).

a- Decisions issued by the High Commissioner

The most prominent of these decisions are the following:

- **Resolution No. 2385 date 17/1/1924** on the system of commercial and industrial property rights and its amendments
- **Resolution No. 141 Date 28/6/1934** on the implementation of the Berne agreement for the protection of literary and artistic property reviewed in Rome on 2/6/1928 in terms of Eastern countries included in the French Mandate.
- **Resolution No. 24 Date 27/12/1936** on the exemption granted to agencies to conduct deposit transactions provided for in resolution 2385/1924 on the protection of commercial, industrial, technical, literary and musical property from ratification.
- **Resolution No. 170 of 6/12/1937**, and its amendments, on the determination of tariff and charging tolls and revenues of the Office of Protection of Commercial and Industrial Property
- **Resolution No. 152 Date 19/7/1939** on the implementation of the Paris Union for the Protection of Industrial Property and the Madrid Agreement concerning the punishment of false statements on source of the goods in Lebanon and Syria.
- **Resolution No. 177 dated March 23, 1942** on increasing the rights and duties belonging to the Office of Protection of Commercial and Industrial Property, as set out in resolution 170/1937

- **Resolution No. 185 date of April 16, 1943** on the deployment of literary, scientific and artistic works for authors present in enemy or enemy-occupied countries.

b) Ministerial Resolutions:

Most notably:

- **Resolution No. 83 Date January 29, 1960** on the conditions for establishing a Lebanese industry with a foreign brand registered in Lebanon
- **Resolution No. 292 date of July 7, 1960** on the trademarks of goods sold in Lebanon.

2- Ministerial Decrees :

The most prominent decrees in force in the field of intellectual property are the following:

- **Decree No. 2339 dated 6/4/1992** on defining materials that are not considered a luxury, which does not apply to limiting commercial representation
- **Decree No. 918 dated November 15, 2007 in force** on the promotion of copyright and related rights.

3- Circulars

The most highlighted circulars in force in the field of intellectual property are the following:

- **Circular No. 2 / 1 / date of 25/5/2006** issued by the Minister of Economy and Trade in accordance with the provisions of intellectual property laws and respecting the rights of their respective owners
- **Circular No. 4 / 1 / date of 25/5/2006** issued by the Minister of Economy and Trade on the protection of IT programs and combating piracy
- **Circular No. 5 / 1 / at the date of 25/5/2006** issued by the Minister of Economy and Trade on the protection of audio-visual and music works

- **Circular No. 6 / 1 / at the date of 25/5/2006** issued by the Minister of Economy and Trade on the protection of literary, artistic and scientific works.

Two: International Conventions

Lebanon has already acceded to a number of important international conventions in the field of intellectual property:

- **Agreement of the Paris Union Date 20/3/1883** on industrial property protection and amended in Brussels on 14/12/1900 in Washington on 2/6/1911 at Lahai on 6/11/1925 In London on 2/6/1934.
- **Madrid Agreement on 14/4/1891 on punishing false statements on the source of goods** re-examined in Washington on 2/6/1911 and in Lahai on 6/11/1925 in London on 2/6/1934.
- **Bern agreement Date 2/9/1886 on the protection of literary and artistic works** amended in Berlin on 13/11/1909 in Rome on 2/6/1928. Lebanon acceded to this Convention after the declaration of independence on 30/9/1947 and ratified the amendments to it in Paris in 1971.
- **UCC- Universal Copyright Convention** adopted in Geneva in 1951 to which Lebanon acceded in 17/7/1959 to protect the rights of Lebanese authors in countries that were not in that time a party to the Berne Convention, most notably the United States and the Soviet Union.
- **Nice Convention concerning the International Classification of goods and services** signed in 15/6/1957
- **Rome Convention on 26/10/1961** on the protection of performers and producers of phonograms and broadcasting organizations to which Lebanon acceded on 26/6/1962. However, this convention entered into force after ratification by the Lebanese Parliament on 12.5.1977.
- **Patent Cooperation Treaty meeting in Washington** on 19/6/1970 and amended on 28/9/1979 and 3/2/1984 and its executive rule,
- **Euro-Mediterranean agreement on the establishment of a partnership between the Lebanese Republic and the European Community and its country members**, Date 17/6/2002, and annex No. 2 on the intellectual, commercial and industrial property referred to in Article 38 of the Convention.

It is noteworthy that a number of legal problems have emerged after the accession of Lebanon to certain conventions which forced this issue to be brought up again before the Board of Deputies for re-approval. This matter has created some confusion in terms of the existing legal situation. Consequently, and to avoid any confusion, we will present the legal approach to solve these problems in a simplified schedule:

Convention	Lebanon's accession	Steps taken to resolve the issue
<p>PCT held in Washington on 19 / 6 / 1970 and amended in 1979 and 1984.</p>	<p>Lebanon acceded to it under Law No. 394 Date 5/6/2002 on allowing the Government to accede to the PCT, held in Washington on 19/6/1970 and amended in 1979 and 1984 and its executive rule as amended on 1/10/1997.</p>	<p>Bill on allowing the Government to accede to the Patent Cooperation Treaty (Washington, 1970 and amended in 1979 and 1984):</p> <p>Re-ratification of the Treaty and amendment of some provisions of Law No. 394 Date 5/6/2002 and the executive rule, assigned to the parliament by decree in force No. 183 date 21.3.2007, published in Official Gazette, issue No. 17 Date 26/3/2007.</p>
<p>Bern agreement Date 2/9/1886 on the protection of literary and artistic works, amended in Berlin on 13/11/1909 in Rome on 2/6/1928.</p>	<p>This Agreement entered into force under decision No. 141, Date 28.6.1934.</p> <p>Lebanon acceded to this Convention after the declaration of independence on 30/9/1947 and ratified</p>	<p>Bill on allowing the Government to accede to the Berne Convention for the Protection of Literary and Artistic Works: the ratification of the Paris Law on 24.7.1971 as amended on 28/9/1979,</p>

	the amendments to it in Paris in 1971.	assigned to the parliament by decree in force No. 684 date 28.8.2007, published in Official Gazette, issue No. 53, dated 3/9/2007.
Nice Agreement on the International Classification of goods, products and services signed in 15/6/1957	Law Date 14/12/1959 on allowing the Government to conclude the Nice Agreement on the International Classification of goods and products and services signed in 15/6/1957	Bill on allowing the Government to accede to the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of trademarks: the ratification of the Geneva Act of 1977, as amended in 1979, assigned to the parliament by decree in force No. 565 Date 27/7/2007, published in Official Gazette No. 46 Date 2/8/2007.

Three: Draft Laws

Several draft laws designed either to allow the government to accede to international conventions **(One)** or to approve new provisions and texts **(Two)** were prepared.

1- Draft Laws Allowing the Government to Accede to International Conventions

The most important draft laws are:

- Draft Law allowing the government to accede to the **WCT- Wipo Copyright Treaty**
- Draft Law allowing the government to accede to the **WPPT – Wipo Performances and Phonograms Treaty**
- Draft Law allowing the government to accede to the **PCT -Patent Cooperation Treaty** (Washington, 1970 and amended in 1979 and 1984): re-ratification of the Treaty and amending some provisions of Law No. 394 Date 5/6/2002 and the executive rules, assigned to the parliament by decree in force No. 183 Date 21.3.2007, published in Official Gazette, issue No. 17 Date 26/3/2007.
- Draft Law allowing the Government to accede to the **Singapore Treaty on the Law of Trademarks**, assigned to the parliament by decree in force No. 371 date 31.5.2007, published in the Official Gazette, issue No. 33 Date 7/6/2007.
- Draft Law allowing the Government to accede to the **Paris Convention for the Protection of Industrial Property** and the ratification of the Charter of Stockholm in 1967, as amended in 1979, assigned to the parliament by decree in force No. 570 date 27.7.2007, published in Official Gazette, issue No. 46 Date 2/8/2007
- Draft Law allowing the Government to accede to the **Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of trademarks**: the ratification of the Geneva Act of 1977, as amended in 1979, assigned to the parliament by decree in force No. 565 Date 27/7/2007, published in Official Gazette, issue No. 46 Date 2/8/2007.
- Draft Law allowing the Government to accede to the **Berne Convention for the Protection of Literary and Artistic Works**: the ratification and the Paris Act of 24.7.1971 as amended on 28/9/1979, assigned to the parliament by decree in force No. 684 date 28.8.2007, published in Official Gazette, issue No. 53, dated 3/9/2007.
- Draft Law allowing the Government to accede to the **Madrid Protocol for the International Registration of Marks**, assigned to the parliament by decree in force No. 991 date 24.11.2007 and published in the Official Gazette issue No. 77 Date 7/12/2007.

It is noteworthy here that Lebanon has committed, under Annex No. 2 on the intellectual, commercial and industrial property of the Euro-Mediterranean Convention, to establish a partnership between the Lebanese Republic and the European Community and its Members on 17/6/2002 and to join a number of important international conventions, but has yet to do. The following is a table of commitments taken by Lebanon in this framework and the steps taken to date to implement them:

The phase that Lebanon has reached	Lebanon's commitment (According to Annex No. 2 of the Euro-Mediterranean Convention)	date	The international treaty
Bill allowing the Government to accede to the Paris Convention for the Protection of Industrial Property and the ratification of the Charter of Stockholm in 1967 , as amended in 1979: referred to the parliament by decree in force No. 570 date 27.7.2007 published in Official Gazette, issue No. 46 Date 2/8/2007.	Ratification of the amendments to this Treaty at the end of the fifth year of the Euro-Mediterranean Convention entry into force	Stockholm Charter in 1967 and amended in 1979	Paris Convention for the Protection of Industrial Property
Bill allowing the Government to accede to the Berne	Ratification of the amendments to this Treaty at the end of the	Reviewed in Paris in 1971 and	Berne Convention for the Protection

<p>Convention for the Protection of Literary and Artistic Works: the ratification of the Paris Act of 24.7.1971 as amended on 28/9/1979: transmit to the parliament by decree in force a provision No. 684 date 28.8.2007 published in Official Gazette No. 53, dated 3/9/2007.</p>	<p>fifth year of the Euro-Mediterranean Convention entry into force</p>	<p>amended in 1979</p>	<p>of Literary and Artistic Works</p>
<p>Bill allowing the Government to accede to the Nice Treaty on the International Classification of Goods and Services for the Purposes of Registration of Trademarks: ratification of the Geneva Act of 1977, as amended in 1979: referred to the parliament by decree in force No. 565 Date 27/7/2007 published in the Official Gazette, issue No. 46 Date 2/8/2007.</p>	<p>Ratification of the amendments to this Treaty at the end of the fifth year of the Euro-Mediterranean Convention entry into force</p>	<p>Geneva, 1977, amended in 1979</p>	<p>The Nice Treaty on the International Classification of Goods and Services for the Purposes of Registration of Trademarks</p>
<p>Bill allowing the Government to accede to the PCT (Washington 1970, amended in 1979 and 1984): re-ratification of</p>	<p>Accession to this Treaty at the end of the fifth year of the Euro-Mediterranean Convention entry into force</p>	<p>Washington 1970, amended in 1979 and 1984</p>	<p>PCT</p>

<p>the Treaty and amending some provisions of Law No. 394 Date 5/6/2002 and the Regulations, assigned to the parliament by decree in force No. 183 date 21.3.2007, published in Official Gazette No. 17 Date 26/3/2007.</p>			
	<p>Accession to this Treaty at the end of the fifth year of the Euro-Mediterranean Convention entry into force</p>	<p>1977 and amended in 1980.</p>	<p>Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the purposes of patent procedures</p>
<p>Bill allowing the Government to accede to the Protocol to the Madrid Agreement Concerning the International Registration of Marks: Referred to the parliament by decree in force No. 991 Date 24/11/2007 published in the Official Gazette No. 77 Date 7/12/200.</p>	<p>Accession to this Treaty at the end of the fifth year of the Euro-Mediterranean Convention entry into force</p>	<p>Madrid</p>	<p>Protocol to the Madrid Agreement Concerning the International Registration of Marks</p>
	<p>Accession to this Treaty at the end of the fifth year of the Euro-</p>	<p>Geneva</p>	<p>Trademark Law Treaty</p>

	Mediterranean Convention entry into force		
	Accession to this Treaty at the end of the fifth year of the Euro-Mediterranean Convention entry into force	The law of Geneva, 1991	International Convention for the Protection of New Varieties of Plants (UPOV)
The Ministry of Economy and Trade to review the laws and draft laws on intellectual property in Lebanon, to fit in with the TRIPS Convention so as to enable Lebanon to accede to this Agreement and to enter the World Trade Organization.	Accession to this Treaty at the end of the fifth year of the Euro-Mediterranean Convention entry into force	Marrakesh	The Convention on Trade-Related Aspects of Intellectual Property Rights, Supplement (IC) of the Convention that created the World Trade Organization - TRIPS
Bill permission for the Government to accede to the (WCT- WIPO Copyright Treaty: referred to the Council of Ministers on 19/5/2008 after the formation of the new government and exploring the views of the relevant ministries on 6/10/2008. Is still under preparation.	Ratification of this Treaty as soon as possible	Geneva	WIPO Treaty on copyright

<p>Bill permission for the Government to accede to the WPPT– WIPO Performances and Phonograms Treaty): referred to the Council of Ministers on 19/5/2008 after the formation of the new government and exploring the views of the relevant ministries on 06/10/2008 is still under preparation.</p>	<p>Ratification of this Treaty as soon as possible</p>	<p>Geneva</p>	<p>The WIPO Performances and Phonograms Treaty</p>

2- Draft Laws and proposals for new laws

- **Draft competition law** referred to the House of Representatives under Decree No. 1021 in force, published in the Official Gazette, No. 77 of 7 / 12/2007.
- **Draft unlawful competition law** which is still under study and preparation by the Ministry of Economy and Trade. The Ministry of Public Health, which asked to wait until consulting the World Health Organization and the Ministry of Justice, which requested the re-formulation of the project had been consulted.
- **Draft law aiming to protect marks of industry, trade and services** referred to the House of Representatives by decree in force No. 993, published in the Official Gazette, No. 77 Date 7/12/2007.
- **Draft Law on the Protection of Industrial Drawings and Designs** and referred to the House of Representatives under Decree No. 986 in force published in the Official Gazette, No. 77, the date of 7/12/2007
- **Draft law aiming to amend some provisions of Law No. 75/99 Date 3/4/1999 on the protection of literary and artistic property** referred to the House of Representatives pursuant to Decree No. 972 in force, published in the Official Gazette, No. 77, the date of 7/12/2007.

- **Draft law on the protection of geographical indications.**
- **Proposal of the Information Technology Law:** This proposal was approved by the Committee on Information Technology on 21/12/2006 and was referred to other committees and then included on the agenda of the joint committees on 11/9/2008 and was later referred to a subcommittee chaired by MP Ghinwa Jalloul for study. It was approved by the Sub-Commission and referred to the joint committees for approval¹.

II- Legal Principles

The legal system of Lebanon focuses on the principles essential to the intellectual property rights. It has gleaned many of the provisions from the most prominent international conventions that address copyrights and related rights **(One)**, Trademarks **(Two)**, industrial drawings and designs **(Three)** and patents **(four)**.

One: Copyright and Neighboring Rights

Copyright and related rights are regulated by Law No. 75/1999 that included the most important global man-made laws and international conventions and provided for new provisions that were not included in Decree No. 2385/1924 such as the protection of computer software and the collective copyright management.

The most prominent principles adopted by this law include the following:

- I- **The broad scope of protection:** this protection includes "all products of the human intellect, whether written, pictorial, sculptural, or oral, regardless of its value, importance, destination and form of its expression."

Such protection applies to Lebanese authors and nationals of one of the countries acceding to the Berne Convention for the protection of literary and artistic works, or to a the Global Treaty to protect the rights of the author as well as authors nationals of any Member State of the League of Arab States (the principle of reciprocity).

¹ It is noteworthy that the Ministry of Economy and Trade, has developed in collaboration with the European Union and eminent legal persons such as Pierre Catala, a draft law on electronic commerce known as ECOMLEB.

This protection also applies on works published for the first time in Lebanon, or published for the first time in one of the countries acceding to one of the treaties mentioned above, or published in Lebanon or in a country bound to one of these treaties within thirty days from the date of publication in a third country.

- c) **Immediate protection of the work:** the author of a literary or artistic creation enjoys an absolute ownership right over such work without the need for any formality or registration other than those stated in the Rome Convention.
- d) **Exclusive Copyright:** the author enjoys material rights that enable him to exploit the work materially. These rights are the money that can be transferred in whole or in part, provided that all contracts are written under penalty of nullity. Furthermore, any assignment of future work is null. . He also enjoys **moral rights** that enable him to publish the work, to claim ownership of his work and to retract from any agreement entered into with respect to the exploitation of the work. Moral rights can not be assigned, transferred or disposed of but can be transferred after death.
- e) **Exceptions to protection:** the law provided for specific cases where it is possible to copy a certain work without obtaining permission from the author and without paying him compensation. The majority of these cases include the right to make unauthorized copies of computer software and use part of the work to critique or support the point of view or for educational purposes, or the right to use articles published in newspapers and magazines. Public libraries can also make an unauthorized copy of a work without profit under special, narrow and exclusive terms.
- f) **Term of Protection:** works in general are protected throughout the lifetime of the author plus fifty years starting from the end of the year in which the author died, and the year the death of the last author occurred for joint works. As for collective and audio-visual works, the protection lasts for a period of fifty years starting from the date of first publication. In the case of non-publication, the term of fifty years starts from the end of the year in which business is done. Moral rights enjoy eternal protection and pass on to others by inheritance.
- g) **Penalties:** if a person violates an author's right, Law No. 75/99 provides for imprisonment from one month to three years and a fine from five million to fifty million Lebanese pounds, or either of them. The penalty is doubled in case of repetition.

Two: Trade Names

Trademarks in Lebanon are governed by Decision 2385/1924 that provided for a number of principles notably:

- **Scope of Protection:** the protection includes trademarks for products or for commerce, as the name, denomination, emblem, stamp, letters, prints, labels, numbers and in general any sign, that is used to distinguish the individuality and the origin of merchandise.
- **Terms of Protection:** the personal ownership of the trademark should be pre-registered in the Office of Intellectual Property. A person can claim that he used the trademark first within a period of five years following the registration, and in this case it is imperative to provide written evidence. After the expiry of five years, in addition to the abovementioned, a written evidence indicating that the applicant was aware, at the time of the registration, that the brand was owned by the person who has first used it, shall be submitted. It is noteworthy that **“highly notorious marks”** are protected and there is no registration requirement according to the Paris Convention of 20/3/1883 on the Protection of Industrial Property that Lebanon has acceded.
- **Term of protection:** a trademark is protected for **15 years** renewable for the same period provided that the renewal fees are paid.

Three: industrial drawings and designs

Articles 48 to 67 and 111 to 114 of Decision 2385/1924 govern industrial drawings and designs in Lebanon. The main principles are as follows:

- **Scope of protection:** industrial designs or drawings, objects of protection, are those characterized by novelty and innovation, i.e. they include attributes that distinguish them from foreign known designs.
- **Terms of protection:** to provide such protection, it is required to register the design or model at the Office on Intellectual Property. However, registration alone does not grant ownership of the design or model, but the applicant will benefit from the presumption of ownership. The real property may only take place using the design or model.
- **Rights of the owner of a design or model:** each author of a design or model or whoever related to him has the right to an exclusive usufruct of the design or model and can dispose of it on the stipulation that it had been pre-registered.

- **Term of protection:** Open or confidential filing requested to be effected shall remain for the period of twenty-five years starting the date of the first filing. At the lapsed of these twenty five years or before its lapsed the depositor or those who have rights therein, may ask for extension of filing for another twenty five years.

Four: Patents

Lebanon enacted in 2000 a new law No. 240/2000 to protect patents that deleted several articles from Decision No. 2385/1924. The law is mostly based on the Paris Union Convention of 1883 as it has been amended and states for the following principles:

- **Scope of Protection:** an invention may be subject to protection if it is new (if it is not part of the existing techniques), includes an inventive activity (if a normal person could not obviously reach the same result by using the existing techniques) and may be applied in the industry (if it can be manufactured or used in any industry).
- **A patent is delivered** to the inventor in principle. If the inventor is an employee and if there is not a written agreement, the employer owns the patent when the employee invents pursuant to the terms of an employment agreement which include an inventive mission in its scope or for research and development and testing works assigned by the employer explicitly.
- **Rights of the patent owner:** the patent holder has the exclusive right to invest his invention. If the invention is industrial, than the protection includes those products obtained directly by this method. The rights arising from the patent application or the patent shall be transferable in whole or in part, provided that the contract is in writing under penalty of nullity.
- **The duration of a patent:** the exclusive right to invest an invention lasts for twenty years starting the date of filing the application at the Office on Intellectual Property.
- **Violations:** violations are penalized with a fine from five million to fifty million Lebanese pounds and imprisonment from one month to three years, or either of them. The penalty is doubled in case of repetition.

Section Two: Institutions

The institutions that are mandated to protect intellectual property rights are divided into two categories: Public Administrations **(I)**, and the Judiciary **(II)**.

I- Public Administrations

To facilitate this study we will tackle first the Ministries **(1)** and later other Administrations **(2)**.

One: Ministries

The Ministry of Economy and Trade **(I)**, the Ministry of Culture **(II)** and the Ministry of Public Health **(III)** are concerned with the IP issue from different angles.

a) the Ministry of Economy and Trade

The MOET addresses the IP issue through various organs according to each case. It intervenes through the Office on Intellectual Property **(1)**, the Consumer Protection Directorate **(2)** and through regional departments **(3)**.

1- the Office on Intellectual Property

The Intellectual Property Office, Ministry of Economy and Trade - Directorate General for Economy and Trade was established under the sole article of Law No. 538 date 24/7/1996 and Decree No. 6821 dated 28/12/1973 concerning the delimitation of functions and the cadres of the MOET. It was amended to include its provisions.

This Office was assigned with broad competences in terms of IP violations in general in Lebanon. The functions of this office include literary and artistic property on the one hand and industrial property on the other hand.

a- Tasks of the Intellectual Property Office in the Framework of Literary and Artistic Rights:

Law No. / 75 / Date 3/4/1999 aimed at the protection of literary and artistic property provided for a series of powers and competences granted to the Intellectual Property Office, Ministry of Economy. These competences include the following:

- **Depositing works**, audio recording, performance, radio or television programs at the Intellectual Property Protection Office. The deposit shall constitute a presumption as to the ownership by the depositor of the work. Such presumption may be refuted by all available means (Article 76).
- **The application** is submitted to the Intellectual Property Protection Office signed by the copyright holder, holders of related rights or their legal agent or proxy on the stipulation that the application contains the following information (Article 77):
 - the title and the type of work, sound recording, performance or radio or television program
 - the name, title and address of the author or the holder of related rights. If the author or the holder of related rights does not make the deposit personally, the foregoing information must be given in respect of the depositor as well
 - if the depositor is a person other than the author or the holder of related rights, the type of document on the basis of which the depositor has submitted the application for deposit
 - where necessary, the name and address of the person responsible for the physical execution of the work (the printer, the molder, etc.).

The application for deposit must be accompanied by:

- (a) if the applicant is a person other than the author or the holder of related rights, a copy or a summary of the document on the basis of which the deposit is made (power of attorney, assignment, contract or agreement...);
- (b) three copies of the work or the subject of the related right. In respect of pictures, oil paintings, water colors, statues, works of architecture or other works having only one original, a photographic or non photographic reproduction of the work in three dimensions shall be provided showing the shape and form of the work in whole and in detail.

After registration, the applicant receives a **certificate** including information mentioned in the application, dated and stamped and signed by the President of the mentioned Office.

The activity of the Protection Office until this date regarding filing and registration transactions includes the following²:

Copyright and Related Rights	
2004	161
2005	161
2006	121
2007	162
2008	175
2009	139 till September, 25, 2009

➤ **The possibility to record current contracts on works registered at the Intellectual Property Protection Office:**

Article 80 of Law No. 75/99 notes that any contract concluded with regard to any work, sound recording, performance or radio or television program registered at the Intellectual Property Protection Office may also be recorded with the said Office.

➤ **Taking the necessary precautionary measures:**

The president of the Intellectual Property Protection Office can request the Public Prosecutor to institute legal action (Article 89 of the law).

² The source of these numbers: the Intellectual Property Protection Office, the Ministry of Economy and Trade.

Police commissioners and customs officials have the authority to designate, take stock of and sample suspected items and take copies of them wherever found on the Lebanese territory. The foregoing officials shall carry out their functions by virtue of an order or a mandate issued by the public prosecutor or the director of the Protection Office. They should notify the Protection Office of any infraction of the provisions of this decision and make a minute for this purpose (articles 89 to 96 of the Act).

b- Tasks of the Intellectual Property Office in the Framework of Patents:

In this context, Law No. 240 Dated 7/8/2000 (Patents) provided that the Intellectual Property Office shall undertake multiple tasks, most notably:

➤ **Issuance of patents** at the request of the patent holder or his legal representative, provided that the application includes the legal requirements and covers only one invention or several interconnected inventions forming one general innovative concept, otherwise, the invention is considered complex and the registration should be separate in accordance with the provisions of article 13 of the law.

The finance charge of fifty thousand Lebanese Liras shall be paid and the date of financial receipt shall be considered the date of filing the application.

The Intellectual Property Office issues a patent within a period of sixty days starting the date of acceptance of the request, unless the applicant requests a delay pursuant to the provisions of article 14 of the law.

These patents, however, shall be granted without the least guarantee concerning the reality and truth of the invention, its merit, the availability of industrial applicability or innovation, the honesty of the invention's description or authenticity.

In this context, the movement of patenting at the Intellectual Property Office to date came as follows³:

³ The source of these numbers: the Intellectual Property Protection Office, the Ministry of Economy and Trade.

Registered Patents	
2004	237
2005	249
2006	354
2007	371
2008	328
2009	250 till September, 25, 2009

➤ **Registration of contracts dealing with patents at the Intellectual Property Office**

In accordance with Law No. 240/2000, article 23, any agreement related to an invention patent application or patent, should be in writing, otherwise it shall be void and null, such agreement shall be in effect only from that date of registration in the patents register at the Intellectual Property Protection Office.

The registration shall take effect based on the request of one or more of the parties of such agreement within three months of signing such agreement plus the distance grace, such registration is against a fee of ninety thousand Lebanese Liras. A fee of fifty thousand Lebanese liras shall be paid for every two additional months.

The competent Court may decide to note any suit related to a patent in the relevant register in the Intellectual Property Office (Article 29 of the Act).

➤ **Necessary precautionary measures**

Article 52 of Law No. 240/2000 granted sworn elements of the interior security, customs and employees of the IP Office the authority to describe and inventory whatever constitutes an infringement to the rights of the patent owner as well as to hold samples of such. They are appointed for such task according to a decision or mandate issued by the judge of urgent matters or the Head of the First Instance Court or the Public Prosecutor or the Head of the IP Office according to their competence. The abovementioned sworn employees are designated Law officers in application of Law No. 240/2000.

The Intellectual Property Protection Office shall collect from the applicant against the disclosure or the list or impounding, a total fee of 200 thousand Lebanese Liras for each transaction.

➤ **Each Jurisdiction decision taken according to the provisions of this law shall be served** by the issuing court to the Intellectual Property Protection Office within a period of 15 days from the issuance thereof.

c) Tasks of the Intellectual Property Office in the Framework of Industrial Drawings, Designs and Brands

Decision No. 2385 dated 17.12.1924 listed these tasks related to the system of commercial and industrial property rights, noting that this Office was not explicitly mentioned, as it was not present at the time.

➤ **Registering the Drawing, Design or Brand:**

Article 49 of the resolution provided for the possibility of filing **Drawings and Designs** containing two advantages of being new and invented to the IP Office, noting that registration does not give absolute ownership of a design or drawing, since real ownership shall only be acquired through the use of the design or drawing.

Open or confidential filing requested to be effected before or on the lapsed of the first five years lasts shall remain for the period of twenty-five years starting the date of the first filing, subject to extension for another twenty-five years.

➤ **As for Trademarks**, personal ownership shall not be claimed unless such a trademark has been previously filed in the Protection Office as per the provisions of Article (79) and subsequent articles thereto.

Filing duration shall be fifteen years, which may always be renewed for subsequent duration of fifteen years each provided that the payment of fees is made.

The registration of trademarks and industrial designs and drawings at the Office of Intellectual Property came as follows⁴:

Registered Trademarks	
2004	4319
2005	4293
2006	4260
2007	4970
2008	5669
2009	4309 till September, 25, 2009

⁴ The source of these numbers: the Intellectual Property Protection Office in the Ministry of Economy and Trade.

Industrial Designs	
2004	99
2005	115
2006	113
2007	113
2008	97
2009	82 till September, 25, 2009

➤ **Necessary Precautionary Procedures**

The Decision stated that the Public Prosecutor shall institute common right proceedings either automatically or pursuant to a complaint lodged by the private party or the president of the Protection Department. The Public Prosecution as well as the Director of the Protection Office shall have the right to designate, take stock of and sample suspected items (Articles 121 to 126 of the Decision).

Criminal and civil action must be brought before the competent court within 15 days as of the date of the record, failing that, the operation shall be null and void. The foregoing time limit shall be increased of one day for each 50 km of distance between the place of the operation and the residence of the party against whom the action is taken or his representative (Article 127).

➤ **The relevant court shall inform the Office of any judicial decision** taken in accordance with the provisions of Decision No. 2385 within a maximum period of 8 days (Article 133 of the Decision).

2) Consumer Protection Directorate, Ministry of Economy

The Consumer Protection Directorate, Directorate-General of Economy and Trade was established after the elimination of the Consumer Protection Office

under Article 63 of Law No. 659 of 4/2/2005. "Consumer Protection Department" was replaced by "Consumer Protection Directorate" in all legislative and regulatory texts.

Consumer protection mainly requires ensuring the authenticity; quality and origin of the goods marketed which calls for the need to ensure the protection of intellectual property rights as the basis for the protection of the consumer himself.

Article 8 of Decree No. 6821 of 28/12/1973 (Positions and Functions of the MOET) defined explicitly the role of the Directorate in the framework of IP rights as follows:

First: the Consumer Protection Directorate shall, in cooperation with the official and private authorities, implement laws and regulations related to consumer protection, especially as regards the following:

- **Ascertaining the quality and safety of goods and services especially foodstuffs and performing necessary tests on foodstuffs**
- Controlling prices and prices movements
- Preparing documents and publications related to consumer education and awareness
- Conducting researches about the abovementioned subjects

Secondly: the Consumer Protection Directorate shall be composed of:

- 1- A Department of Studies and Awareness, tasked with providing information about the laws and regulations related to consumer protection. Such Department shall also be responsible for the preparation of studies and suggestions and for the launch of awareness campaigns, in collaboration with official and private authorities.
- 2- A Department of Control which shall be tasked with receiving and investigating complaints and with implementing the laws and regulations related to consumer protection.

3) Regional Departments

Decree No. 8315 dated 19/12/1961 related to the functions and competences of regional economic departments which regulates the working conditions therein and the distribution of work between them and the Central Administration, stated that the regional departments shall undertake the protection of intellectual property rights among other tasks.

Article 8 of this Decree stated the following:

Regional departments shall undertake the following tasks:

I- Administrative affairs:

a- property protection:

- 1- Receipt of applications in terms of the protection of property and liquidation fees, and delivery of certificates” and related decisions and patents, after their issuance by the central administration.***
- 2- disclosures relating to the protection of property and organization of relating records***

b) the Ministry of Culture

The Ministry of Culture includes the Directorate General for Cultural Affairs and the Directorate General of Antiquities and the Joint Administrative Department. Law No. 35 of 16/10/2008 (regulation of the Ministry of Culture) defines the functions of the ministry as follows:

“The Ministry of Culture is responsible for ruins, heritage, historic property, **arts, literature and products of intellect**” and **cultural industries and is responsible for the management of cultural property**, and other cultural affairs, particularly the following areas included in the aforementioned fields:

“(E)” arts and products of thought”: including all works within any fields of thought published or unpublished and which are not included within other cultural categories defined in this article”.

“(F)” cultural industries ”: include forms of expression that are included under the following labels: art” cinema, mass media, multi-arts technologies, activities of dissemination of cultural productions, ”and so forth.”

Law No. 35 dated 16/10/2008 (the Ministry of Culture), Ministry of Culture - **Directorate General for Cultural Affairs** and the decree in force No. 918 Date 15/11/2007 on the organization and how to establish the work of associations and companies of collective management of copyright and related rights, how to exercise control by the Ministry of Culture and verification of violations, the authority to grant licenses to collective management of copyright companies. And validity of disclosure on companies and collective management societies in order to protect copyright in particular, and ensure the application of the criteria authorized, law enforcement, access of physical rights to the author in proportion to the ratio of its use.

SACEM is a collective management company in Lebanon which has recently received approval as imposed by the new law, under the decision of 27/1/2009.

There is also a second company SACEM L which recently submitted a request for obtaining a license, but has not yet completed the requirements.

According to Article 6 of the law, the General Directorate of Cultural Affairs is entrusted with Fine Arts of all kinds, arts, crafts and folk traditions, arts and products of thought, theater and performing arts, cinema, multiple technologies arts, including audio - visual arts and mass media arts in addition to knowledge economy.

The Directorate General for Cultural Affairs includes the Directorate of Arts and Literature, the Directorate of cultural industries and the knowledge economy and the Directorate of cooperation and national coordination. The **Directorate of Arts and Literature** is entrusted with all types of Fine Arts such as arts and crafts and folk traditions, products of thought, theater and performing arts.

The **Directorate of cultural industries and the knowledge economy** is responsible for multi-technological arts, including audio-visual arts and mass media, and the knowledge economy.

The **Directorate of cooperation and national coordination** is tasked to promote exhibitions and festivals in the fields of competence and organize games and prizes, incentives and cooperate with departments and public and private institutions and individuals to achieve the above-mentioned functions and implement the tasks and powers of the Ministry of Culture, according to law No. 75 Dated April 3, 1999 (the Protection of Literary and Artistic Property).

It is noteworthy that a recent **law on artistic professions No. 56 dated 27/12/2008** was issued and transferred the task of supervising the professional associations of artists from the Ministry of Labor to the Ministry of Culture with other tasks of control and licensing, and others ⁵.

c) Ministry of Public Health

Within the framework of intellectual property rights, the Ministry of Public Health has a limited role related to the problem of surveillance and control of counterfeit medicines.

These tasks were transferred to the Pharmacy Department - Department of medical care in the Ministry of Public Health, which holds according to Decree No. 8377 dated 30/12/1961 (organization and functioning of the Ministry of Public Health) the following tasks:

- review application licenses on making preparations for the opening of drug production plants and prepare the necessary transactions for licensing
- Review requests of authorization to import drugs.
- Control and inspect personnel of related departments

The Department of Pharmacy is composed of the Department of drug Import and export (1) Narcotic Department (2) and the Department of pharmacy Inspection.

1- Department of drug Import and export

According to Article 54 of the aforementioned decree, this Department undertakes the following tasks:

⁵ Law No. 56/2008 was published in issue No. 59 of the Official Gazette on 30/12/2008

- Participate with the competent authorities provided by the law of Pharmacy to approve the introduction of "non-medical products that are not used previously in the country.
- Approve transactions for the import of medicines, milk, cosmetics, etc. ... "Set forth in the laws in force."

Resolution No. 114 dated 19.6.1991 on the conditions of import and manufacture of pharmaceuticals under a formal scientific name provided for the establishment of a committee whose mission is to concur to the principle of import or manufacture of these products according to applications and documents. The Committee shall be composed of the Director General of the Ministry of Health as Chairman, head of the pharmacy department as member, head of the Department of import and export of medicines as member, and head of the pharmacy inspection department as member and Rapporteur.

Decree No. 11710 dated 22/12/1998 stated that a **committee in the Ministry of Public Health shall be established to regulate the introduction of medical and natural products.** It shall be formed by: director general of the Ministry of Public Health as the chairman, head of the Sanitary Engineering of the Ministry of Public Health as member and rapporteur, chairman of the chemistry section at the central laboratory as member and head of the import and export of medicines in the Ministry of Public Health as member.

2- Narcotics Department

According to Article 53 of Decree No. 8377 dated 30/12/1961 (organization of the Ministry of Public Health), the Narcotics Department shall undertake the following tasks:

- Control the import and distribution of drugs to licensed importers
- Control the production and preparation of drugs
- Distribute drugs to licensed enterprises and pharmacies
- Develop statistics on narcotic drugs.
- Secure transactions and international correspondence relating to narcotics trafficking in particular times.
- Subscribe to the Medical Commission to provide medical assistance to sick staff.

Decision No. 59 / 1 dated 23/12/2001 on the organization of record and files keeping related to narcotics in the Ministry of Public Health provided for the establishment of a narcotics register in which are bounded all persons and entities authorized to import, export, transfer, manufacture, produce and sell narcotics and other related operations. This record shall be established within the Narcotics Department at the Ministry of Public Health where the head of the Narcotics Department shall be responsible for the special register mentioned above and organize files mentioned in Article 2 of this decision.

Two: other Administrations

We will deal in the following with Office for Combating computer crime and intellectual property at the judicial police (I) and the Customs Department (II).

I- Office for Combating computer crime and intellectual property at the judicial police

According to Decree No. 1157 dated 2 / 5 / 1991 on the organization of the forces of internal security, The Criminal Investigation Division of the judicial police includes the following offices:

- Office to Combat Crimes Affecting State Security
- Office to combat financial crimes and money laundering
- Office to combat international crime theft
- Office to combat terrorism and important crimes

This decree did not mention the Office for Combating computer crime and intellectual property which has been established recently in March 2006 under a memorandum of service. This central office, along with the Office for Combating Financial Crimes, is entrusted to receive complaints and snitches from all Lebanese regions and phone the competent public prosecutors on the instruction of the competent public prosecutor.

II- Customs Department:

Customs is a public administration that levy of customs duties and all other charges and taxes imposed on goods imported to Lebanon, as well as prevent illegal import and export of merchandise.

The Customs Department was organized under Decree No. 4461 dated 15/12/2000 (Customs Law), which gave this administration very broad powers that could be used in the fight against intellectual property crime.

1- Prevention of illegal import and export of merchandise.

Article 63 of the Law stated the following:

It is strictly forbidden to import, transit, transport, export or re-export the following:

- 1- All products bearing false trademarks or labels or commercial descriptions which benefit from legal protection in Lebanon according to the provisions of the Agreement of the Paris Union of 20 march 1883 and its amendments.**
- 2- All products bearing false marks of origin, or marked or labeled directly or indirectly to indicate that they were produced or originated in one of the countries members or parties to the Madrid Agreement dated on the 14th of April 1891 and its amendments or an area situated in one of these countries.**
- 3- All products inconsistent with the conditions prescribed in agreements, laws and regulations pertaining to the Protection of the Intellectual Property.**

Article 65 of the same law added:

1-The violation or the attempted violation of the provisions of Articles 62, 63 and 64 should be dealt with as import or “attempt to import prohibited goods without the submission of manifest or through smuggling, and should be subject to penalties” prescribed in Article 421. However these goods may be released after elimination or correction of contradictory marks, labels, signs or indications or after affixing the origin indication whenever one of these measures is found by customs to be sufficient.

- 3- Should be considered an **attempt to violate the provisions of Article 63 the import of labels, signs or caps or containers and other things bearing a sign of a factory or store or a commercial description or an indication of origin eligible for the right of legal protection in Lebanon** except for:
- a- Internal containers bearing the name of a foreign manufacture and its specific trademark imported by a local factory, which is entitled to the right of operation of this trademark.
 - b- Labels, signs, caps or containers proved by the merchant to be imported by equivalent qualities and quantities.

Article 66 of the same law also added:

“Ordinary courts in charge of civil cases shall be in charge of the violations or attempted violations of the provisions of Article 63 of this Law”, however the customs administration should be in charge of “submitting the proceeding of seizure to the Intellectual Property office charged with notifying the damaged party.

“The right of customs administration to reconciliation should not be taken into consideration and the release of merchandise after the destruction of false marks” or after their correction should be only authorized after the approval of the Intellectual Property Office at the Ministry of Economy and Trade.

When these violations are brought before court the damaged party shall have the right to interfere in the action at law, in this case merchandise may be seized to his favor.

Storage expenses and all other expenses of services rendered by customs should be on the losing party's expense.

2-Jurisdiction of the Customs Department in analyzing goods samples to determine their implementation of the rules and regulations:

Article 142 of the Customs Law provided for the following:

- 1- Customs shall have the right to analyze samples of the goods in order to verify their type, characteristics and conformity to applicable laws and regulations.**

- 2- Such samples shall be analyzed at private or public competent laboratories approved or accredited by Customs.
- 3- **The afore-mentioned analyses shall be carried out prior to the release of the goods.** However, the Customs department may, under the conditions referred to in Article 162 of the arbitration chapter, allow the delivery of the goods before the completion of the results of the analysis and, when necessary, the counter analysis. It should however preserve at least four samples of the disputed goods.
- 4- The samples of goods intended for analysis shall be withdrawn in the presence of the parties concerned. One of the samples shall be sent for analysis in the prescribed manner and the Customs department shall preserve the remaining samples under formal seals and the signatures of the parties concerned to be referred to if need be. The Higher Council of Customs shall, upon the consultation of the Director General, set the rules of application of this paragraph 2.
- 5- Customs and the parties concerned shall have the right to object to the results of the analysis and require a counter analysis.
- 6- The result of the counter analysis shall be considered as decisive if it appears to be complying with the first analysis result. Otherwise, the prejudiced shall have the right to require another counter analysis the result of which shall be decisive, whether or not complying with the results of the first and the second analyses.

3-The Jurisdiction of the Customs Department in destroying illegal goods:

Within the same context, Article 144 of the same law stated the following:

- a- **Customs may destroy goods proved to be, according to analysis and inspection, inconsistent with applicable laws and regulations.**
- b- A special committee designated by the Director General shall destroy the goods at the expense of the owner provided he is notified to attend the destruction process. Should the owner of the goods fail to appear, destruction shall be carried out in his absence and the committee shall write down a record of such destruction.
- c- If such destruction is proved to be harmful to the environment, it shall be permitted, under the conditions set by the Director General of Customs, **to require the re-export rather than the destruction of goods.**

The administrative memorandum No. 3885/2001 dated 31/4/2001 on the destruction of goods violating laws and regulations or the imposition of re-export of goods defined minutes for the implementation of Article No. 144 of the Customs Law in question.

4- **The Jurisdiction of the Customs Department** to prosecute, track and investigate smuggled goods wherever they are found on Lebanese territory:

The Customs Department shall investigate counterfeit goods and raid stores where these goods are stored and seize them with all legal means.

Counterfeit goods are goods that entered the Lebanese territory without fully pay legal fees or goods banned to enter the Lebanese territory in terms of source, type or specifications as provided under the provisions of the Customs Law,

In this context, Article 357 states the following:

Home investigation and inspection may be executed to spot smuggling within the Lebanese territories:

First: Along the land customs territory, as concerns all types of goods.

Second: Along the Lebanese territories (...)

II- the Judiciary

We will discuss, respectively, the role of justice prosecution and investigation (first paragraph) and the sitting judiciary (second paragraph)

One: Public Prosecutions and the Investigation Judiciary

Prosecutors are responsible to address crimes that affect the intellectual property rights in Lebanon, either at the victim's complaint, a snitch or at the request the Minister of Justice or a pardon in accordance with the provisions of the Criminal Procedure dated 2/8/2001.

The key role of public prosecution in this context is to:

- Request competent security forces and law enforcement in general to investigate circumstances and details of the offense and give permission to seize or

confiscate unlawful materials and arrest people involved and release them when necessary.

- Prosecute persons involved in crimes and refer them to the competent judicial authority, either to the investigating judge if the crime investigation has yet to be completed, or to a single criminal judge.

Public Prosecutions intervene automatically in the crimes that pose a threat to public order and public safety.

Two: Sitting Judiciary

The judge of urgent matters considers intellectual property issues when the requirements of speed.

First: Urgent matters judiciary

The damaged party, intellectual property owner, often turns to an examining magistrate (urgent matters judge) to obtain an order of a petition to take immediate measures and temporary cessation of the infringement: For example, the decision to seize counterfeit goods or stop the transmission of a program violating the rights of the author or to put an immediate end to any action that would violate these intellectual property rights.

This review could be in terms of a conflict resulting in a verdict in cases where the infringement is clear and not subject to serious conflict.

Article 579 of the Code of Civil Procedure provides for the following:

“A single judge shall, as a judge for urgent matters, consider applications to take urgent civil and commercial measures without prejudice to the origin of the right, while maintaining the special competence given to the Head of the Implementation Department”.

"within the same context, he shall take measures conducive to the removal of obvious infringement of rights. In the case where the debt is not subject to serious dispute, the urgent matters judge may "give the creditor a temporary advance at the expense of his right."

Article 589 also states:

"The judge considering the case, as well as the judge for urgent matters, taking into account the provisions of article" 581, shall take, at the request of one of the parties, with or without bail, all the provisional "and reserved measures that will protect rights and prevent damage such as placing the seals and inventory assets, imposing judicial "guard", selling perishable money and describing the situation.

Some of the special laws such as Act No. 75/99 (literary and artistic property) provided for similar provisions that confirm the competence of the judge of urgent matters to stop or remove the infringement on intellectual property rights such as articles / 81 / and / 82 / of Law No. 75/99:

Article 81 - precautionary measures to prevent an attack:

"In cases where there is fear of an imminent attack on copyrights or related rights, the owner of these rights or his public or private successors, in particular associations or collective management companies" shall take all necessary precautionary measures to prevent the abuse of those rights".

"for that purpose, the judge for urgent matters, shall take all decisions authorized by the laws, to protect right or the work, subject of abuse, and all other works "owned by the author or owner of the neighboring right. The urgent matter judge shall impose compulsive fines giving effect to his decisions. The President of the competent court of first instance or the competent public prosecutor shall take" precautionary measures referred to above.

Article 82 – “seize materials constituting evidence of abuse”: An urgent matters judge or the President of the Court of First Instance or the Attorney General shall restrain temporarily, “materials which constitute evidence of an abuse against copyright or related rights, or order" an inventory of these materials and leave them with the guard of the defendant”.

Second: the Sitting Judiciary

This type of cases is essentially referred to civil courts of first instance (a single judge or the Trial Chamber, according to the value of the case) or criminal (single criminal judge). After the completion of the file in terms of communications and exchange of regulations and questioning the parties in cases decided by the judge, the trial is concluded and a primary verdict is pronounced.

In addition to the general provisions, some texts refer explicitly to the possibility of the Sitting Judiciary to revise the violation of intellectual property rights, such as articles 83 and 84 of Law No. 75/99:

Article 83 - recourse to the competent judicial authority in case of infringement

In case of infringement of copyright or a related right, the holders of these rights may have recourse to the competent judicial authority and seek the cessation of the infringement and the prevention of any future infringement.

Article 84 - compensation for the material or moral injury

Any person who infringes copyright or a related right shall be required to pay fair compensation to the right holder for the material or moral injury and damage incurred. The amount of such compensation shall be determined by the court based on the commercial value of the work, the damage and lost profit incurred by the right holder and the material profit realized by the infringer. The court may order the seizure of the subject matter in dispute and the equipment and devices used to commit the infringement.

After the primary verdict, if the implementation of this verdict was not accelerated, the deadline for the appeal and the appeal hold off on implementation.

After the appeal decision, the winning party may immediately implement the verdict, unless the Court of Cassation ruled a stay of execution at the request of the losing party.

It is noted that in addition to the methods of review there is objection and objection of others and a re-trial when the conditions are met as required by law.

Part II: Assessing IPR in Lebanon

The Lebanese legal system on intellectual property is characterized by outstanding strengths (**section One**), but also suffers from weaknesses that threaten to undermine its effectiveness significantly (**section Two**).

Section One: Strengths of IPR in Lebanon

Positive points of the Lebanese system are reflected in the legal texts on the one hand (**One**) as well as in specific points of practical implementation (**Two**).

I- Legal Texts

Lebanon has a generally coherent and appropriate legislative framework according to what most specialists and the men of law agree upon in terms of the principles (**First**) or in terms of penalties and damages imposed (**Second**).

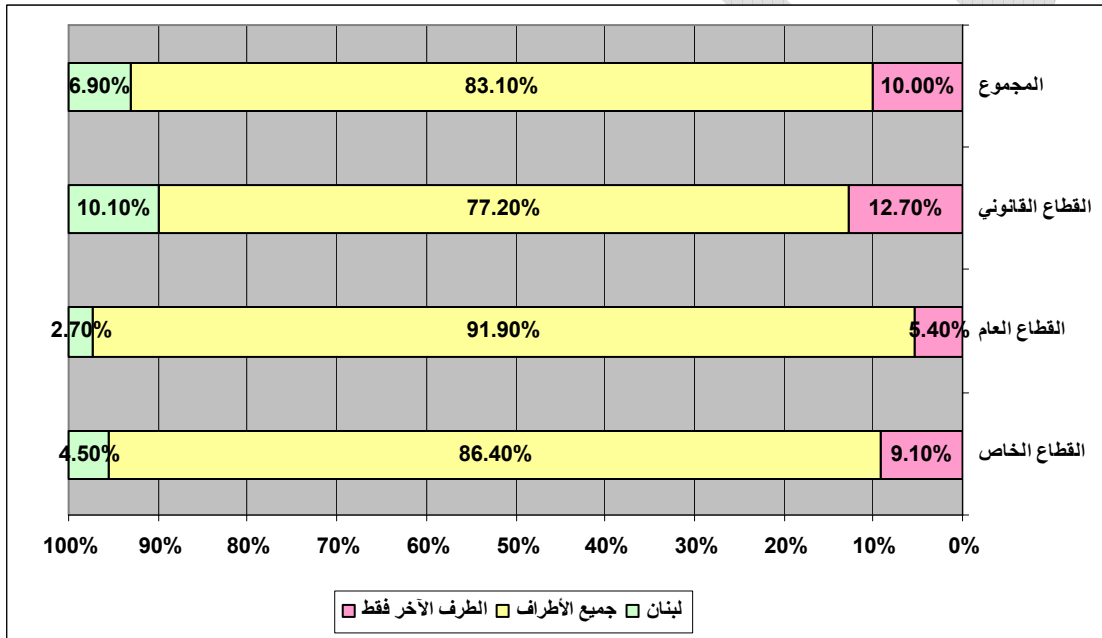
One: Principles

The principles enshrined in the Lebanese intellectual property laws **as presented in the first section** are derived from the most prominent international conventions and comparative law.

- 1- Although decree No. 2385/1924 (the commercial and industrial PR system) is old, it is, however, successful and effective. It has devoted the most fundamental legal principles of intellectual property and the jurisprudence has made several efforts in the past years to interpret it.
- 2- Law No. 75/99 (literary and artistic property) is also successful even though its provisions are not perfect but they are very close to what is adopted in developed countries. There is currently a project to amend it and introduce new articles relating to modern technology.
- 3- The rest of the laws, decrees and international conventions acceded to by Lebanon, are also a vital link in its legislature.

It is also clear that the civil society, in terms of the various groups of lawyers and economists, is aware of the importance of international conventions acceded to by Lebanon in the protection of intellectual property rights.

In a recent survey conducted for the purposes of this research, when surveyed were asked about bilateral or multilateral IPR protection conventions, **about 83,1% of them reported that these conventions are for the benefit of all parties**, while only about 10% stated that they are for the benefit of other parties only, and around 6,9% stated that there are favorable to Lebanon.



تقييم اتفاقيات حماية حقوق الملكية الفكرية بحسب العينات الفرعية الثلاث (نسب مئوية)

Assessment of conventions on the protection of intellectual property rights, according to the three sub-samples (percentages)

Two: Penalties and Compensations

Legislative texts in Lebanon impose strict penalties in general:

- On the one hand the offender is punished by **imprisonment from one month to three years and a fine ranging from five million to fifty million Lebanese pounds** and this penalty is doubled in case of repetition.

This imprisonment penalty is the most severe penalty in the laws of Arab countries.

- On the other hand laws impose **additional sanctions** such as dissemination of the ruling or dropping the criminal civil rights (Article 97 of Law No. 75/1999, articles 48 and 49 of law No. 240/2000, articles 116 to 119 of Decree No. 2385/1924).
- In addition to fines imposed, courts can **assess appropriate compensation to the victim**, according to the real damage caused by the crimes committed. This includes the compensation of actual losses and loss of profits and material and moral damages.
- in accordance with laws, courts shall also **take all necessary measures to stop the infringements** of intellectual property rights such as the seizure of counterfeit goods and the appointment of a judicial guard and the closure of the offending shop or the factory and the confiscation of equipment used in counterfeiting, and others.

The bottom line is that the laws in force in Lebanon are generally good, but the problem remains that they are not implemented effectively, and in a militant manner, and the offender is often released by bail shortly after his arrest.

II- Practical Implementation

IP protection consists of several interrelated administrative procedures (**One**) and practical combat (**Two**) and prosecution (**Three**) and civic education (**Four**).

One: Administrative Procedures

The Lebanese system is characterized by the resilience and speed of registration with the MOET, being a filing system, so it takes only a few days, and it is not expensive or complicated. In addition, each right owner can do it on its own, without the need to hire a lawyer or agent.

The following is a comparative table of measures adopted and the time it takes to complete the transactions relating to **trademarks** in intellectual property

departments where the flexibility of the Lebanese system is clearly shown compared with other countries in the region :⁶

Country	Priority	Reviewing precedence	Deadline for the completion of registration
Algeria	yes	no	6 months
Bahrain		yes	16 to 24 months
Djibouti		no	3 to 4 months
Egypt	yes	yes	3 to 4 years
Iraq	no	no	18 to 24 months
Jordan	yes	yes	12 to 18 months
Kuwait		yes	12 to 18 months
Lebanon	yes	no	Two weeks
Libya	yes	yes	Two years
Moritania		no	1 to 15 years
Morocco	yes	no	2 to 3 weeks
Oman	yes	yes	12 to 18 months
Qatar	yes	yes	8 to 12 months
KSA	yes	yes	10 to 12 months
Sudan	yes	yes	2 to 3 years

1 Source of information: Talal Abu-Ghazaleh Intellectual Property. It is also available at the following :http://www.agip.com/site_content.aspx?page_key=key_summary_table_link1&lang=en

Syria	yes	yes	4 to 6 months
Tunisia	yes	no	18 to 24 months
UAE	yes	yes	6 to 8 months
Yemen	Yes	yes	12 to 14 months

Two: Practical Combat

Lebanon has a system of investigating and combating intellectual property crimes in Lebanon, i.e. measures of investigation and information-gathering, interrogation and bringing the criminals to justice, in particular through the **specialized office that was established in the judicial police to combat intellectual property crime.**

Combating such crimes has improved dramatically after the establishment of this office because of the involvement of its members about intellectual property and their awareness of the importance and seriousness of this matter. However, it is necessary to refer to the need to strengthen this office and increase the number of staff.

This office organized and implemented several campaigns that were broadcasted to raise social awareness to destroy goods in violation of the intellectual property laws, most notably counterfeit music and movies CDs.

The following is a comparative table that shows the results of the ongoing efforts of this office in the fight against intellectual property crimes:⁷

Year	No. of minutes	Number of arrested persons	sample of the seized goods
2006	80	9	- copied CDs: 100023

⁷ The source of these numbers: Office of the anti-computer crime and intellectual property in the judicial police.

			<ul style="list-style-type: none"> - film covers: 57213 - copy machines: 15 - Copied cassettes: 3880 - copied books: 4874 - VHS :626.
2007	76	18	<ul style="list-style-type: none"> - Copied CDs : 6075 - film covers: 15220 - copy machines: 3
2008	178	46	<ul style="list-style-type: none"> copied CDs: 108928 - film covers: 2000 - copy machines: 15 - CD copying machine: 1 - Copied cassettes: 10 - copied books: 4874 - whisky bottles : 2188

On the other hand, in order to activate the control of intellectual property crime, the Lebanese legislation has merged the **staff of the Intellectual Property Protection Office who swore oath to this effect, with law enforcement officers and internal security forces and customs administration.** Moreover, it granted them significant powers to control the market and crimes as well as to set a formal record of crimes at the request of the Intellectual Property Protection Office or the competent public prosecutor.

In addition, the Lebanese legislator **has granted the right to prosecute offenders and trigger the case to each of the right holder and the Public Prosecutor and the president of the Intellectual Property Protection Office.**

This reflects the legislature's understanding and realization of the importance of intellectual property rights and the serious effect of violating these rights on the progress and development of societies which constitutes an impediment to creativity and innovation in general, and creates damage not only to the right holder. Therefore, the Public Prosecution as well as the president of the Intellectual Property Protection Office in the Ministry of economy and trade were given the right to prosecute offenders.

Three: Prosecution

Many right owners and lawyers view the urgent matters judiciary in a positive manner. First of all, its verdicts are fast, reliable, effective and protect the rights holders, such as composers, from the impending dangers that threaten them in addition; they prevent in many cases the implementation of such violations.

The right owner **can resort to the court of urgent matters** to obtain an immediate order to stop violation of his rights, and to take all precautionary and urgent measures for the protection of his rights.

This can be possible in the framework of literary and artistic property rights without the need to prove the registration of the work with the Intellectual Property Right Office.

Lebanese courts have already issued striking sentences in this context where they imposed coercive fines to ensure immediate implementation. Certainly, the owner of the right has to review ordinary courts to obtain his full rights in accordance with a civil or criminal provision that addresses and resolves the origin of the conflict while the latter is very slow, as will be shown later.

Four: raising awareness

Raising awareness of the different Lebanese society categories on the risk of violation of intellectual property rights on creativity and development on the one hand as well as on attracting international investments on the other hand is fundamental and essential **(I)**, especially since the Lebanese society still mostly considers that intellectual theft is not stealing especially when they are available to everyone on the internet and in markets generally **(II)**.

I- Awareness campaigns and activities

In this context, the following activities have been implemented:⁸

The **Ministry of Economy and Trade** organized awareness campaigns, many training and education courses to create a culture of intellectual property in Lebanon in cooperation with international organizations such as The United States Agency for International Development (USAID) and the World Intellectual Property Organization (WIPO), and aimed particularly to reach out to small businesses and artists and students with recall notably to the following:

- In 2006, the ministry organized Intellectual Property Day at the American University in Beirut to reach out to university students. In March 2007, Minister Haddad signed Decision No. 66 Date 7/3/2008 on the establishment of a committee to organize activities related to Intellectual Property Day.

⁸ The source of all this information: the Intellectual Property Protection Office in the Ministry of Economy and Trade.

- In 2007, the Ministry produced three videos about drugs, music and computer software that were broadcasted on television for two months. It also organized round tables and conferences on intellectual property and individual and collective training workshops, on the implementation of new laws and international conventions such as the PCT Treaty and the Madrid Protocol.
- In 2008 and 2009 the MOET worked with the US embassy and Basil Fuleihan Foundation to organize conferences and workshops on the implementation of intellectual property laws to the customs officers and the Ministry of Economy and Trade. It also worked with the Ministry of Education and Higher Education on a special program for public schools in Lebanon.

The Ministry has also coordinated with the World Intellectual Property Organization and the League of Arab States in cooperation with the Ministry of Culture to organize the fifth Arab Regional Coordination Meeting between WIPO and the League of Arab States for the benefit of managers of industrial property offices and copyright from 12 to 15 October 2009.

The ministry is also working on special programs to train judges and Intellectual Property Protection staff at the MOET, and coordinating with the European Patent Office (EPO) on the project for the publication of patents on the Website.

2- The **Ministry of Public Health** has launched in 2008 a media campaign to raise awareness for the fight against fake drugs to warn the citizens and decision makers from the dangers of counterfeit medicines. During the opening of this campaign, Health Minister Mohammed Jawad Khalifa reported 43 cases of pharmacies and pharmacists that were investigated by public prosecutors for trafficking in counterfeit drugs in 2007. The list included well-known drugs such as Viagra, Panadol and Xanax.

Section Two: weaknesses of IPR Protection in Lebanon

The Lebanese system on the protection of intellectual property rights faces legislative hurdles (I) and practical obstacles (II) that significantly threaten its effectiveness.

I: legislative Hurdles

These gaps are found in the laws in force (One) as well as in draft laws (Two).

One: Current Legal Gaps

The major legislative problems and gaps that have been observed are the following:

First: Law No. 75/99 (literary and artistic right)

This law is suffering from gaps and shortcomings which can be summarized as follows:

- **The lack of a definition of the copyright:** the law only defines the protected work without identifying copyrights which are the exclusive rights belonging to a person on the intellectual creation since the inception of this work.
- **Using a very broad definition of the work:** books, archives, pamphlets, publications, printed material and other literary, scientific and artistic writings; lectures, addresses and other oral works; audiovisual works and photographs; musical compositions with or without words; dramatic or dramatico-musical works; choreographic works and pantomimes; drawings, sculpture, engraving, ornamentation, weaving and lithography; illustrations and drawings related to architecture; computer programs whatever their language and including preliminary work; maps, plans, sketches and three-dimensional works relative to geography, topography, architecture or science; any kind of plastic art work whether intended for industry or not.

This definition is not compatible with the general principles of intellectual property, as it includes the preparation works for computer software on the one hand, and industrial designs, while the latter are subject to Decree No. 2385/1934 which might trigger confusion the other hand.

- **Exceptions to protection:** the exceptions provided for in articles 23 et seq of the Law, particularly in article 25 about the possibility of copying the work for private use has created a wide controversy especially as they came in violation of the provisions of TRIPS. In addition, the concept of "limited number" of copies allowed by the law (Article 25) is still uncertain because the number is not specified.
- **Copyright in audio-visual works:** According to Article 9, in the case of an audiovisual work, the producer shall, in the absence of any agreement to the contrary, be considered the copyright holder. This text is unusual in civil law

systems, to which Lebanon belongs, and is not consistent with conventional copyright legislations. Some consider that the goal of this text was only to give the producer the right to exercise commercial rights, in terms of publishing, without the moral rights in general.

- **Jurisdiction of the Ministry of Economy and Trade:** the law granted the MOET copyright powers while developed countries consider the copyright as the jurisdiction of the Ministry of Culture. It is noted that in 1999, the question of granting this authority to the Ministry of Culture was raised, however, this Ministry stated that it does not have the right number of staff for this task.

Second: Decree No. 2385 / 1924 (commercial and industrial property rights)

Industrial Designs: there is a major problem as per the industrial design model, as this system is not effective, especially since the design owner has to recourse to the judiciary to prove his right in terms of a copied design, which may take years before the sentence is issued. On the other hand, the life of any industrial design i.e. its ability to be industrially implemented and invested only takes few years, often nearly two years only.

Brands:

- the **Brand definition adopted in Article 68 of Decree is no longer appropriate** due to the development in this area: the definition does not include service marks, geographical indications and Domain names.
- **The system adopted is the filing system and not an inspection system which** precludes the possibility of protection of unregistered marks in general, only if they are very well known.

Third: Law No. 240/2000 (patents)

- **Transactions before the Intellectual Property Protection Office:** The power granted to the head of the intellectual property protection office as well as to the Minister of Economy and Trade raises an important problematic in terms of

technical competence that may not be enjoyed by the latter two to check and decide on various inventions.

- the law gives **appellate courts the power to appellate decisions of the Minister of Economy and Trade**, while the competent authority that usually considers such revisions is the State Consultative Council.

Fourth: decree in force No. 918 dated 15/11/2007 (collective management of copyright):

Some articles of this law and its implementation decree suffer from gaps that must be reviewed and addressed.

For instance, the law provides for the possibility of establishing associations or companies to manage these rights while it is preferable to adopt a form of civil partnership as the association could not legally distribute profits to its members and they should also obtain a permit from the Ministry of Interior and Municipalities to begin working.

Two: Draft Law Gaps

The main problems and gaps that have been observed in the draft laws are the following:

First: draft law amending the Law No. 75/99 (literary and artistic property)

The draft project which has been developed to amend Law No. 75/99 includes some provisions that weaken the protection of intellectual property in general.

The most prominent problems encountered in this project is an article which may lead to allow what is known as peer to peer on the one hand, and another article which allows the translation without the consent or permission of the author, under certain conditions. These articles, if approved, constitute a new obstacle to Lebanon's accession to the World Trade Organization.

Second: the draft law on the protection of trade, industrial and service mark

Many intellectual property specialists consider that the draft law on trademark protection, which had recently been submitted to the House, is non-viable and a threat to the Lebanese system that requires reconsideration and needs a significant amount of time to amend Decree No. 2385 since it is among the most important and widely used laws in Lebanon.

Among the most prominent problems that specialists emphasize on are contradictions in the principles established in the law itself as well as the contradictions found in the law compared with the international agreements and the TRIPS agreement that Lebanon has already acceded to. these problems include: the definition of a collective mark and a sign of security, specific conditions to be met by the mark, the right of priority separated from the application for registration of the mark in Lebanon, the omission of the draft law on the organization of marks composed of family names, comparing marks with famous marks and registered marks which may create confusion in terms of the possibility of Filing a copy case in both cases which is not true.⁹

It is noteworthy that there the Ministry of Justice worked on a bill with a specialized committee consisted of Professor Ibrahim Najjar, Professor Ghaleb Mahmassani, Professor Kamal Berty and Mr. Hassan Awada and has developed an integrated project inspired by the French intellectual property law, it wasn't, however, adopted.

Third: The draft law on allowing the Government to accede to the Madrid Agreement Concerning the International Registration of Marks and the Convention on the International Registration of Designs and Drawings

The adoption of these laws and Lebanon's accession to these conventions will lead to significant losses for the national economy as they enshrine the principle of one central depository.

Therefore, the lawyer is not necessary at the stage of administrative registration and fees are not required in Lebanon where the share of the international registration i.e. WIPO is only required.

⁹ Fadi Sarkis, the conditions for acquiring the right to the mark in the draft Law of Trademarks. ۲۰۰۹

On the contrary, with regard to the **draft law allowing the Government to accede to the PCT**, there is no economic damage on Lebanon in principle, because it focuses on the national transaction as well as the international deposit.

II- Practical Hurdles

The practical impediments that face the protection of intellectual property rights are clear in three areas hindering public administrations (**Section 1**) and those that impede the effective control (**Section 2**) and those facing the judiciary (**Section 3**).

One: at the administrative level

We will address in turn the problems facing the Department of Cultural Affairs in the Ministry of Culture (I) and the Intellectual Property Protection Office in the Ministry of Economy and Trade (II).

I: The Department of Cultural Affairs at the Ministry of Culture

The Cultural Affairs Department at the Ministry of Culture is facing many problems including the following:

1- The lack in the number of staff:

There is no decree on the staff of the ministry and its administrative structure.

The department is waiting for the issuance of the implementation decree of the organizational structure to conduct the necessary tests which takes a long time.

The adopted structure of the project is in principle one of the best structures adopted, in addition, standards and competencies are also very appropriate. However, the administration faces an essential problem reflected in the competencies required in the project who will not accept low salaries offered by the State.

2- The financial and ministerial budgetary problem:

The budget allocated to the Ministry is very small.

UNESCO for example, considers that the budget of the ministries of culture in the world must total between 1 and 3% of the state budget while it amounts in Lebanon to approximately 0,02%.

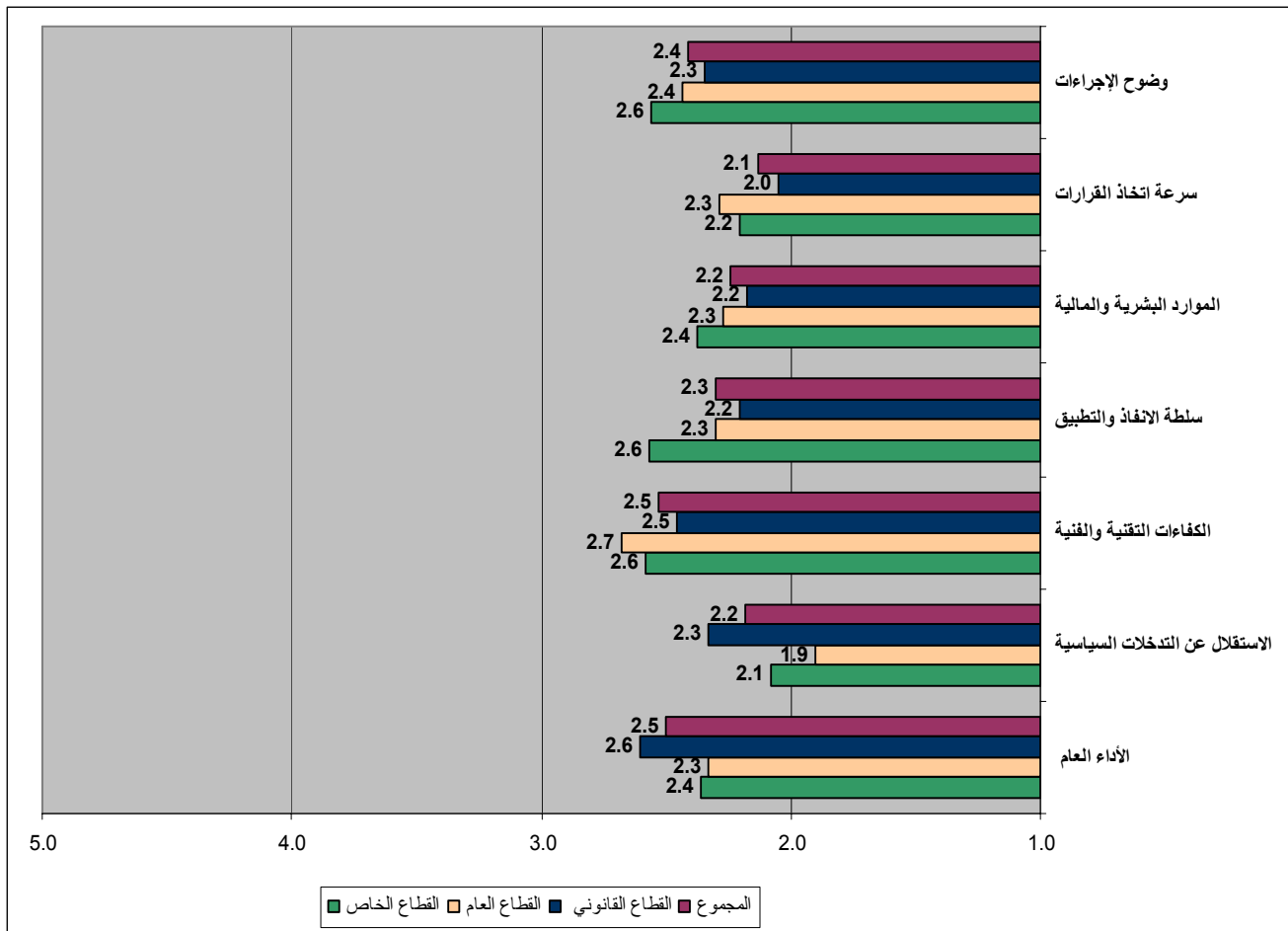
II: Intellectual Property Protection Office at the Ministry of Economy and Trade:

This Office suffers from the following major problems:

- **The Lack of staff:** there is a perceived lack of staff in the Office of intellectual property protection which limits the possibility and effectiveness of its practical intervention.
- **The Narrow area of the building** as well as the lack of equipment and staff training.
- **The absence of administrative structure for the Office of intellectual property protection:** it has been converted from a department to an office without taking into account the administrative structure.
- A number of other problems related to **complaining from political interference in the control of intellectual property crime and the lack of clarity of procedures**, and others.

This reality was reflected on the impression about the effectiveness of this body within the framework of the effective control of intellectual property crime.

In a statistical study that has been prepared specifically for the purpose of this research, respondents were asked to assess the degree of satisfaction with the performance of the Office for the Protection of Intellectual Property Rights. The results are set out below:



تقييم "مكتب حماية حقوق الملكية الفكرية" (درجة الرضى)

Assessment of the "Office for the Protection of Intellectual Property Rights" (degree of satisfaction)

For example, the highest rates of "dissatisfaction" - the lowest rate of "satisfactory" – was registered for the factor of "speed in decision-making" (2,1), while the factor of "technical and professional competence" registered the lowest rates of "dissatisfaction" - the highest rates of "satisfaction" - (2,5).

Two: at the level of combat

There isn't an effective combat against intellectual property crime in Lebanon due to conventional general reasons (first), reasons related with control (Two) and some critical areas where irregularities are difficult to control (Three).

First: General reasons that hinder the effective control

The most common problems that prevent the possibility of effective, rapid and stringent control against intellectual property crime is the fact that the subject of intellectual property in general is not **currently a priority in state policy**, especially given the security and political conditions in the country and the concentration on the fight against major and serious crimes such as terrorism.

Moreover, **corruption** is a persistent problem that also threatens the possibility to effectively combat intellectual property offenses.

Second: reasons associated with control bodies

We will tackle the problems facing the Computer Crime and Intellectual Property Section (1) and those encountered by the Customs Department (2).

1- Computer Crime and Intellectual Property Section

The Office of anti-computer crime and intellectual property protection in the judicial police suffers from problems limiting the effectiveness of intervention and control of intellectual property crime, including:

- There is no **computer crime law** even today despite the fact that the judiciary is trying to as much as possible in accordance with the general Penal Code.
- **Security conditions** hamper the effective work in combating intellectual property crime since this subject is not a priority when there are terrorist crimes, bombings and other serious security offenses.
- The office responds, either at the request of the applicant or either in accordance with a pardon. **Due to the backlog**, cases are addressed according to the priority and the judiciary attaches greater importance to the issues of complaint from the victim.
- **The leaks about potential raids for shops**, limiting the effectiveness of control of crimes and law enforcement.

- **Shortages in the number of staff and the poor budget for the Office.** This office also suffers from a lack of equipment, vehicles ... And depends in large on donations.
- **The absence of an internal regulating law,** which was established under a memorandum of service.
- Mixing in the distribution of powers between the Office on combating computer crime and intellectual property protection on the one hand and the Office of Financial Crimes on the other hand, which was interested in intellectual property crimes before the establishment of the first Office specialized in such crimes in 2006.

2- Customs Department:

Some lawyers complain of the procedures in the Customs Department where **obtaining a sample of the goods known as counterfeit** from the Customs Department or even the MOET is only possible after **Filing in court** – maybe Court of Urgent Matters.

This reality is in fact a translation of article 138 of the Customs Law which stipulates the following:

- “1- After registration of the declarations, Customs may, if it deems appropriate, inspect declared goods.
- “2- The inspection of goods shall be restricted to competent customs employees within customs houses and locations associated with them and at customs points of entry and exit.
- “3- The Customs department shall have the right to inspect all the parcels listed in the same declaration; the inspection though may be partial or total, according to the department's estimation or the Customs administration's instructions. The declarer shall have the right to reject the results of partial inspection and require a full inspection.

This issue is a real obstacle to the relationship of attorneys with foreign companies is because these companies require obtaining such a sample to verify the seriousness and reality of counterfeiting and forgery, and that before initiating a lawsuit and incurring expenses.

On the other hand, despite the broad powers granted by law to the customs department, as displayed in the first section, that allow the effective intervention to control counterfeit and pirated goods, which constitute a flagrant violation of intellectual property rights, it is important to note that the **Surveillance Body adopted in this administration is random and does not detect all goods entering the Lebanese territories, but only part of it.** The total number of cargo that cannot be detected is almost 80% of the goods entering into Lebanon¹⁰ which also limits the possibility of effective and comprehensive control of counterfeit goods.

Three: Crime combating challenges

Combating IP crime is difficult in some areas where the legal regulation of materials and services involved is absent, most notably:

The field of medicine: with the liberalization of the import of medicines under Decision No. 539/1 dated 25/8/1998 on the import of pharmaceutical products on the one hand, and the lack of controlling the market in a strict and effective manner on the other hand, the pharmaceutical market has become vulnerable to the dangers of narcotics counterfeiting and piracy, noting that this area is one of the most accurate since it threatens public health.

Article one of the Decision provides that it is:

“Allowed to import medical and pharmaceuticals products registered with the Ministry of Public Health for each licensed to “deal with pharmaceutical trade, without being bound to any importer or agent in accordance with the regulations and laws in force locally”.

2- Cable piracy: It's a very widespread in Lebanon and its exercise is done in public without the removing or reducing of such infringement. Officials say that it is not possible at present to stop such abuses as the state policy does not permit this.

¹⁰ The source of this information: Customs Department.

The Intellectual Property Alliance stated in its annual report for 2009 that there are between 600 and 800 of cable operators providing services to about 80% of the population and convey satellite and regular programs to their subscribers, who number 720 thousand subscribers without a license and for a fee of 10 US\$.¹¹

- 5- **Musical compositions:** the problem here is the difficulty of collecting the right of authors since it is directly linked to the necessity of **proving** the use of the work of these authors, a difficult issue in turn. Indeed, the use of musical works without a license or permission (the phenomenon of the DJ, for example) shows how difficult it is to prove a use which also directly affects the possibility of control and combat irregularities.

Three: at the Judicial Level

The issue of protecting intellectual property rights is directly affected by the position of the Judiciary: It is true that the laws define offenses and penalties in accordance with the principles of legality of crimes and penalties, the judiciary however, implements laws, relies on legal adjustment it deems appropriate, imposes the maximum or minimum sentence and gives the issue of infringement of intellectual property rights its relevance and value ... Or the opposite.

In Lebanon, **In addition to the traditional problems such as the high cost of justice (such as legal expenses and fees of lawyers and others) and judicial backlog**, the judiciary suffers from a number of constraints that directly reflect the reality of the protection of intellectual property rights, notably:

- 1- **Jurisprudence does not come in many cases, reasoned, in-depth, extensive, and right** which contributes to the development of intellectual property laws and their implementation and improves its standing and protection. IP provisions are mostly weak and do not include a legal analysis or explanation, as opposed to what was the case in the seventies.
- 2- **The lack of jurisdiction or even familiarity with the subject of intellectual property:** some judges are unaware of the simplest basic IP principles and their implementation and, likewise, some judges tend to

¹¹ International Intellectual Property Alliance (IIPA), Lebanon, 2009 special 301 report on copyright protection and enforcement, 2009, p.2.

reduce the importance of intellectual property crime and are lenient by virtue of the lack of awareness and understanding of its concept and significance.

If the law provides, for example, the assessment of the presence or absence of “copy” by the similarities between the goods, the justice system on the other hand, often subtly to the contrary by comparing the differences between goods which also narrows the concept of copy.

- 3- **Sanctions, particularly fines judged after years of litigation are simple and do not constitute a deterrent to criminals** and are considered by some as being within the budget and expenses of the administration. There is no proportion between the damage and the compensation; in addition, delays in issuing judicial decisions limit significantly the deterrent nature.
- 4- **Position of Public Prosecutions in terms of intellectual property crimes is not tough as required:** there is some discretion in the use of Public Prosecutions with these crimes, some of them are prosecuted and others are filed without any action. **T**
- 5- **the time taken to make a complaint to the public prosecution and investigation of the convergence of the ten days** at best, a long lead time in such cases because the offender has plenty of time to conceal evidence of crime and hiding materials, especially as the problem of corruption and nepotism, contribute to inform him of such complaint. As a result, in the absence of a comprehensive control and seizure and complete inventory of the infringing material, the right-holder cannot effectively estimate and prove damage which decreases very significantly the value of the compensation awarded to him.

Certainly, in many cases, prosecutors do not move automatically, although the law grants them such power.

Attorneys are trying to avoid prosecution in IP issues, especially as some of them consider that intellectual property laws are civil laws and not criminal since they weren't included within the Penal Code.

Part Three: Development and Reform Proposals

We will begin this section by stating that Lebanon should be keen on the actual implementation of all its international obligations. It can not escape international legitimacy, especially as Lebanon's credibility is based on its interaction with the international legitimacy.

But, on the other hand, attention must also be paid to the fact that people will not apply the laws of intellectual property voluntarily, especially those that with abstract principles or that only aim is to ensure a profit for some companies or some of the references. Therefore there must be a minimum sense of recognition of fundamental rights, namely the right of access to information (L'accès à l'information).

There is a new key problem in today's world, a serious dilemma centered on the ease and speed and freedom of movement of information as well as the problematic of intellectual property rights protection.

The only solution which can be envisioned to address this problem is to provide protection for intellectual property rights, especially technological innovations **within a reasonable time** - few years - and **for a reasonable price** so as to not to be only limited to the rich and so respect for the law as a whole is possible in reality.

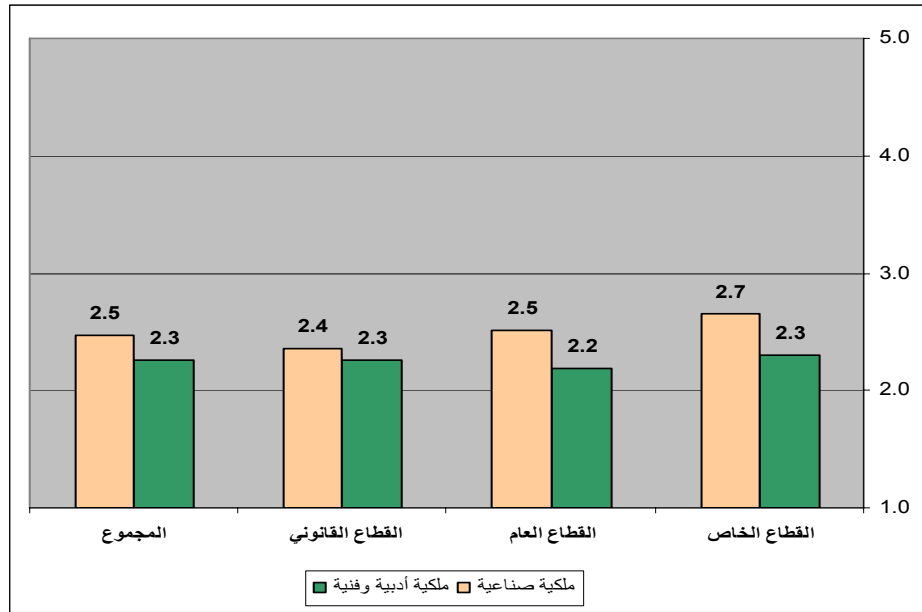
Section One: General Assessment of Policies Adopted So Far

Given the weak result that was achieved in practice with regard to combating intellectual property crimes and violations, it is certain that the policies adopted so far failed. This may be due mainly to the absence of a plan or even a clear and integrated policy to protect intellectual property rights.

In a statistical study prepared specifically for the purpose of this research¹², respondents were asked to **assess the level of effectiveness of current policies in the implementation and enforcement of laws protecting intellectual**

12

property rights and combating piracy. The surveyed persons recorded ineffectiveness of government policies at both levels. It is interesting that the lowest rates of effectiveness were registered with respondents in the public sector where the average assessments in this sector registered about 2,2.



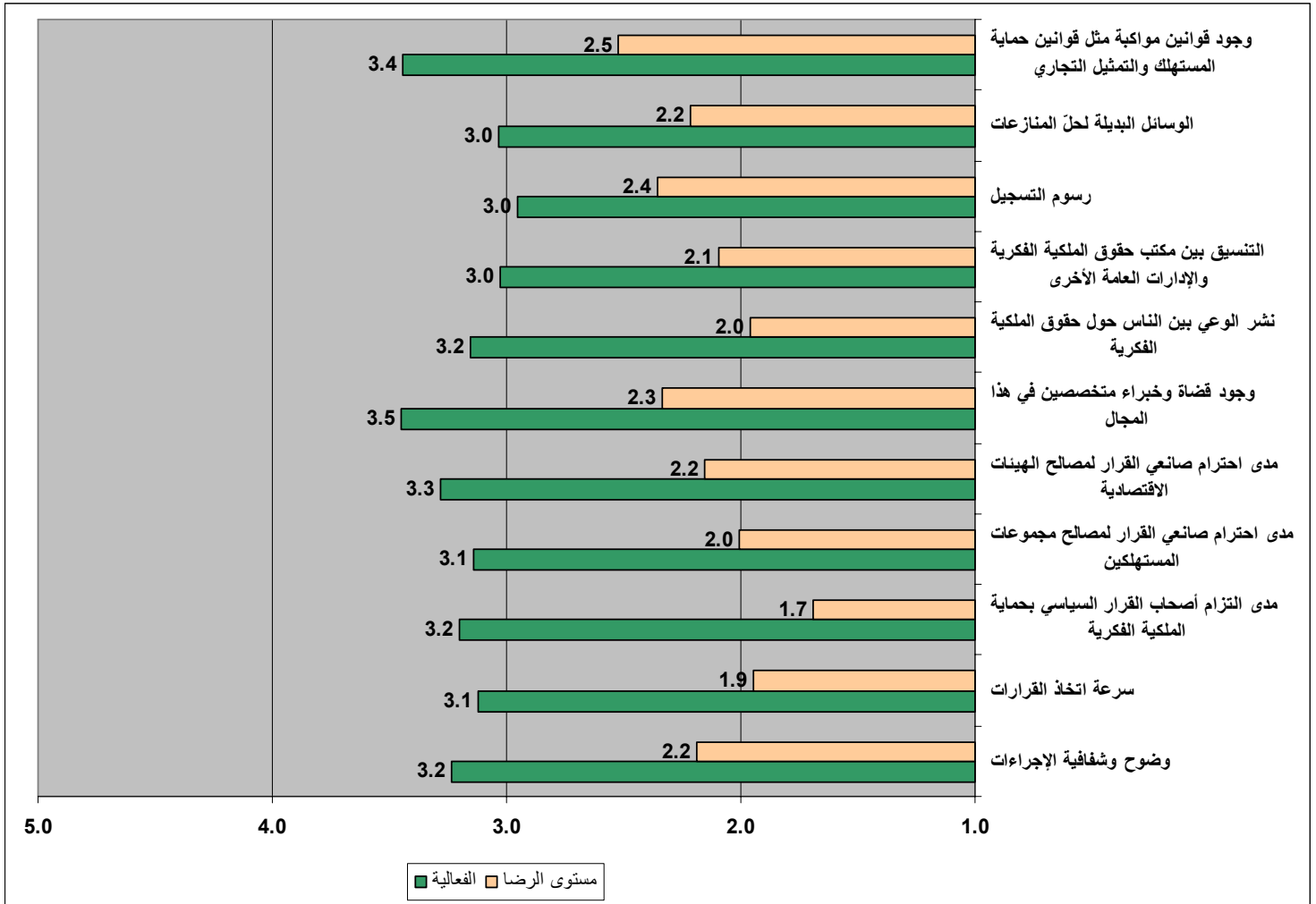
السياسات الحكومية الراهنة في مجال حقوق الملكية الفكرية (درجة الفعالية)

Current government policies in the field of intellectual property rights (Level of Effectiveness)

Respondents were also asked to assess the level of "effectiveness" and "satisfaction" on a group of factors related to the policy of protecting intellectual property rights and laws, which has resulted in impressive views since rates of "effectiveness" ranged between 3,0 and 3,5 relatively focusing on middle-class. On the other hand, those surveyed expressed dissatisfaction with these factors, where "satisfaction" rates fluctuated between 1, 7 and 2, 5.

"Effectiveness" assessments focused on the middle class, where the highest score was (3,5) for the factor of the presence of updated laws (commercial representation, consumer protection), and the lowest (3,0) was recorded for the level of "registration fees". **Overall, respondents expressed their "dissatisfaction", thus their assessments of "satisfaction" level were below average (3.0).**

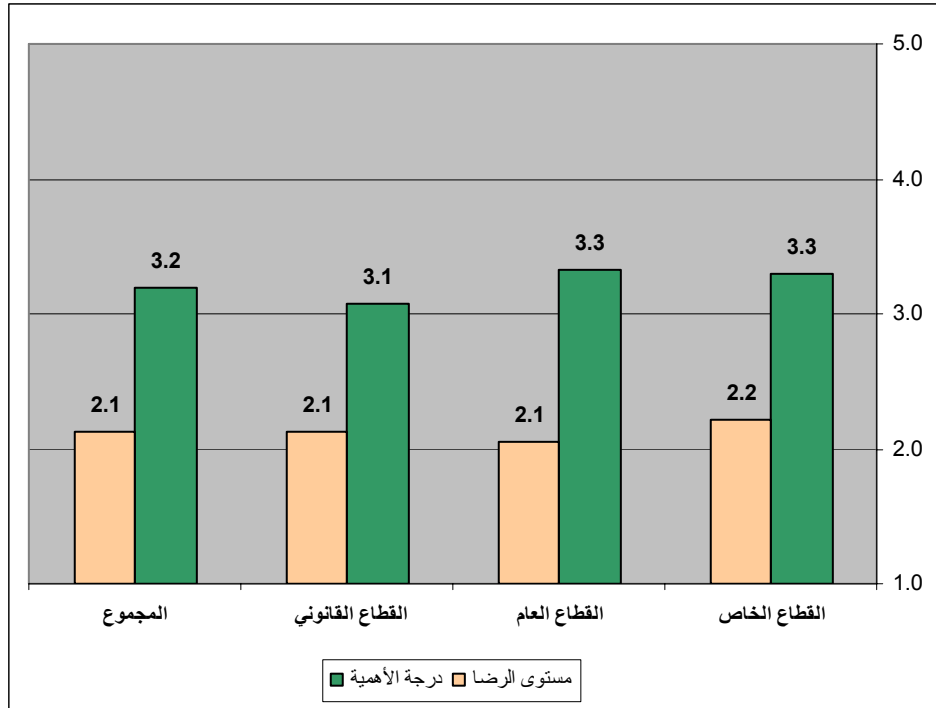
It should be noted that the assessment of "the commitment of political decision-makers for the protection of intellectual property," recorded the lowest rates (1.7), while the lowest rate was recorded for the "dissatisfaction" on the level of updated laws (2.5). As a result, there is a need to reform many aspects relating to the performance and functions of the Office of Intellectual Property.



تقييم بعض جوانب قانون حماية حقوق الملكية الفكرية والسياسات المتبعة (درجة الفعالية/الرضى)

Assessment of some aspects of the IP Law and related policies (level of effectiveness / satisfaction)

As a result, the total assessment of the degree of "effectiveness" and "satisfaction" levels came as follows:



تقييم بعض جوانب قانون حماية الملكية الفكرية والسياسات المتبعة بحسب العينات الفرعية الثلاث (تقييم الفعالية والرضى)

Assessment of some aspects of intellectual property protection law and related policies, according to the three sub-samples (assessment of effectiveness and satisfaction)

The practical results on combating intellectual property crime has come to be unsatisfactory, so that the **International Intellectual Property Alliance (IIPA)** has proposed to keep Lebanon on the "watch list" in 2009 setting out figures of losses incurred by the literary and artistic property as follows¹³:

¹³ International Intellectual Property Alliance (IIPA), Lebanon, 2009 special 301 report on copyright protection and enforcement, 2009, p. 2.

LEBANON										
Estimated Trade Losses Due to Copyright Piracy (in millions of U.S. dollars) and Levels of Piracy: 2004-2008 ²										
INDUSTRY	2008		2007		2006		2005		2004	
	Loss	Level	Loss	Level	Loss	Level	Loss	Level	Loss	Level
Records & Music	3.0	70%	2.8	60%	2.6	60%	3.2	75%	3.0	70%
Business Software	28.0	74%	24.0	73%	23.0	73%	20.0	73%	15.0	75%
Books	NA	NA	NA	NA	NA	NA	4.0	NA	3.0	NA
Entertainment Software	NA	NA	NA	NA	NA	NA	NA	NA	NA	75%
Motion Pictures	NA	NA	NA	NA	NA	NA	1.0	1%	10.0	80%
TOTALS	31.0		26.8		25.6		28.2		31.0	

Section Two: proposing a comprehensive alternative vision on IP in Lebanon:

It has become necessary to adopt a comprehensive alternative vision for the protection of intellectual property rights in Lebanon. This perception is built around three integrated themes:

- Adopting a **scientific strategy** to combat intellectual property crime **(I)**
- Adopting a **comprehensive work plan** to activate IPR Protection system **(II)**
- Adopting a **financial plan** to encourage invention and promote IP as a cultural and economic wealth **(III)**.

I- Adopting a scientific strategy to combat intellectual property crime

This proposal is intended to reach an IP scientific basis that can be adopted. This includes the preparation of studies and official statistics on intellectual property in Lebanon **(Paragraph One)** and adopting a Social Awareness plan **(second paragraph)**.

One: Official Studies

Lebanon is still missing **official statistics and figures** on the cultural production and intellectual property, which is a fatal error since it is impossible to combat intellectual property crime on the one hand and encourage cultural and intellectual production on the other hand without relying on consistent, accurate and

documented numbers about the current status in Lebanon and the cost of continuing violation as well as the profits derived from intellectual works in general.

Developed countries develop periodic and documented studies on the cost and profit provided by the cultural production in all categories (books, music, movies, computer programs ...) in order to develop a practical plan for their encouragement and development, while the idea prevailing in Lebanon is that culture is unprofitable.

Two: Raising Awareness

There is real unawareness **among people in general** on the possibility and the need to protect their intellectual property. Many do not register their brands even, and **legal persons** also suffer from a lack of specialization and information on intellectual property, due in particular to a lack of specializations in the intellectual property issue in universities.

This is a very urgent issue because there are new problems that will emerge, respectively, in the new topics that require specialized technology, such as Software, games, peer to peer, reverse engineering...

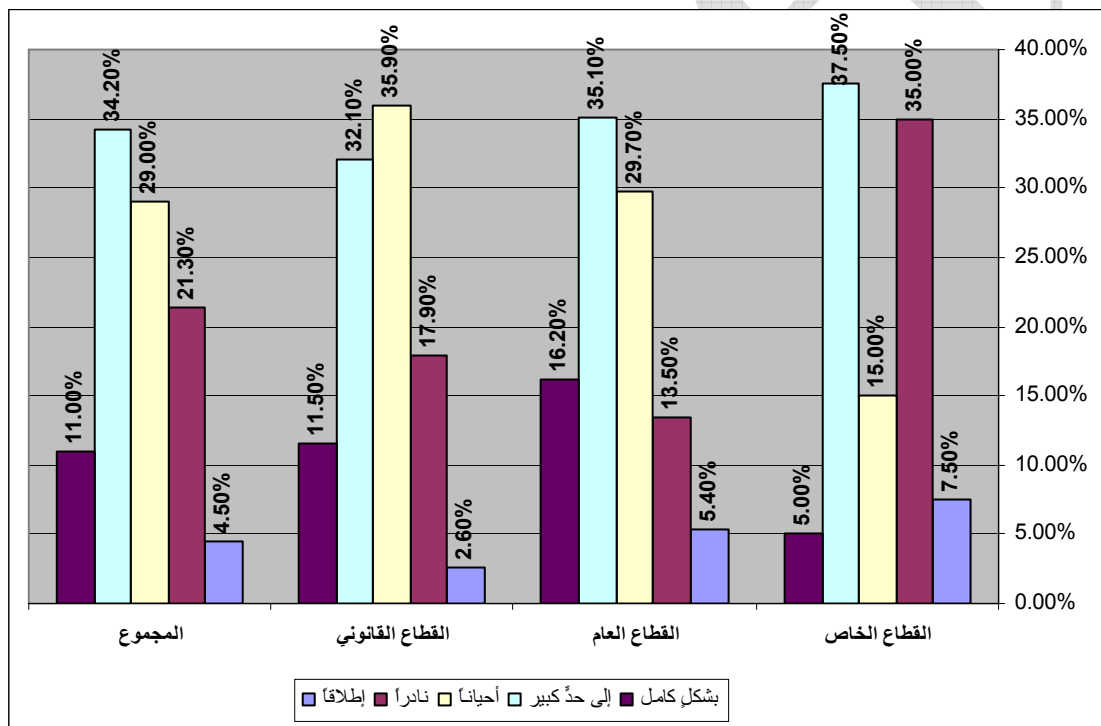
This is reflected also on the specialization of **lawyers and judges** in the field of intellectual property, with the consequent need to pay attention to this problem and urge universities, Bar Associations and the Institute of Judicial Studies to provide courses, seminars, conferences and awareness campaigns on intellectual property, its concept, role and relevance.

According to a statistical study on the subject¹⁴, more than 45% of the respondents believe that **consumers "often" or "always" object to the implementation of IP and combating piracy laws**. The respondents in the public sector registered

¹⁴ Foundation for Research and Consultations, MENA-CLS Project - the protection of intellectual property in Lebanon, October 2009, pp. 25.

the highest rate at this level (51.3%) which is obviously due to unawareness on the importance of these rights, their concept and substance.

It is noteworthy that there are conflicting views on this issue among the respondents in the private sector, where they were divided into two equal groups: 42.3% reported that consumers "often" or "always" object to the implementation of IP laws and 42.3% also reported that consumers "do not object at all" or "rarely object" on the implementation of these laws.



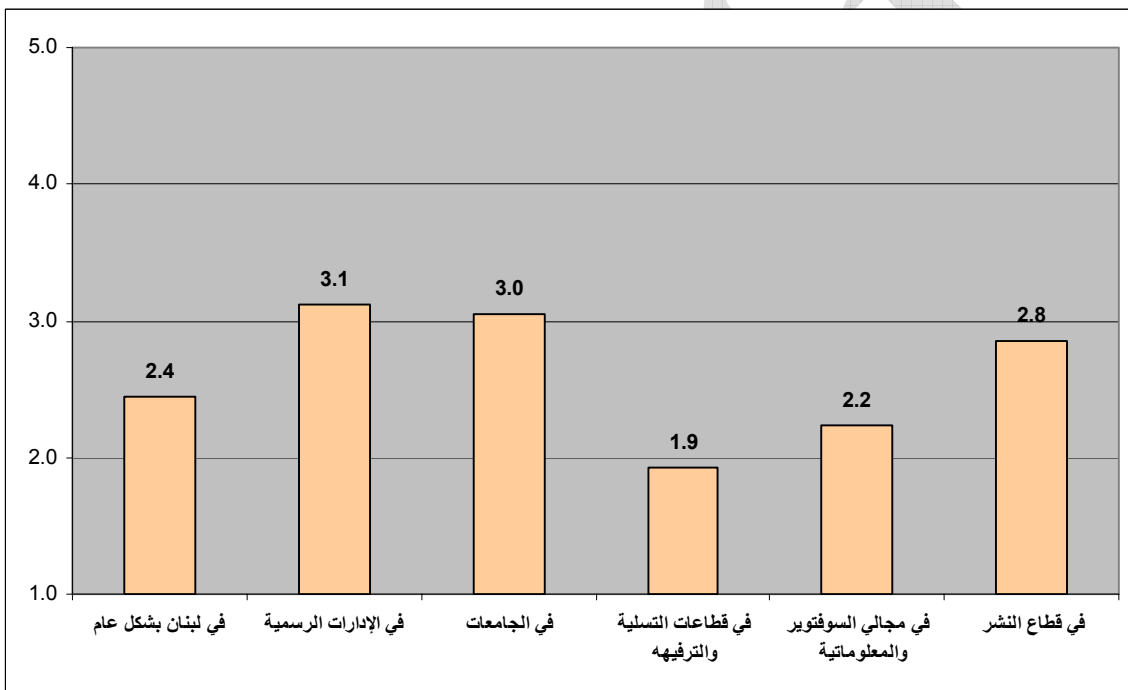
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Consumers' Objection to IP and Anti-Piracy Laws (percentage level)

Surveyed persons were also asked to **assess the respect of Lebanese in general for IP and Anti-Piracy Laws** in a number of economic sectors based on a scale from 1 (never) to 5 (always). The assessment on the level of most sectors was relatively low (below level 3 on a scale from 1 to 5). **The level of respecting and protecting intellectual property rights in Lebanon in general was below average at around 2,4. The highest rates was registered on the level of public**

sectors and universities, noting that these rates barely exceed the average degree (3,1 and 3,0 in succession).

Finally, leisure and entertainment sectors, according to perceptions of those polled registered the lowest rates of "respect" for intellectual property rights (1.9).



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Respect for intellectual property rights and anti-piracy efforts by sectors of activity (assessment level)

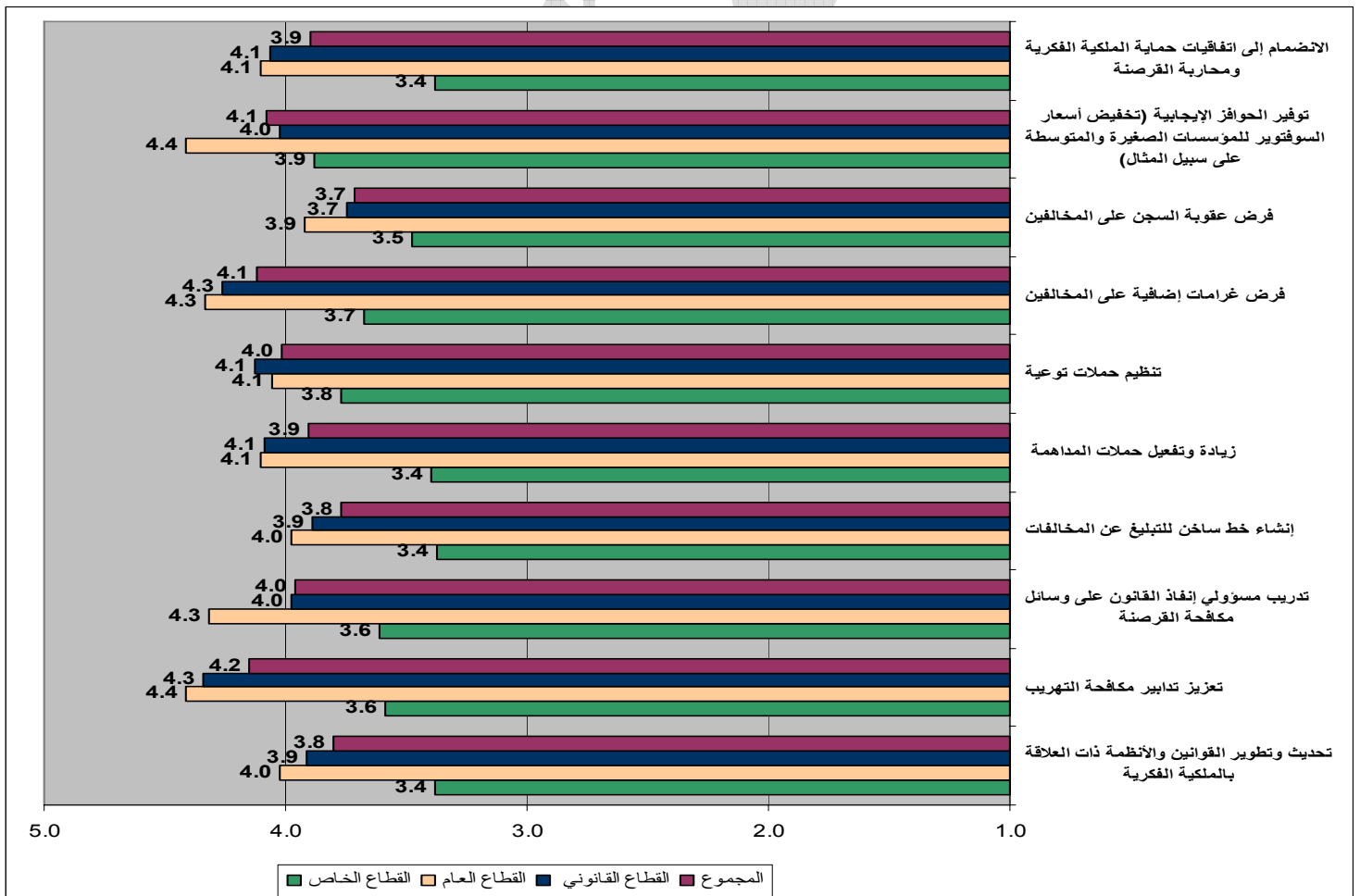
These numbers clearly and explicitly demonstrate the necessity to launch a broad and immediate social awareness campaign in Lebanon affecting all segments of society.

II- Adopting a comprehensive work plan to activate the IPR Protection system

This practical plan is based on three axes: Legislation (**First**), administrative procedures (**second**) and practical combat (**third**).

Before discussing these axes, we note the assessment of the priority of the measures and procedures to be incorporated in the Lebanese system, according to a poll in a recent statistical study¹⁵, we note that the measure related to "Strengthening anti-trafficking measures" recorded the highest priority points (This measure is a top priority in both the public and legal sectors in addition to the measure on "positive incentives"), while the measure on the "imposition of imprisonment for offenders " recorded the lowest priority.

The results at this level also showed that the measure on "positive incentives" is a top priority for the respondents in the private sector. Accordingly, **the Lebanese institutions - mostly small and medium-sized - are really in need for economic and fiscal incentives in order to respect and protect intellectual property rights.**



أولويات الإصلاح بحسب العينات الفرعية الثلاث (درجة التقييم)

Reform priorities, according to the three sub-samples (Average Score)

Draft



One: in terms of legislation

First: general drafting of laws

It is very important to emphasize on **writing and drafting of IP laws in Lebanon by specialists in this subject** in order to be accurate and correct, and this is not always the case.

It should be noted that the deputies who discuss the laws in the parliament are often not involved or even aware of the issue of intellectual property, thus, it is difficult for them to monitor their errors and shortcomings and gaps in the proposals and draft laws.

Second: in reconsidering some of the draft laws and approving pending projects

Indeed, it is necessary to pay attention to and address the draft laws, which include legal shortcomings before approval as drafted.

Other draft laws on intellectual property as the draft law on unfair competition and on industrial design must be ratified as soon as possible, given the urgent need for sophisticated and modern systems to keep pace with the rapid development in these areas, after addressing the gaps.

The **Information Technology Act** should be promptly ratified since Lebanon is still lacking to date to a law governing the legal aspects of informatics and information technology and their related serious problems in terms of IT, intellectual property, electronic evidence and other crimes.¹⁶

In this context, we recall that the conference specialized in legal and judicial information in computer, e-commerce and intellectual property protection crimes

¹⁶ It is noteworthy that the Ministry of Economy and Trade developed in collaboration with the European Union and eminent legal persons such as Catala a draft law on electronic commerce known as ECOMLEB but was not ratified. This draft provided for the introduction of articles and legislative amendments relating to the protection of databases and software and decryption of technical protection measures (DVD) and the exclusion of the electronic copy from protection and expansion of copyright protection to include explicitly electronic inventions.

held in Beirut from 28 to 30 September 2009 at the invitation of the Arab Center for Legal and Judicial Research of the League of Arab States, has adopted a number of recommendations that were submitted to the Justice Ministry in Lebanon, most notably “the emphasis on the fact that "the requirements of electronic commerce require States to develop data protection laws and laws organizing the transfer of information internally and across borders and the rules of conflict of jurisdiction in the area of technical activities and the rules of intellectual property protection and the rules governing electronic payment by network and that the Arab countries are invited to keep up legislatively”.

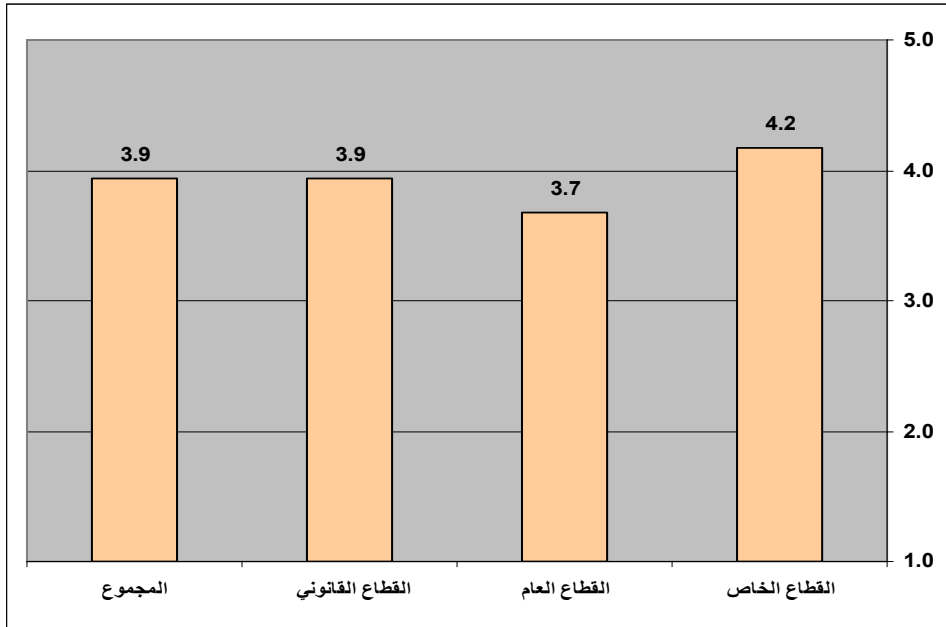
Third: the need for Lebanon to accede to international conventions related to IP

Indeed, the accession of Lebanon to the Internet Treaties established by the World Intellectual Property WCT and WPPT has become urgent in view of technological development and the violation of intellectual property rights is a flagrant on the Internet. Moreover, the **majority of draft projects which have been addressed in the first section, and which are still pending before the Lebanese Parliament or Ministry of Economy and Trade** have to be approved and ratified including, for example, a draft law to join the Patent Cooperation Treaty (PCT).

There is also a need to **review all laws and draft laws relating to intellectual property in Lebanon, to fit in with the TRIPS Convention** with a view to provide minimum protection for literary and artistic works and to enable Lebanon to join the World Trade Organization. In this context, in a recent statistical study¹⁷, respondents surveyed considered that the **accession to the WTO is very important for economic growth and development in Lebanon**, with an overall average of about 3.9 degree of importance on a scale from 1 to 5 degrees.

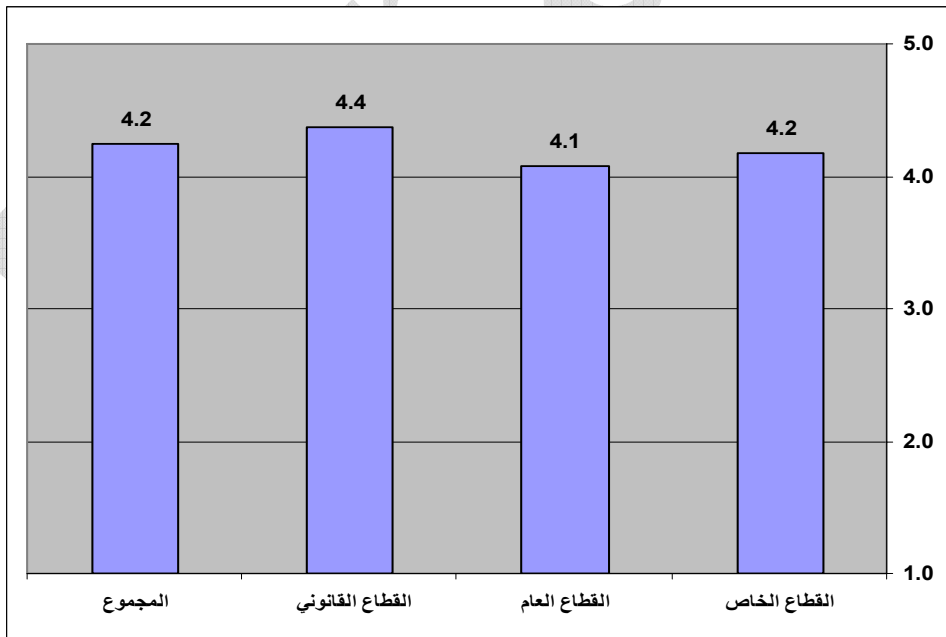
In the same context, respondents surveyed considered that **the protection of property rights and combating piracy are very important factors to join the World Trade Organization**, where the general rate recorded about 4,2, thus underlining the role of intellectual property rights protection to economic growth and development in Lebanon.

¹⁷ Foundation for Research and Consultations, MENA-CLS project - the protection of intellectual property in Lebanon, October 2009, p.34



أهمية الانضمام إلى منظمة التجارة العالمية بحسب العينات الفرعية الثلاث (درجة التقييم)

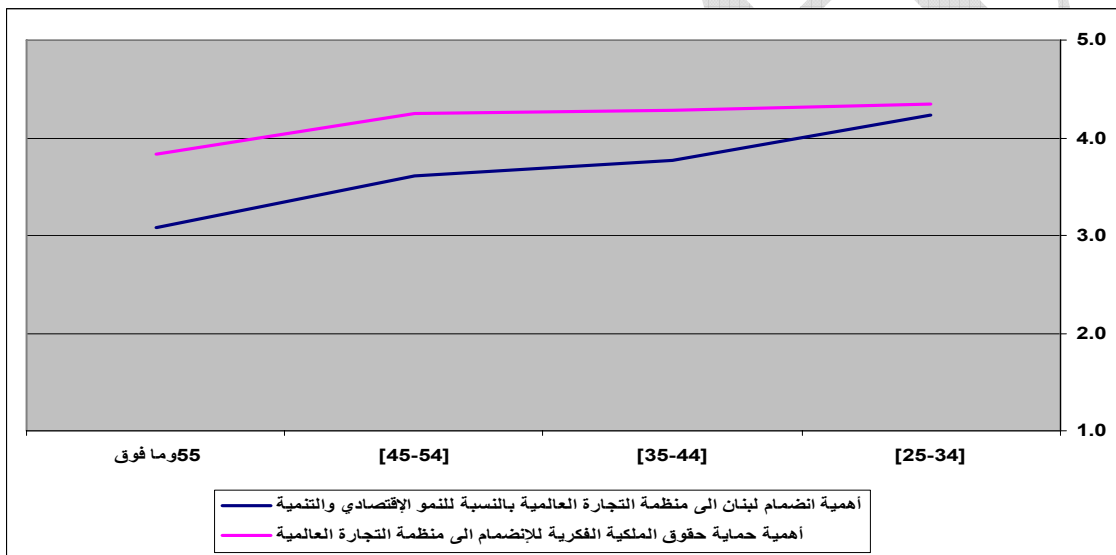
The importance of accession to the WTO, according to the three sub-samples (degree of evaluation)



أهمية حماية حقوق الملكية الفكرية في الإنضمام إلى منظمة التجارة العالمية بحسب العينات الفرعية الثلاث (درجة التقييم)

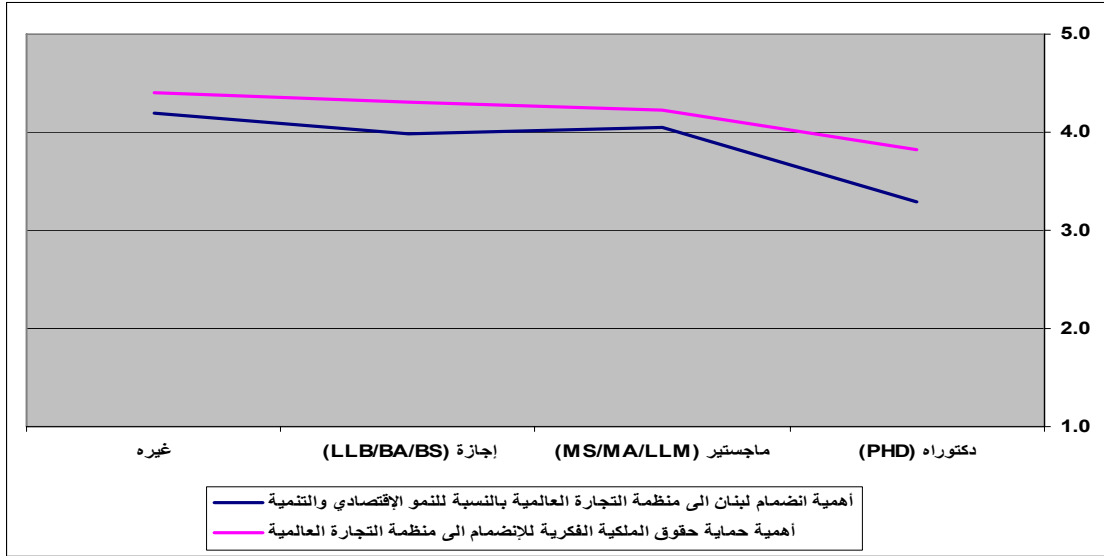
The importance of protecting intellectual property rights in the accession to the World Trade Organization, according to the three sub-samples (degree of assessment)

It should be noted here that the "importance" of Lebanon's accession to the WTO for economic growth and "the importance" of intellectual property rights protection in the accession to the WTO, **decline as we move upwards on the scale of age groups and higher levels of education.**



أهمية منظمة التجارة العالمية وحماية حقوق الملكية بحسب العمر (درجة التقييم)

Importance of the WTO and the protection of property rights according to age (degree of evaluation)



أهمية منظمة التجارة العالمية وحماية حقوق الملكية التجارية بحسب مستوى التحصيل العلمي (درجة التقييم)

Importance of the WTO and the protection of commercial property rights according to the level of education (degree of evaluation)

Four: The need to address obvious gaps in the laws in force

In this context, **there is a need to address all the various legal gaps that are discussed in the previous section**, for example, the need to amend Article 23 and the following articles of the Law No. 75/99 (literary and artistic property).

Article 25 of Law No. 75/1999 is one of the most problematic legal provisions, as it devotes a very broad concept of the private copy (copie privée) without providing for adequate compensation to the right owner.

The draft law to amend this article was developed but not approved yet.

The Minister of Education issued a decision some years ago determining the conditions for implementing this Article, but that was not enough, especially as this article remains in violation of the Berne Convention, which Lebanon acceded to, thus it must be cancelled.

Five: The need to review or inspect the appropriateness of some of the regulations adopted

There are some legal systems which raise a real dilemma in the field of intellectual property, namely:

1- Import of medicines:

The adoption of the medicines import or exclusivity (concession) is necessary to ensure the reliability of the source of these medicines (Chain of custody).

For this purpose, the decree issued by the Ministry of Health some years ago opening the door to the import of medicines must be reviewed, noting that the Decree is opposed to the legislative decree No. 34/67, without objection on the approval of or works.

2- Exclusive Agency:

Many legal persons and economists try to cancel the exclusive agency system in Lebanon, knowing that this matter had been subject of serious discussion during the previous government but had encountered objections.

It is important to draw attention in this context that, even if Lebanon does not need an international agreement to combat counterfeiting in his areas which are well known by everyone, however, according to many specialists, he needs an international convention for the protection of any original source of goods i.e. the protection of agencies and dealers.

Therefore a number of specialists think that it is good to keep the exclusive agency in Lebanon under the protection of intellectual property as the exclusive agent can observe their origin, authenticity and type, and can also detect their alteration while other may fail to do so.

Thus, it is necessary to pay attention to this issue in the future if the question of cancellation of exclusive agencies was raised in order to consider alternative or parallel means to protect intellectual property rights.

Two: In Terms of Administrative Procedures:

- Some specialists suggest adopting "agents of the Registry system" " " with the MOET as is the case in developed countries that adopt a number of agents after giving them tests and subjecting them to training session on the terms and conditions of registration in the Department of Intellectual Property in order to prevent waste of time between the non-experienced applicant and the management or responsible staff.

The system is also necessary since the new draft law on the protection of marks relies on the objection system - and thus is considered a degree of trial – and not a filing system as is the case today, which requires an expertise in this area.

Conversely, Lebanon aspires to join the international protocols Madrid protocol, for example, and not every lawyer can perform such role or functions defined in these conventions.

- On the other hand, specialists consider that it is necessary to **grant financial independence for the Intellectual Property Department in the Ministry of Economy and Trade** to secure the preliminary requirements of work, such as allocating sufficient space for the staff and equipments and to ensure their effective functioning and interfering also to avoid المرور بالتسلسلية and the burdensome administrative routine for the simplest requirements.

Therefore, the State shall allocate a special budget for the Intellectual Property Department in the Ministry of Economy.

Three: in terms of combat

- it is necessary in the first stage to emphasize the priority of **combating the obstacles facing the general implementation of laws and their**

effectiveness, most notably the problem of corruption and nepotism, and "immunities" from or to those with influence and impunity and punishment and other plaguing problems which effectively threaten the stature of the law and the State in general and raise the problematic over Lebanon's commitment to the international conventions signed by the laws enacted.

- On the other hand, **in terms of the practical combat of intellectual property crimes, a number of actions and measures can be taken** in particular:
 - Activating the work and the intervention of General Security and Customs Administration and urging relevant departments to combating intellectual property crime to discourage such crimes at the best and fastest ways.
 - **Proposal to impose a fee when importing large quantities of empty CDs (CD-DVD) and recording and photography devices**, as these materials will inevitably be illegally used.

There was an earlier proposal to introduce a legal article to deduct a percentage off the value of recording and photography devices, and empty CDs imported to Lebanon for the company of authors, but this article was abolished.

- **Solving the problem of theft of television programs by cable**, seizing them or at least regulating them by the state may be, for example through the provision of satellite service at affordable prices as a result of agreement by the Lebanese state with the foreign companies concerned.
- **Approaching the subject of the use of musical works in nightclubs, concerts and festivals, without payment** belonging to the authors, either directly or through and collective management of copyright companies. And could be considered as adopted in developed countries have been resorting to the following method: ask the Ministry of Culture's authors label a number of experts Faihlfon right mentioned in the ministry and attending concerts without disclosing their status and then put their report, is the adoption of this official report as proof to meet the allowances payable .

Four: in Terms of the Judiciary:

Traditional problems generally facing the judiciary in Lebanon must be addressed, including the slow pace of judicial proceedings and the high cost of fees and court costs and underestimating damages awarded, corruption and political interference can be envisaged by further suggestions to improve the judicial protection of intellectual property including:

1- Possible Judicial Procedures

- the Ministry of Justice should issue circulars to the judges to strictly implement intellectual property laws and strictly impose penalties and fines, and expedite the separation of these disputes
- Dissemination of judicial decisions relating to intellectual property to contribute in spreading awareness and intellectual property culture and the development of jurisprudence.

2- In Terms of Establishing a Special Intellectual property Court

A number of men of law suggest and encourage the establishment of a special court for intellectual property crimes or a penal Chamber specialized in intellectual property matters in each district court along the lines of rentals Tribunals and real estate Chambers for example, in order to be dealt with more seriously and effectively.

In this case, judges appointed in this Chamber are required to have competence in the field of intellectual property, and to be careful to respect this standard by approving transfers and periodic judicial reorganizations.

But the other part of the men of law opposes this idea and do not favor the establishment of a special court for intellectual property since they consider that the issue of combating intellectual property crime relates to the issue of combating crime in general and this is due to the professional conscience of judges and not to the specialization in courts and in jurisprudence.

They also consider that the establishment of such a special chamber of intellectual property will be tying the judiciary and limiting intellectual property issues to it which may lead to a backlog, thus production becomes weak.

III: Adopting a financial plan to encourage invention and promote IP as a cultural and economic wealth

1- Access to Finance:

- In this context, it has been proposed **activating the role of KAFALAT organization** to ensure the financing of literary and artistic property industries - this proposal can also include all sectors of intellectual property - who face difficulty in obtaining loans from banks¹⁸
- **Encourage investment of private institutions in the areas of intellectual property** through financial incentives
- **Encourage the establishment of technology and innovation support centers** according to the criteria adopted by the World Intellectual Property Organization (WIPO)¹⁹
- **State support for cultural activities and initiatives** organized by the public and private institutions.

2- Tax Incentives²⁰ :

- **Abolish all taxes and fees imposed on business and cultural services or use them** exclusively to support these business and cultural services.
- **Granting tax incentives for private or local and international institutions that support or finance intellectual and cultural productions** such as local television productions for example.

¹⁸ Roger MELKI, *The Economic contribution of copyright-based industries in Lebanon*, July 2007, p.53.

¹⁹ Intervention of Mr. Yoshiki Takagi, Executive Director of the Infrastructure Department of the World Intellectual Property Organization, WIPO, *Access to Research and Innovation: the importance of technology and innovation support centers*, the Arab fifth Regional Coordination Meeting, with the support of the WIPO and the League of Arab States for the benefit of managers of industrial property offices and copyright, Beirut, October 2009

²⁰ Roger MELKI, *ibid.*

- **Avoid Double Taxation:** to prevent authors and owners of related rights to pay multiple taxes in countries where the work is invested: this is possible now thanks to the bilateral agreements signed by Lebanon with a number of countries, however, it is also important for Lebanon to accede to the Madrid Multilateral Convention for the Avoidance of Double Taxation of Copyright Royalties, 13/12/19

Draft

Detailed content of the report

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- h) General Texts
- i) Special Texts

2) Decisions, Ministerial Decrees, and Circulars

- a) Decisions
- b) Ministerial Decrees
- c) Circulars

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Three: Draft Laws

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- 2- Draft Laws and proposals for new laws

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- Three: Industrial Drawings and Designs
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4) Consumer Protection Directorate, Ministry of Economy

5) Regional Departments

- c) Ministry of Culture
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 - i. Department of drug Import and export
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II- Awareness campaigns and activities

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Third: Law No. 240/2000 (patents)

Fourth: decree in force No. 918 dated 15/11/2007 (collective management of copyright)

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Second: the draft law on the protection of trade, industrial and service mark

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One: in Terms of Legislation

Two: in Terms of Administrative Procedures

Three: In terms of Combat

Four: in Terms of the Judiciary

III- Adopting a Financial Plan to Encourage Invention and Promoting IP as a Cultural and Economic Wealth.

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