

**REGULATION No 249**

**of 27 November 2000**

on Border Measures for Protection of Intellectual Property Rights

(published in State Gazette No. 98/2000; in force as of December 4, 2000)

THE COUNCIL OF MINISTERS

HAS ADOPTED THIS REGULATION:

**Article 1.** (1) This Regulation stipulates the rules and the procedure for application of border measures as set out in the Copyright and Neighbouring Rights Act (CNRA), the Law on Marks and Geographical Indications (LMGI) and the Law on Industrial Designs (LID).

(2) Border measures under paragraph 1 shall be undertaken by detention of goods, carried across the state border of the Republic of Bulgaria, provided that there are valid grounds for suspecting that the goods concerned infringe intellectual property rights.

(3) Intellectual property right shall mean copyright, neighbouring rights, rights on marks, geographical indications and industrial designs.

(4) The provisions of this Regulation shall not apply to perishable goods.

**Article 2.** (1) The detention of goods shall be undertaken on the basis of application in writing lodged with the Central Customs Directorate by a person under the provisions of Article 96 (b), paragraph 1 of the CNRA, Article 78, paragraph 1 and paragraph 5 of the LMGI and Article 62, paragraph 1 of the LID. The application shall include:

1. request for detention by the customs authorities of the release into free circulation of the goods;
2. detailed description of the goods, for which detention is being requested;
3. specification of the nature of the infringement;
4. requested duration of the period for keeping under surveillance the goods under item (2), which shall not exceed one year;
5. proofs that the applicant is the right holder for the goods concerned;
6. name, address, headquarters, telephone and fax of the applicant; in cases where the place of residence or the registered office of the applicant is outside the country, the applicant shall specify a judicial address within the territory of the Republic of Bulgaria;
7. document that a fee for implementation of border measures in the amount specified in a Tariff, adopted by the Council of Ministers, has been paid.

(2) The following information may also be included in the application under paragraph 1:

1. name and address or registered office of the recipient of the goods;
2. country of origin of the goods;
3. means of transport used and the name of the carrier;
4. checkpoint where the goods are expected to cross the border;
5. date on which the goods are expected to cross the border;
6. tariff items under which the goods are classified in the Customs Tariff of the Republic of Bulgaria;
7. samples, photos and models of the goods;
8. information for the authorized traders of the original goods.

(3) The applicant is obliged to inform the Central Customs Directorate within 3 days for any change in the right under Article 1 paragraph 3 with regard to its content, scope and duration.

**Article 3.** (1) Within 7 days from the lodging of the application the Central Customs Directorate shall communicate in writing the applicant for its decision on the request made.

(2) Where one or more of the requirements for the application under Article 2 paragraph 1 has not been completed the Central Customs Directorate gives the applicant 3 days to complete the requirements.

(3) If the deficiencies are not eliminated within the time limit specified in paragraph 2 the Central Customs Directorate shall refuse to accept the application. The refusal shall be presented in writing and shall be motivated. The refusal is subject to an appeal under the provisions of the Administrative Procedures Act.

**Article 4.** (1) The customs authorities shall immediately inform the applicant for the detention of the goods, the name and the address or the headquarters of the consignee or the consignor of the goods.

(2) The customs authorities shall immediately inform the consignee and/or the consignor of the goods, through the carrier or their representatives for the detention of the goods, the grounds for the detention and the name and the address of the applicant.

(3) The applicant, the consignee and the consignor of the goods have the right to inspect the goods and to receive samples.

(4) Customs authorities shall release the goods upon request from the applicant.

**Article 5.** (1) Customs authorities shall detain the goods for a period not exceeding 10 working days. This period shall start with the communication to the applicant for the detention of the goods.

(2) The period under paragraph 1 may be extended once by a maximum of 10 working days by the director of the relevant customs, where the goods are detained, upon a

motivated request from the applicant, provided that there is evidence that legal proceedings have been initiated before the court in order to take a substantive decision on the statement of the fact of the infringement and a request for security measures under the Civil Procedures Code has been made.

(3) The customs authorities shall release the detained goods provided that on the expiry of the time limit under Article 5 paragraph 1 the applicant has not requested a new time limit for suspension of the goods or his application has not been accepted by the customs authorities.

(4) In the cases referred to in paragraph 2 the applicant shall cover the expenses for the suspension of the release of the goods made by customs authorities to the date of lodging of the application.

**Article 6.** By the expiry of the time limit under Article 5 paragraph 1 the applicant shall submit a court decision under Article 314 in relation to Article 309, Article 316 and the following provisions of the Civil Procedures Code, otherwise the customs authorities shall release the goods.

**Article 7.** (1) The customs authorities may take actions *ex officio* or upon a request from another government body for detention of goods for which there is valid grounds to suspect that they infringe intellectual property rights. The detention of the goods under Article 96 (d) paragraph 1 of the CNRA, Article 79 of the LMGI and Article 63 of the LID shall be for a maximum of 10 working days.

(2) In the cases under paragraph 1 the customs authorities undertake the actions according to Article 4.

**Article 8.** Where the obligations stipulated in Article 2 paragraph 3 are not observed the applicant is liable under Article 32 paragraph 1 of the Law on Administrative Infringements and Penalties.

(2) The statement of infringements under paragraph 1 shall be drawn up by the customs authorities and the penal injunctions shall be issued by the Director of the General Customs Directorate or by officials duly authorized by him.

(3) Statement of infringements, as well as issue, appeal and execution of penal injunctions shall be undertaken according to the provisions of the Law on Administrative Infringements and Penalties.

### **Final Provision**

This Regulation has been adopted under the provisions of Article 96 (e) of the Copyright and Neighbouring Rights Act, Article 80 of the Law on Marks and Geographical Indications and Article 64 of the Law on Industrial Design.