



## **Fostering innovation in the Danube Region through Knowledge Engineering and IPR Management**

### **Output 6.3. KnowING IPR Policy Recommendations**

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KnowING IPR will improve framework conditions for innovation in the Danube region by developing a transnational KnowING IPR platform, which will provide an open-access tool for advanced intellectual property rights (IPR) analysis and guidelines for improved and harmonized IPR policy framework across the Danube region. It will ensure broader and needs-based access to existing innovation and research results, patents, and IPR knowledge. It will encompass services and training for the management of IPR and support of the commercialization of research results and technology transfer.

KnowING IPR is a pioneering effort in bringing advanced knowledge engineering technology to the field of IPR. The solutions proposed by the project will enable pooling and exploitation of existing innovation knowledge and increased IPR-based cooperation opportunities (out-licensing, in-licensing, and underdeveloped university technology transfer). The project will tackle the bottleneck of the lack of real-value IPR data and IPR management knowledge, thereby stimulating an underdeveloped IPR market, encouraging further innovation investments and creating competitive advantages, especially for Danube region SMEs and HEI&RI.

The main result of the KnowING IPR will be a practical solution in the form of open access Knowing Hub online platform providing knowledge extraction from patent and other databases, advanced analytics, and training for IPR extraction and management, thus enabling IPR collaboration, better-informed freedom-to-operate, future trend decisions, and build-on innovation processes. Furthermore, the project will yield evidence-based Policy Recommendations for the Danube Region in the field of IPR.

KnowING IPR builds upon the triple helix model of innovation, reaching enterprises, especially SMEs, business support organizations, public authorities, higher education and research centres, through its varied consortium members and outreach activities.

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# Introduction

The purpose of the present document is to provide a coherent set of policy recommendations, resulting from the past work of the KnowING IPR project. The project's general aim was to improve the framework conditions for innovation in the Danube region by developing a transnational KnowING IPR platform, which would provide an open-access tool for advanced intellectual property rights (IPR) analysis and guidelines for improved and harmonized IPR policy framework across the Danube region. Furthermore, the project would yield evidence-based Policy Recommendations for the Danube Region in the field of IPR.

The Output before us is the final output of Period 6, and it capitalizes on the works of all previous thematic work packages. As a starting point for KnowING IPR policy recommendations, the thematic work package no T1 served, with the IPR challenges MAP. Apart from that, IPR Action Plan, also part of thematic work package no T1, was used as a starting point. After implementing all KnowING IPR project-related remaining tasks, the attention was turned to the preparation of the policy recommendations. We organized two moderated workshops to introduce some policy guidelines and collecting feedback and responses from policymakers and other engaged stakeholders.

As a result of the work, the policy recommendations are based on a three-layer analysis: the general European framework on IPR, the regional IPR framework in the Danube area (with specific national challenges and opportunities) and the input of IPR experts and policymakers from different Danube countries. Following the structure of the IPR challenges map, the policy recommendations are suggested to upgrade the policies in the following fields:

- Human capital
- Education
- Culture
- Policies (in general), and
- Funding.

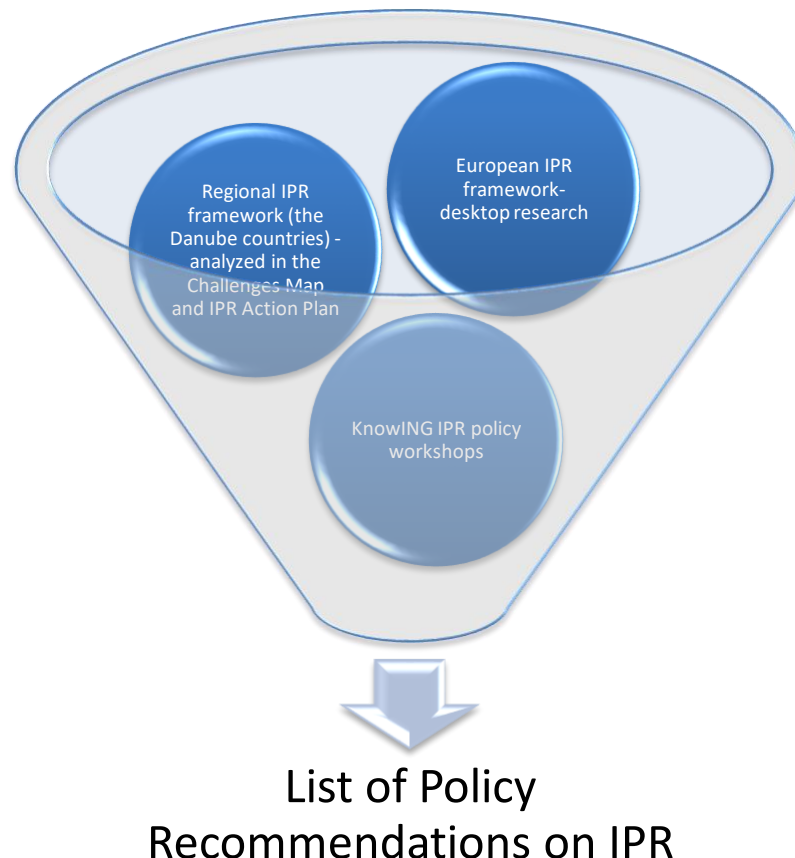
# KnowING IPR Policy recommendations

## Methodology

The methodology applied to reach the goals of delivering coherent policy recommendations was developed to capitalize from past project deliverables of thematic work packages.

From the methodological point of view, the Policy Recommendation Deliverable is based on three sources of information:

- Desktop research regarding the general European framework of IPR legislation
- The Challenges Map and Action Plan – deliverables developed inside the KnowING IPR project
- Policy workshops – events organized during the project where different IPR policy recommendations were debated and improved. The input came from various national IPR experts and policymakers that contributed with their expertise and professional experience



*Data collection overview (figure 1)*

All this information provides a top-down approach towards the IPR framework in the Danube countries, highlighting sensitive areas and offering possible solutions that could contribute to the improvement of the regional innovation ecosystem. As the project clearly states, the "IPR-based transnational cooperation can build new transnational clusters inside the Danube region and stimulate the IPR market in the Danube region".

## Behind the curtain

### European framework of IPR legislation – an action plan for the EU

In November 2020, an Intellectual Property Action Plan for the EU was launched with the specific purpose of supporting the "EU's recovery and resilience". The Plan addresses four key areas:

- **Boost the uptake and use of IP especially by small and medium-sized enterprises<sup>1</sup> (SMEs)**

The Commission wants to address the issue that SMEs do not make full use of the opportunities offered by IP protection. The Commission intends to provide a scheme for IP SME Vouchers by 2021 to finance IPR registration and strategic IP advice. The action plan also includes the roll-out of IP assistance services for SMEs in the "Horizon Europe" program.

- **Facilitate licensing and sharing of IP by**
  - ensuring the availability of critical IP in times of crisis
  - supporting the development of high-quality 'copyright infrastructure'
  - improving transparency and predictability in Standard Essential Patent licensing<sup>2</sup>
  - promoting data access and sharing by clarifying the Trade Secrets Directive<sup>3</sup> and revising the Database Directive

The action plan further highlights that a resilient, green and competitive economy needs tools to facilitate access to critical IP protected technologies in times of crisis, facilitate license copyright and standard-essential patents (SEP), and promote data sharing.

The COVID-19 crisis illustrated the dependence on critical innovations and technologies, particularly in the health sector. The Commission anticipates deploying tools to ensure the availability of critical IP in times of crisis by 2021-2022. These efforts would include new licensing tools and a system to coordinate compulsory licensing.

The Commission aims to further reduce friction and litigation between SEP owners and implementers by encouraging industry-led initiatives, combined with possible regulatory reforms, to clarify and improve the framework governing the declaration, licensing and enforcement of SEPs.

Regarding copyright licensing, the Commission is launching a study on copyright and new technologies, which will focus on copyright data management and artificial intelligence. The use of such new technologies could help achieve more transparency and better rights data management, notably to improve the identification of rights owners. The Commission will reach out to relevant stakeholders to promote the quality of copyright data and achieve a well-functioning copyright infrastructure, e.g. by improving authoritative and updated information on right holders, terms and conditions and licensing opportunities.

In the interest of promoting data access and sharing, the Commission is currently evaluating the Trade Secrets Directive and the Database Directive to ensure a balance between the need to foster data sharing and the need to safeguard legitimate interests. In particular, a new study will clarify certain key provisions of the Trade Secrets Directive. The study will analyze questions as to which types of data could qualify as 'trade secrets, whether the current set of exceptions can support the data and green economy, as well as whether and how the tools offered by the directive can be used to efficiently counter the unlawful acquisition, use and disclosure of data and datasets.

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<sup>1</sup> IP support for SME policy, [https://ec.europa.eu/growth/industry/policy/intellectual-property/smes\\_en](https://ec.europa.eu/growth/industry/policy/intellectual-property/smes_en)

<sup>2</sup> Standard Essential Patents, [https://ec.europa.eu/growth/industry/policy/intellectual-property/patents/standards\\_en](https://ec.europa.eu/growth/industry/policy/intellectual-property/patents/standards_en)

<sup>3</sup> Trade Secrets Directive, [https://ec.europa.eu/growth/industry/policy/intellectual-property/trade-secrets\\_en](https://ec.europa.eu/growth/industry/policy/intellectual-property/trade-secrets_en)

The Commission also decided, in the framework of the European Strategy for Data, to review the Database Directive to facilitate the sharing of and trading in machine-generated data and data generated in the context of rolling out the IoT. The review will take place alongside the Data Act and take into account data sharing initiatives in the area of antitrust law.

- **Ensure better enforcement and fight IP infringements by**

- clarifying responsibilities of online platforms in the Digital Services Act
- launching an EU Toolbox against counterfeiting
- strengthening the role of the European Anti-Fraud Office (OLAF) and other authorities in the fight against counterfeiting and piracy

Counterfeiting and piracy are still thriving, including by taking advantage of digital technologies, the action plan proposes specific measures to curb these issues.

Reference is made to the forthcoming Digital Services Act. New rules will be adopted to clarify and upgrade the responsibilities of online platforms, while disincentives for voluntary actions taken by online platforms to address illegal content (goods or services) they intermediate will be removed. The forthcoming proposal for the Digital Services Act package will aim to harmonize a set of specific, binding and proportionate obligations for digital services, enforced by a strengthened supervisory framework.

The action plan also envisages strengthening the capacities of law enforcement authorities and the role of OLAF in the fight against counterfeiting and piracy.

Furthermore, the plan proposes creating an EU Toolbox against counterfeiting. This toolbox will set out principles for joint action, cooperation and data sharing among right holders, intermediaries and law enforcement authorities. The toolbox will clarify roles and responsibilities and identify ways to work together. It will also promote the use of new technologies such as image recognition, artificial intelligence and blockchain.

- **Promote fair play at a global level by**

- developing global IP standards
- curbing unfair practices
- speaking with a united voice on IP

As a final action point, the Commission puts forward that the EU must harness its potential to act as a global norm-setter. It proposes several actions for the EU to set high IP standards at the international level. For example, these proposals would include ambitious IP Chapters in free trade agreements, involve IP assets in foreign investment screening and defend global standards of IP protection in global fora (e.g. WIPO or WTO). Additionally, the Commission will consider EU accession to the Singapore Treaty on the Law of Trademarks. In the area of copyright, the Commission will continue to take an active role in WIPO negotiations to reach an agreement on a new treaty ensuring international protection to broadcasting organizations. It will also secure the EU's ratification of the WIPO Beijing Treaty (signed by the EU in 2013), which grants international protection to audio-visual performances.

This action plan builds on and enhances the 'IP package' of 2017, which included the Communication of "A balanced IP enforcement system responding to today's societal challenges".

The Action Plan was positively received, many international and European organizations declaring their support in implementing it. Like many other initiatives, it also had its share of suggestions for improvement, which varied from creating a European copyright register<sup>4</sup> to paying more attention to the economic and societal harms caused by abuses of SEPs, (standard essential patents)<sup>5</sup>. But all in all, the Action Plan is an important step in upgrading the EU

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<sup>4</sup> <https://www.digitaleurope.org/resources/digitaleurope-considerations-on-the-new-commission-ip-action-plan/>

<sup>5</sup> [http://fair-standards.org/wp-content/uploads/2021/01/210126\\_FSA-Reactions-on-the-European-](http://fair-standards.org/wp-content/uploads/2021/01/210126_FSA-Reactions-on-the-European-)

Intellectual Property policy, and it sets out the European Commission's plan for reform of Intellectual Property law in the EU.

## **Regional context – the IPR framework in the Danube countries**

The EU has comprehensive legislation on IPR covering patents, trademarks, designs, copyright, protected geographical indications for agricultural products and plant variety rights, and rules for the protection of commercially confidential information. These EU laws standardize, to some extent, IPR protection across its territory and, in certain cases, enable IPR registered in one EU country to be recognized automatically by other State Members. Of course, ultimately, they aim to help researchers, entrepreneurs, and companies bring a correct value to their intangible assets and help maximize them within the EU's Single Market. Technology transfer and licensing policies are critical mechanisms that translate the newest innovative and creative ideas into commercially available products. The most effective technology transfer systems are based on IP frameworks that minimize barriers and facilitate market-based partnerships.

However, disparities between various areas of the European Union block innovation and technological transfer at the regional level, with important effects on the commercialization of products and economic growth. As the KnowiNG IPR project's analysis already stated in previous reports, the IPR framework in the Danube region is facing many challenges<sup>6</sup>:

- lack of financing;
- difficult access to informational sources;
- frail cooperation between the research entities and private companies;
- weak connection of the researchers to the newest developments in the worldwide research area of interests;
- the absence of qualified professionals that would facilitate the connections between research institutions/ universities and the business environment;
- expensive and bureaucratic process for patenting
- lack of awareness about IPR benefits and existent support.

The Deliverable D3.1.3. IPR Challenge Map gives a comprehensive overview of the challenges met by the Danube countries when dealing with IPR. In short, all developing economies in the region are confronted with challenges related to financing: lack of incentives for commercialization of research results, dependency on international projects, low R&D spending, high costs for applying and maintaining patents. On the other hand, developed economies are confronted with challenges rather deriving from the management of IPR than from policy-making and law enforcement. In conclusion, challenges related to IPR are numerous and diverse, and there is no single classification that could be universally applied to all countries in the Danube Region.

Deliverable D 3.1.4 IPR Action Plan proposes a series of actions that would help the innovation ecosystem overcome the barriers to technology transfer and commercialization of research results.

- Raise awareness of IPR in business and academia
- Improve the organization of R&D systems
- Improve the organization of IPR systems
- Improve the interaction of R&D and IPR systems
- Establish and maintain communication with national experts
- Establish and maintain close cooperation with relevant public authorities
- Create a hub where IPR-interested people from business, academia, and government can meet up together

The D 3.1.4 IPR Action Plan also proposes that all activities targeting de upgrading, development

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[Commissions-Intellectual-Property-Action-Plan.pdf](#)

<sup>6</sup> Deliverable D3.1.3. IPR Challenge Map – Deliverable from WP 3 / KnowiNG IPR Project



and improvement of IPR legislative and political framework could be centred around the KnowiNG IPR Hub. The short term tasks as elaborated are being realized through the activities of the KnowiNG IPR project.

*The Analysis and overview of current and upcoming IPR policies of the EU for KnowiNG IPR policy recommendations*<sup>7</sup> conducted so far show that the level of IPR development in the Danube region is modest. While IPR development has been hampered by political instability, slow economic growth and the cultural background of many countries in the region (i.e., former communist countries), the situation is slowly changing. Still, challenges faced by stakeholders are numerous and diverse, covering all the six pillars of the entrepreneurial ecosystem (policy, finance, culture, human capital, markets, supports).

In summary, the development of intellectual property rights in the Danube region is gaining critical acclaim. Still, the region navigates an environment full of political, cultural, educational and economic sensitivities due to specific backgrounds and transformation processes, rooted in the diverse dynamic of its countries. Thus, exploration of new capabilities and IPR development patterns and the reconsideration of the cooperation strategies and networks between the stakeholders in the Danube countries, both at home and at interregional levels, are required. Indeed, according to the stakeholders' opinion, the importance of intellectual property rights for industrial R&D is widely acknowledged. Nonetheless, we need to develop new mechanisms, educational support and tools that allow, in particular, to exploit the IPR to their full potential in all parts of the Danube region, also while navigating new networking and matchmaking opportunities for intellectual property rights (IPR) and technology transfer (TT).

Beyond the dichotomy of top-down or bottom-up approaches, a diverse mix of policies and other soft instruments could be deployed to improve the region's IPR situation. Last but not least, an increasing level of awareness on IPR importance is also needed to prevent the other side of the coin: avoiding the situation when IPR is used against the innovator.

Overall, the results point out important insights concerning the challenges faced by the various stakeholders in the Danube Region in terms of IPR. The problems are mainly related to the undercapitalization of the intellectual assets due to the lack of a right mix between knowledge and skills and policy and administrative strategies.

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<sup>7</sup> Analysis and overview of current and upcoming IPR policies of the EU for KnowiNG IPR policy recommendations, KnowiNG IPR project

## What to do – from now on?

It has to be noted that policy recommendations seem generalized at first glance. They were presented so on purpose for each of the Danubian countries to be able to use and tailor to its own needs the specific set of recommendations. The IPR challenges map and its structural analysis helped out to elaborate the key thematic fields that require to be adequately addressed. We are aware the entrepreneurial ecosystems are complex systems with several aspects to be taken into account. For our approach, we used the OECD elaboration and defined the key thematic fields of the entrepreneurial ecosystem to be addressed:

- Human capital;
- Education;
- Culture;
- Policies and
- Funding.

In terms of **Human Capital**: there is a general recommendation to build capacity and form a community of IPR public experts supporting patenting. Others, more particular recommendations are the following:

### **Policy recommendation for the development of Human capital**

Education of institutions (SMEs, HEIs, RIs) and individuals alike (CEOs, managers, researchers, students, engineers) about the importance of patenting and IPR (analysis costs vs benefits) is needed.

The younger generation should be educated, and awareness about patent and intellectual property rights should be raised. Include information about IPR in the national education curricula of each state and increase the knowledge level starting from an early age.

In terms of **Education**: there is a general recommendation to educate current innovation professionals and the young generations on IPR, patenting and technology transfer. Others, more particular recommendations are the following:

### **Policy recommendation for the development of Education**

Raising awareness among stakeholders by providing good practices and sharing knowledge on IPR should be conducted by each state.

Organization of national events for holders of TTOs and IP offices regularly is needed to assure knowledge transfer on technology, patenting and intellectual property.

In terms of **culture**, there is a general recommendation to raise awareness of patenting potential, benefits and opportunities, and create hubs where the public and private can collaborate. Others, more particular recommendations are the following:

### **Policy recommendation for the development of Culture**

The national patent systems should be strengthened by including HEIs, RIs and Chambers of Commerce in shaping the policy process.

There is a need to create a HUB/a connecting point for various stakeholders that could support local TTOs. The Hub would offer support programs, raise awareness, offer legal and administrative support to researchers, companies, and institutions.

The Hub should be able to connect different environments – local, national, regional – and it must be managed by a team composed of representatives of all types of stakeholders (business, academia, RPOs, inventors, etc).

Strong working relations that would lead to the formation of a trusting environment inside organizations should be built.

Encouragement of the networking between research and the business sector is needed, resulting in the strengthening of collaboration between the two stakeholders and increasing the commercialization of the research results.

In terms of **Policies**: there is a general recommendation to develop regional/national IPR supporting policies aligned with the European evolutions, allowing the region/country to be an active player in the patenting game at the international level. Others, more particular recommendations are the following:

### **Policy recommendation for the development of Policies**

The national patent systems need to be updated regularly, following the European and international updates on existing regulations, also taking into account the national status of the R&D ecosystem.

The European and national IPR legislation and support programs should be harmonized so that regional discrepancies are attended.

National plans and strategies to encourage collaboration should be developed.

In terms of **Funding**: there is a need to design thematic funding instruments supporting the patenting activity of the SMEs. Others, more particular recommendations are the following:

### **Policy recommendation for the development of Funding**

Simplifying the procedures that govern the programs aimed to support and stimulate innovation is needed to help SMEs and HEI&RIs apply for different programs regularly.

Financial incentives are very important as they can fully or partially cover patenting costs and help motivate researchers and innovators, and boost the patenting application numbers.

Finances for SMEs should be available to assure financial resources, avert risks for SMEs and motivate them. The finances can be available in various forms: tax incentives, tenders, innovation vouchers and patent vouchers.

Finances for HEI&RIs should be available to motivate them to innovate. The finances can be available in various forms: tax incentives, tenders, innovation vouchers and patent vouchers.

When developing the policy recommendations for the Danube region, the KnowING IPR consortium envisaged their transferability to other EU regions to provide support for comprehensive development and promote synergies among the EU regions. Thus, the KnowING IPR consortium partners identified some key areas that support IPR development in any European region. They started from the prerequisite that IPR development is about capitalizing on its potential to become an accelerator of the innovative transformation in Europe. The success of each initiative depends on the capacity of the territorial systems to orchestrate initiatives advancing the know-how and increasing the capacity of using IPR.

## EUSDR Action plan and Policy recommendations

Throughout its implementation, the KnowiNG IPR supports the three Priority Areas of the EUSDR as stated in the Application form. Among those, the primarily PA7 – to develop the knowledge society through research, education and information technologies; the secondly PA8 – to support the competitiveness of enterprises, including cluster development and finally, PA9 – to invest in people and skills.

Even if it does not seem at first glance, the present Output contributes to targeting all three Priority areas. Namely, the policy recommendations suggested contribute to the Priority areas covering the following segments of the entrepreneurial ecosystem. The contribution is the following: the recommendations to develop human capital contribute to PA9, as to make recommendations for the development of education,

The recommendations strengthening the culture contribute towards the goals they suggest how to improve the conditions for the flourishing of the knowledge society. The nature of the policy recommendations for Culture also contributes to the PA8 – to support the competitiveness of enterprises.

The recommendations to develop policies are shaped to coherently to each of the three Priority Areas: PA7, PA8 and PA9. On the other hand, the recommendations contributing to funding development are contributing to Priority areas PA8 and PA7 – with more emphasis on the establishment of an environment supportive enough to contributing to competitiveness of companies.

## Conclusions

We can conclude the present output represents the critical steps in aims of the KnowiNG IPR consortium to improve the Danube Region innovative capacity through its actual work done during the implementation of project activities and careful designing the work to contribute to EUSDR PA goals.

The addressed aspects of challenges of human capital, education, culture, policy, and funding are promised the potential success in the future, and the regional aspect of the recommendations promises national countries the ability to examine and reconsider the relevance of each of the proposed measures per own need.

However, the authors of the policy recommendations believe the policy recommendations are broad enough to declare them 'regional' and tailored enough not to tell them to generalize. The balance between regionalism and national relevance reflects well in this context. We believe this is also due to the consortium's efforts to excel in the task and provide the series of policy recommendations that are territory and time sound and elaborated hand in hand with the stakeholders engaged in the project activities since the start of the project.

Following these recommendations, the work can naturally continue from this point, where individual countries can elaborate local action plans on how to mitigate either at the same time on one of the aspects of the entrepreneurial ecosystem.

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