

tered as patent attorneys in the state registrar²⁴³. The examination of persons willing to become a patent attorney is considered to be an important legal requirement which ensures an adequate legal representation of clients at the national patent offices and at the national courts. In Estonia and Latvia, patent attorneys are solely eligible to represent clients before the courts, whereas in Lithuania a patent attorney can represent a client before the courts only with the attendance of a lawyer. This is due to the fact that there is no requirement for a patent attorney to have a legal education (*i.e.* a patent attorney is required to have an university diploma of technical, natural or computer sciences, mathematics *or* legal studies), which is required for legal representation²⁴⁴, particularly considering the complexity of patent and trademark infringement cases.

In the current context of national enforcement of IP rights and because of the role of the national patent offices, another underlying practical factor should be presented – the activities of patent attorneys as far as the registration of inventions is concerned. According to the national patent laws, the granting of patents in Latvia and Lithuania is based on a simple registration procedure without an examination of the patentability requirements by the patent offices²⁴⁵, whereas in Estonia patent applications are subject to the examination of the patentability requirements²⁴⁶. This arguably leads to a situation where the Estonian patent attorneys play a more active role while a patent application is being examined at the national patent office, whereas the activities of the Lithuanian and Latvian attorneys are clearly shifted to the opposition procedures and proceedings in patent infringement cases.

VI. Concluding remarks

The national IP enforcement regulatory framework in the Baltic countries is established on the legislative level and it functions in coordination with the international (such as WIPO, EPO) and European-wide (such as OHIM), institutions working in the field of IP rights. As far as actual enforcement of IP rights is concerned, the effective work of the established (or re-established) national IP enforcement institutions and authorities is crucial. The implementation of the EU Enforcement Directive into the national legislation and the application of the enforcement provisions in practice are tightly linked to the following factors:

First, the efficient work of the national bodies which have a legislative power, *i.e.* the national parliaments and governments, namely, the special Copyright Divisions

243 See in *Heath, Dietz et al.*, Enforcement of IPRs in Eastern Europe, pp. 888-890 (for Estonia), pp. 901-902 (for Latvia), pp. 915-916 (for Lithuania).

244 As a matter of fact, there is a number of attorneys at law specializing in the IP field in the Baltic countries. The information about them can be found on the official websites of the national law offices, the references to which can be found via the websites of the national bar associations.

245 Art. 10(1), the Latvian Patent Law; Art. 19, the Lithuanian Patent Law.

246 Art. 23(1) of the Estonian Patent Law provides that the Patent Office verifies the compliance of the invention with the patentability requirements.

at the national Ministries of Culture, in view of the processes related to the adoption of the laws which implement the Directive;

Second, the national IP enforcement institutions, such as the police authorities and customs; and

Third, the judicial institutions (currently, the national courts with a general jurisdiction) which actually consider the IP infringement cases. Although having specialized courts or special court divisions to consider IP cases could support the idea of improving the quality of the decisions in the IP infringement cases, considering the number of IP cases which are heard by the national courts of the Baltic countries each year, it is evident that this proposal would be too cost-consuming.

While discussing the effective work of the IP institutions, the existent human factor should also be considered. This human factor refers to the persons adopting the laws and implementing them who, in many cases, demonstrate some remnants of the Soviet mentality and education, especially where IP rights are concerned. This factor often causes a slow consideration of the draft laws processes as well as a delayed preparation of the cases to be submitted to the courts and court proceedings. Attention should be paid to offering more frequent and qualitative trainings with regard to IP-related education and knowledge for the national judges, the officers from the national IP enforcement authorities, such as the police and customs officials, as well as for the IP practitioners. According to the strategies prepared by the Ministries of Culture of the Baltic countries covering IP enforcement, these trainings are planned as an important focus for the coming terms. It is to be noted that the involvement of foreign specialists and experts in the field, as well as generally promoting IP in the schools, universities, and other educational institutions could also clearly be helpful.

It is also important to see the law-adoption process not only through the formal regulation of the work of the national Parliaments and the Governments, but also by considering who can attend this process and have an actual influence, if any, by allowing the laws to be more closely-related to the practice. It is very important in terms of the transposition of laws in the Baltic countries and also in terms of better analysing the local provisions by which the European provisions are implemented.