

**Law of the Republic of Moldova No.1079-XIV of 23.06.2000
on Amending Various Laws**

The Official Bulletin of the Republic of Moldova no. 154-156/1150 of 14.12.2000

The Parliament of the Republic of Moldova shall adopt the present organic law.

Article I. The Civil Procedure Code, approved under the Law of December 26, 1964 of the former SSR of Moldavia (The Official Bulletin of SSR of Moldavia, 1964, no. 36, art. 82), with amendments and completion, shall be completed as follows:

1. A new article 54¹ shall be introduced after article 54, with the following content:

“ Article 54¹. Burden of proof in cases of infringement of patent rights owners

When the subject of an action is a process for obtaining a product, the judicial authorities shall have the authority to order the defendant to prove that the process to obtain this product is different from patented process; any identical product when produced without the consent of the patent owner shall in the absence of the proof to the contrary, be deemed to have been obtained by the patented process if the product obtained by the patented process is new and/or if there is a substantial likelihood that the identical product was made by the process and the owner of the patent has been unable through reasonable efforts to determine the process actually used.

In the adduction of proof to the contrary, the legitimate interests of defendants in protecting their manufacturing and business secrets shall be taken into account.”

2. A new paragraph shall be included at the end of Article 140, with the following content:

“Provisional measures may be invalidated upon request by the defendant, if the judicial authority has failed to adopt a substantive decision in respect to activities related to protection of intellectual property, within a period of 31 calendar days after the adoption of provisional measures”.

Article II. Law No. 131-XIII on Wines and Vine (The Official Bulletin of the Republic of Moldova, 1994, no.3, art. 28) shall be modified and completed as follows:

1. Article 15 shall have the following content:

“Article 15. Attribution of appellation of origin to wines and other wines products

Appellation of origin is attributed to natural wines and other winery products originating from a geographic area with specific qualitative characteristics determined exclusively by natural and/or human factors specific to that geographical area, in conformity with the Regulation on preparation of wines with appellations of origin adopted by the Government.”

2. Article 16 shall be provided at the end with the paragraph 3, with the following content:

“(3) The use of a geographical indication identifying wines for wines not originating in the place indicated by the geographical indication, even where the true origin of the goods is indicated or the geographical indication is used in translation or accompanied by expressions such as “kind”, “type”, “style”, “imitation” or the like shall prohibited.”

Article III. Law No. 171-XIII on Trade Secret of July 6, 1994 (The Official Bulletin of the Republic of Moldova, no. 13, art. 126, 1994) shall be amended and completed as follows:

1. In Article 4, paragraph (1), the expression “who perform entrepreneurial activity on the territory of the Republic of Moldova” shall be excluded.

2. In Article 5, paragraph (1), after the expression “Objects of business secret” the expression “(know-how)” shall be added.

3. Article 12 shall have the following content:

“Article 12. Obligations of natural and legal persons who have access to information constituting a business secret

(1) Natural and legal persons, including official representatives of the state controlling or supervisory authorities, who have access to information constituting a business secret are obliged to strictly respect the requirements referring to its disclosure, to prevent its drain to third parties, its use or acquisition by these without the owner’s consent in a manner contrary to honest commercial practices (breach of contract, breach of confidence and inducement to breach, acquisition of secret information by third parties who knew, or were grossly negligent in failing to know, that such practices were involved in the acquisition), so long as such information:

a) is secret in the sense that is not, as a body or in the precise configuration and assembly of its components, generally known or readily accessible to persons within the circles that normally deal with the kind of information in question;

b) has commercial value because it is secret: and

c) has been subject to reasonable steps under the circumstances, by the person lawfully in control of the information, to keep it secret.

(2) When requiring, as a condition of approving the marketing of pharmaceutical or of agricultural chemical products which utilize new chemical entities, the submission of undisclosed test or other data, the origination of which involves a considerable effort, any unfair commercial use shall be prohibited, such information being insured against any disclosure, except where necessary to protect the public, or unless steps are taken to ensure that the data are protected against unfair commercial use”.

4. Article 13, paragraph (1) shall be completed at the end with the following text “Legitimate interests related to the protection of industrial and business secrets of all parties shall be considered upon submission of adequate evidence”.

5. Article 13¹ shall be included after the Article 13, with the following content:

“Article 13¹. Consultations with foreign authorities on business secret security

With the purpose of eliminating alleged violations of laws and regulations of a foreign country, resulting from the actions of citizens of the Republic of Moldova or its domiciliaries any authority of this country shall request that responsible authorities of the Republic of Moldova provide them with publicly available non-confidential information of relevance to the matter in question and of other information available to the authorities of the Republic of Moldova, subject to domestic law and to the conclusion of mutually satisfactory agreements concerning the safeguarding of its confidentiality by the requesting authority.”

Article IV. Law No. 461-XIII on Patents for Inventions of May 18, 1995 (The Official Bulletin of the Republic of Moldova, 1995, no. 53-54, art. 601; 1996, no. 40-41, art. 367) shall be amended and completed as follows:

1. Article 2:

article (1) shall be completed with paragraph (1), with the following content:

“(1) Legal protection shall include matters affecting the availability, acquisition, scope, maintenance and enforcement of intellectual property rights as well as those matters affecting the use of intellectual property rights.”

paragraphs (1), (2), (3) and (4) shall become paragraphs (2), (3), (4) and (5) respectively;

in paragraph 5, the text “protected in accordance with the applicable legislation” shall be replaced with the following text “with drawn from the Agency, within 30 days following their filing, on the basis of the board empowered by the Government, and the inventor or his successor shall be notified accordingly.”

2. Article 3 and 4 shall have the following content:

“Article 3. Representation

(1) Natural persons domiciled in the Republic of Moldova and legal entities having their headquarters therein (national) entitled to the protection of an invention may act either directly or through a representative authorized by a power of attorney.

(2) Foreign natural and legal persons domiciled and having their headquarters therein shall act through professional representatives in industrial property in the Republic of Moldova, except where international treaties to which the Republic of Moldova is party provide otherwise.

(3) The activity of professional representatives in industrial property shall be subject to the regulations approved by the Government.

“Article 4. Patentability of Inventions

(1) An invention in any field of technology may be patented if it is new, if it involves an inventive step and if it is susceptible of industrial application. An invention may concern a product or a process, including micro-organisms, or the use of a know product or process for new purposes. Patents shall be available and patent rights enjoyable without discrimination as to the place of invention, the field of technology and whether products are imported or locally produced.

(2) The following shall not be deemed patentable inventions under this Law:

- a) scientific theories and mathematical methods;
- b) conventional signs, timetables and rules;
- c) schemes for performing mental acts;
- d) schemes, rules and methods for doing business;
- e) algorithms and computer programs;
- f) projects and plans for buildings and constructions and for territorial planning;
- g) creations of an aesthetic nature (design);
- h) topographies of integrated circuits;

(3) Patent shall not be issued for inventions, the prevention of commercial exploitation of which is necessary to protect *ordre public* or morality, including to protect human, animal or plant life health

or to avoid serious prejudice to the environment, provided that such exclusion is not made merely because the exploitation is prohibited by national law.”

3. Article 6 shall have the following title:

“Article 6. Inventive step (non-obviousness).”

4. Article 7 shall have the following title:

“Article 7. Industrial Application (utility).”

5. In Article 8, paragraph (1), the words “if it occurred” shall be completed with the words “in respect to the creation of the invention, but”.

6. Article 10:

in paragraphs (1) and (3), the words “patent attorney” shall be replaced with words “representative in industrial property”.

in paragraph (2), subparagraph b) shall have the following content:

“b) a description of the invention disclosing it in a manner sufficiently clear and complete for the invention to be carried out by a person skilled in the art. The applicant shall indicate the best mode for carrying out the invention known to the inventor at the filing date or, where priority is claimed, at the priority date of the application.”

in paragraph 8:

the first sentence shall have the following content:

“the application documents shall be filed in the national language certified accordingly.”; and at the end shall be completed with the following text “and that date shall be maintained. If in the course of that period the applicant does not file a translation of the documents in the national language, the consideration of the application shall end.”;

paragraphs (9) and (10) shall be included after paragraph (8), with the following content:

“(9) The information contained in the enclosures of the application shall be considered confidential until it is published by the Agency. Disclosure of such information before it is published by the Agency shall be considered as violation and accordingly sanctioned under legislation in force.

(10) The Agency may require an applicant for a patent to provide information concerning applicant’s corresponding foreign applications and grants.”

7. Article 12:

paragraph (2) shall be completed at the end with the following text:

“ These periods shall start from the date of filing the first application; the date of filing shall not be included in the period”.

in paragraph (5), after the text “his claim of priority,” the text “accompanied by a certificate of priority and by a translation in the national language” shall be introduced.

paragraph (10) shall be included in the end, with the following content:

“(10) Priority may not be refused on the ground that certain elements of the invention for which priority is claimed do not appear among the claims formulated in the application in the country of origin, provided that the application documents as a whole specifically disclose such elements .”

8. In Article 15 will have the following content:

“Article 15. Transformation of the application

The patent application, including the application for eurasian patent, may be transformed, with the maintenance of the priority, in a request from the applicant, in a utility model application and vice-versa, before the decision of grant of patent is adopted or within 3 months following the refusal.”

9. Article 16:

in paragraph (3), in subparagraph b), the text “paragraphs (2) and (3)” shall be included at the end;

paragraph (9) shall have the following contents:

“(9) If the applicant, within the time limit indicated in paragraph (8) above, gives his consent for the grant of the patent under his responsibility, the Agency shall check if the invention complies with the patentability criteria, indicated in art 4-8 of the present law and, based on the examination report, it shall decide whether grant or reflect the application.”

in paragraph (13), after the words “of the present law and grounded on the examination report, it shall decide whether to grant patent or reject the application” shall be included.

10. In Article 20:

paragraph (1), shall be completed at the end with the following sentence: “The grant of a patent shall not be refused and a patent shall not be invalidated on the ground that the sale of the patented product or of a product obtained by means of a patented process is subject to restrictions or limitations resulting from the domestic law.”

in paragraph (2), the words “and the abstract” shall be replaced with the text “the abstract and the”.

11. Article 20¹ shall be included after Article 20, with the following contents:

“Article 20¹. Supplementary protection for pharmaceutical products

(1) The owner of the patent for a pharmaceutical product, who has been granted authorization for marketing the product, shall avail himself of a supplementary protection of the invention equal in time with the period from the filing date till the date on which marketing was allowed, but not longer than 5 years.

(2) Supplementary protection for the pharmaceutical products shall be granted at the request of the patent owner and shall be conformed by a certificate issued by the Agency. The certificate grants rights equal to those residing in the main patent and gives birth to the same rights and obligations. Throughout the entire term of validity, the owner shall pay annual maintenance fees.

(3) The application giving the particulars of the inventor, the patent number, the date of issue and the number of the authorization for marketing of pharmaceutical product, shall be filed with the Agency within 6 months following the grant of authorization for marketing the pharmaceutical product in question. If the authorization for marketing has been granted before the grant of the main patent, the application shall be filed within 6 months the grant of the patent.

- (4) The application shall be accompanied by:
- a) a copy of the authorization for marketing the products;
 - b) proof of payment of the prescribed fee:

(5) The decision to issue of certificate shall be published in the Official Bulletin and shall be introduced in the National Registry of Patents for invention. The list of particulars shall be drawn by the Agency.

12. In Article 21, paragraph (1), the expression “time limit laid down in” shall be replaced by the expression “time limits under Article 10(8) and”.

13. In Article 22, the expression “from exploiting the invention protected by patent without his authorization” shall be replaced with the expression “who act without his consent or carry out the following activities: manufacture, use, offering for sale, selling or importing for these purposes the protected product or the product obtained directly by the protected process”.

14. Article 23:

in paragraph (1), subparagraph b) shall have the following content:

“b)where the subject matter of a patent is a process, to prevent third parties not having owner’s consent from the act of using the process, and from the acts of: using, offering for sale, selling, or importing for these purposes the product obtained by that process.

after paragraph 3, paragraph (4) and (5) shall be introduced, with the following content:

“(4) When assessing the owner’s rights infringement, if the subject matter of the patent is a process for obtaining a product, the judicial authorities shall have the authority to order the defendant to prove that the process to obtain an identical is different from patented process; any identical product when produced without the consent of the patent owner shall in the absence of the proof to the contrary, be deemed to have been obtained by the patented process if the product obtained by the patented process is new or if there is a substantial likelihood that the identical product was made by the process and the owner of the patent has been unable through reasonable efforts to determine the process actually used.

(5)In the adduction of proof to the contrary, the legitimate interests of defendants in protecting their manufacturing and business secrets shall be taken into account.”

15. Article 24:

the single paragraph becomes paragraph (1):

in paragraph (1):

subparagraph b) shall be completed at the end with the following text “for assessing the application of the subject matter of the invention or for non-commercial purposes”;

subparagraph c) shall have the following content:

“c)in extraordinary cases, such as natural disasters, catastrophes and epidemics or other circumstances of extreme urgency;

paragraphs (2) and (3) shall be included at the end, with the following content:

“(2) The use referred to in paragraph (1) shall be allowed, provided that such exceptions do not unreasonably conflict with the normal exploitation of the protected invention and do not unreasonably prejudice the legitimate interests of the owner of the protected invention, taking account of the legitimate interests of third parties. In such cases, the owner of the protected patent is entitled to claim a compensation adequate to the damages suffered as a result of unauthorized exploitation of the invention.

(3) Actions of the public authorities related to enforcement of industrial property laws shall not be regarded as infringement of the owner’s rights, provided that public authorities in question acted in good faith.”

16. Article 32:

in paragraph (1), the words “The right to obtain a patent, the right to” shall be excluded;

paragraphs (2), (3) and (7) shall have the following content:

“(2) Rights may be transferred under an assignment contract, contract on exclusive and nonexclusive license, by succession or by testamentary provision or *ab intestad*.

(3) Rights transferred by contract under paragraphs (2) shall also have effect for third parties and shall determine the alteration of the legal status of the patent immediately as the contract is registered with the Agency.”;

“(7) Any provisions containing exclusive grantback conditions, conditions containing challenges to validity and coercive package licensing as well as any other conditions limiting fair competition based on professional principles shall not be included in license contracts.”

17. Article 33 shall have the following content:

“Article 33. Other use without authorization of the right holder

(1) The judicial authority may authorize, without the consent of the patent owner, the right on exploitation of protected invention, under the following conditions:

a) authorization of such use shall be considered on its individual merits;

b) such use may only be permitted if, prior to such use, the proposed user has made efforts to obtain authorization from the right holder on reasonable commercial terms and conditions and that such efforts have not been successful within a reasonable period of time. This provision may be waived in the case of national security or other circumstances of extreme urgency or in cases of public non-commercial use. In such cases, the right holder shall be, nevertheless, notified as soon as reasonable practicable.

c) the scope and duration of such use shall be limited to the purpose for which it was authorized, and in the case of semi-conductor technology, shall only be for public non-commercial use or to remedy a practice, determined after judicial or administrative process to be anti-competitive;

d) such use shall be non-exclusive and non-assignable, except with the part of the enterprise or goodwill which enjoy such use;

e) any such use shall be authorized predominantly for the supply of the domestic market;

f) authorization of the such use shall be liable, subject to adequate protection of the legitimate interests of the persons so authorized, to be terminated if and when the circumstances which led to it cease to exist and are unlikely to recur. The judicial authority shall have the authority to review, upon motivated request, the continued existence of these circumstances;

g) the right holder shall be paid adequate remuneration in the circumstances of each case, taking into account the economic value of the authorization.

h) the judicial validity of any decision relating to the authorization of such use shall be subject to a judicial review or other independent review by a distinct higher authority;

i) provisions of paragraph b) and e) shall not be applied where such use is permitted to remedy a practice, determined after judicial or administrative process to be anti-competitive. The need to correct anti-competitive practices may be taken into account in determining the amount of the remuneration. Competent authorities shall have the authority to refuse termination of authorization if and when the conditions which led to such authorization are likely to recur.

j) when a nonexclusive compulsory license has been granted for exploitation of a patent for invention (hereinafter referred to as “the second patent”) which may not be exploited without infringing another patent (hereinafter referred to as “the first patent”), the following additional conditions apply:

- the invention claimed in the second patent shall involve an important technical advance of considerable economic significance in relation to the invention claimed in the first patent;

- the owner of the first patent shall be entitled to a cross- license on reasonable terms to use the invention claimed in the second patent; and

- the use authorized in respect of the first patent shall not be assignable, except with the assignment of the second patent;

(2) The holder of the license shall notify within 10 days the decision of the judicial authority to grant a non-exclusive compulsory to the Agency. The Agency shall enter in the National Patent Register and publish in the Official Bulletin data referring to the granted non-exclusive compulsory licenses, as well as data in respect of modifications occurred in connection with it within three months following the date of notification.

(3) If the holder of a compulsory license has not undertaken any preparation for exploiting the invention within the year following grant of the license, the compulsory license may be cancelled by the decision of the court. In any event, a compulsory license shall terminate if its holder has not begun exploitation of the invention within two years following the date on which the license was granted to him.

18. In Article 34, paragraph (1), the words “on a period of up to two years” shall be excluded, and the words “up to 60 times the minimum salary” shall be replaced with the text “in conformity with the legislation in force”.

19. Article 35:

paragraphs (2) and (3) shall have the following content:

“(2) At the request at the patent owner, the infringement of his rights shall be terminated and the natural or legal who committed the infringement shall be required to pay damages as compensation for the prejudices incurred, including for loss of earning and the expenses which may involve appropriate attorney’s fees.

(3) Products infringing owner’s rights shall be, without compensation of any sort, dispose of outside the channels of commerce in such a manner as to avoid further infringements or destroyed.”;

after paragraph (3), paragraph (4) shall be included, with the following content:

“(4) The infringed side may request that all materials and implements the predominant use of which has been in the creation of the infringing goods listed in paragraph 3 above be, without compensation of any sort, be disposed of outside the channels of commerce in such a manner as to minimize the risk of new infringement. In considering such requests, the need for proportionality between the seriousness of the infringement and the remedies required as well as the interests of third parties shall be taken into account.”;

paragraphs (4) and (5) shall be converted into paragraphs (5) and (6).

20. Article 36:

in paragraph (1), after the expression “the judicial authority or“ the expression “Specialized Arbitration Center” shall be included;

in paragraph (7), after the subparagraph g),subparagraph h) shall be included, with the following content:

“h) any decision to revoke or forfeit the patent may subject to judicial review;”;

subparagraph h) shall be converted into subparagraph i).

21. In Article 37, paragraph (7), the words “in proportion of at least 40% together with the revenue from services provided” shall be excluded.

22. In article 39, paragraph (1), the last sentence shall have the following contents: “The fees for the actions relating to protection of inventions, their amount and payment terms shall be governed by Government regulations.”

Article V. Law No. 598-XIII on Trademarks and Appellations of Origin of September 22, 1995 (The Official Bulletin of the Republic of Moldova, 1996, no. 8-9, art. 76; 1996, no. 80, art. 157) shall be amended and completed as follows:

1. In Article 1 after the words “appellations of origin” the words “(geographical indications)” shall be included.

2. Articles 2 and 3 shall have the following content:

“Article 2. Trademarks

(1) Product trademarks and service trademarks (hereinafter referred to as “trademark”) mean the signs or combinations of signs that enable the goods and services of one natural or legal person to be distinguished from the goods and services of the same type of other natural or legal persons.

(2) Signs, in particular words (including personal names), letters, numerals, figurative elements and combinations of colors as well as a combination of such signs visually perceptible shall be eligible for registration as trademarks. Figurative elements of a mark may consist of graphic representations, plane or three-dimensional forms (in relief), which have a distinct configuration.

(3) A trademark may be registered in black and white or in color.

(4) A trademark may be individual or collective. An individual mark is one that belongs to a specific natural or legal person. A collective mark is one intended to distinguish the goods manufactured or sold, or services provided by a union, an economic grouping or any other association (hereinafter “association”) of natural or legal persons from the goods and services of the same type of other natural or legal persons.

(5) The conformity mark (certification mark), applied or issued under a certification system, which indicates with a sufficient degree of certainty that the product, the method or service in question complies or with a specific normative document, shall enjoy legal protection under this law.

(6) A well-known mark is the one that is known by a large sector of the public on the territory of the Republic of Moldova including the knowledge in the Republic of Moldova which has been obtained as a result of the promotion of the trademark, on the date on which an application for

registration of a trademark was filed or on the priority date invoked in the application. The present law shall afford protection to well-known marks.

Article 3. Appellations of Origin and Geographical Indications

(1) Appellation of origin are the designations - current or historical - of a country, a region or a locality(hereinafter “geographical area”) used to designate a product whose special properties derive essentially or exclusively from the natural and/or human factors specific to that geographical area.

(2) A geographical indication is the indication which identifies a good as originating in the territory of a State, or a region or locality in that territory, where a given quality, reputation or other characteristics of the good are essentially attributable to its geographical origin.

(3) It shall be rejected or invalidated, *ex officio* or at the request of the interested party, the registration of a trademark containing a geographical indication, for goods not originating in the territory indicated, if the use of such a geographical indication in the trademark is likely to mislead the consumer as to the true origin of the goods.

(4) The use, in the designation or presentation of a product, of any method indicating or suggesting that the goods originate in a geographical area other than the true place of origin, in a manner which misleads the consumer as to the true origin of the goods, shall be prohibited, and any such use shall constitute an act of unfair competition in the sense of Article 10 bis of the Paris Convention for the Protection of Industrial Property.

(5) The use of a geographical indication which, although literally true as to the territory, region or locality of origin of goods, indicates that the goods originate in other territory, region or locality, shall be prohibited by law.

(6) Homonymous geographical indications may be used when they are differentiated from each other, accompanied for instance by figurative elements with a clear indication of the true origin, ensuring an equitable treatment for the manufacturers in question and preventing the consumer from being misled.

3. Article 4:

in paragraph (1) the words “in the Republic of Moldova ” shall be excluded, and at the end the text “, except for the well-known trademarks protected without registration under article 6-bis of the Paris Convention for the Protection of Industrial Property” shall be introduced;

the article shall be completed with a new paragraph (2), with the following content:

“(2) Legal protection of the trademark and appellation of origin of goods shall include matters affecting the availability , acquisition, scope, maintenance and enforcement of intellectual property rights, as well as those matters affecting the use of intellectual property rights.”;

paragraphs (2) and (3) shall be converted into paragraphs (3) and (4) respectively.

4. Articles 6 and 7 shall have the following content:

“Article 6. Exclusive Rights in the Trademark

(1) The owner of a registered trademark shall enjoy throughout the term of validity of the trademark an exclusive right to dispose of and exploit his trademark and the right to prevent all third parties not having the owner’s consent from using in the course of trade identical or similar signs for goods or services which are identical or similar to those in respect of which the trademark is registered

where such use would result in a likelihood of confusion. In case of use of an identical sign for identical goods or services, a likelihood of confusion shall be presumed.

(2) Rights laid down in paragraph (1) shall not prejudice any of the existing rights and shall not give birth to rights of possession.

(3) The exclusive right shall not extend to those elements of the trademark which under the present law, may not be registered independently as trademarks, such as descriptive terms, provided that these elements are used in good faith, taking into account the legitimate interests of third parties.

(4) “The nature of the goods or services to which a trademark is to be applied shall in no case constitute an obstacle to registration and protection of the trademark.”

Article 7. Grounds for Refusal to Register a Trademark or an Appellation of Origin

(1) Trademarks may not be registered and afforded protection if:

- 1) they do not meet the conditions under article 2 paragraph (1);
- 2) they are exclusively composed of signs or indications which do not possess a distinctive character, especially those including only:
 - a) signs and indications which have become well-known or usual designation;
 - b) signs representing separate letters and/or figures, lacking a special graphic representation, as well as simple lines and geometric figures;
 - c) signs or indications, which may be used in trade for designation of the type, quality, quantity, properties, purpose or value of goods or services, or the place and time of the manufacture of goods or provision of services, as well as headquarters of the manufactures or any other characteristics thereof;
 - d) signs constituting a geographical indication.

(2) Signs may not be registered as trademarks or elements of trademarks if they

- a) are deceitful or liable to mislead the consumer as to the goods or services or to the manufacturer or provider of services;
- b) reproduce or imitate armorial bearings, flags or emblems of States official or historical names of States or the abbreviation of such names, full or abbreviated names of international intergovernmental organizations, official signs or hallmarks of control, warranty or testing, or decorations or other honorary signs. Such signs may appear in a trademark as non-protected elements on condition that elements on condition that they do not occupy a predominant place herein and subject to the consent of the competent body or of the owner of the sign to use such signs;
- c) contain geographical indications identifying wines for wines not originating in the place indicated by the geographical in question or identifying spirits for spirits not originating in the place indicated by the geographical in question, even where the true origin of the goods is indicated or the geographical indication is used in translation or accompanied by expressions such as “kind”, “type”, “style”, “imitation” or the like;
- d) which contain a geographical indication identifying wines for spirits or which consist of such a geographical indication, in cases when such wines or spirits do not have this origin.
- e) are contrary to *ordre public* or morality.

(3) Signs may not be registered as trademarks if they reproduce:

- a) trade names (or parts of such names) that are well-known in the Republic of Moldova unless they belong to the person who is seeking registration of the trademark;
- b) industrial designs in which the rights belong in the Republic of Moldova to other persons;
- c) the names of scientific literary or artistic works that are well-known in the Republic of Moldova or characters taken from such works, quotations from such works, or works of art or parts of such works, without the consent of the owners of copyright in those works or of their successors in title whether such use results in a likelihood of confusion with regard to the origin of goods or services designated by the said trademark, whether such use abuses or prejudices the fame and the specifics of the work, or whether leads to an association with such elements in the imagination of the public;

d) surnames, forenames, pseudonyms or names derived therefrom, as also portraits or likenesses of known persons, without the consent of such persons, of their heirs or of the competent body on protection of valuable works of the respective State.

(4) Signs may not be registered as trademarks if they are identical or similar, to the point of misleading:

a) to registered trademarks or trademarks for which an application for registration has been made at an earlier date on behalf of another person for goods or services of the same type;

b) to well-known trademarks which are protected without registration regardless of the nature of the products or services to which they are applied. A well-known trademark shall be protected including applied to goods or services which are not similar to those in respect of which a trademark is registered, provided that the use of a trademark in relation to those goods or services would indicate a connection between those goods or services and the owner of the registered trademark and provided that the interests of the owner of the registered trademark are likely to be damaged by such use. Any person shall be allowed within a period of five years from the date of registration to request the cancellation of such a mark based on a well-known trademark known in the Republic of Moldova. No time limit shall be fixed for requesting the cancellation or the prohibition of the use of marks registered or used in bad faith.

c) to appellations of origin, protected under this law, except where they are included as non-protected elements in a trademark for which registration is sought on behalf of a person authorized to use such appellation and following the provisions under paragraph (2) subparagraph c) of the present article;

d) to certification marks registered under the established procedure.

(5) Product shape and packing shall not be registered as three-dimensional marks if:

a) it results from the nature of the product, in other words it is the indispensable of the manufacture or distribution of the product;

b) it is necessary for obtaining a technical result, when there is no alternative for manufacturing this product;

c) it refers to the essential value of the product.

(6) The fact that a trademark has been used prior to the filing of an application shall not constitute grounds for refusal if registration of the trademark is sought on behalf of the person who has been using it.

(7) If a trademark has been used prior to the filing of an application for registration for at least five years in relation to the manufacture or marketing of goods or the provision of services and it is well known to consumers in the Republic of Moldova, its registration may not be refused under paragraph (1) subparagraph (b) of the present article, except where the trademark is constituted of only one geographical indication.

(8) Subject to paragraphs (3) and (4), trademarks which are considered similar or identical may be registered with the deliberate consent of the right holder to register such marks.

(9) The registration of a trademark or the right to possess a trademark shall not be denied or invalidated on the basis that such a trademark is identical with, or similar to a geographical indication where the trademark has been applied for or registered in good faith, or where rights to the trademark have been acquired through use in good faith prior to the protection of the geographical indication in its country of origin.

(10) Any sign which, in spite of representing or including the designation of the geographical area, is publicly used on the territory of the Republic of Moldova for designating a product of a certain type which does not refer to the place of manufacture, shall not be deemed as appellation of origin of the product.

(11) Registration shall be refused and protection shall not be granted to appellations of origin which are not protected in their country of origin, or which are no longer protected or used in their country of origin.

5. Article 8:

paragraphs (1) and (2) shall have the following content:

“(1) Natural and legal persons domiciled in the Republic of Moldova and legal entities having their headquarters therein (national) entitled to the protection of a trademark may act either directly or through a professional representative in industrial property, authorized by a power of attorney.

(2) Foreign natural and legal persons domiciled and having their headquarters therein shall act with the Agency through a professional representatives in industrial property, except where international treaties to which the Republic of Moldova is party provide otherwise.”;

after paragraph (2), paragraph (3) shall be included, with the following content:

“(3) The activity of professional representatives in industrial property shall be subject to the regulations approved by the Government.”;

paragraph (4) shall be excluded;

paragraph (3) shall be converted into paragraph (4);

in paragraph (5):

in subparagraph c), the word “of the authorized attorney” shall be replaced with the words “of the representative in industrial property”, and the words “authorized attorney” with “representative in industrial property”;

subparagraph f) shall have the following content:

“f) the list of products, for designation of which the registration of appellation of origin is sought”;

after subparagraph f), subparagraph g) and h) shall be introduced, with the following content:

“g) indication of the place of manufacture of the product, for designation of which the registration of the appellation of origin is sought (limits of geographical area);

h) a description of the special properties of the product, for designation of which the registration of an appellation of origin is sought:”

subparagraphs g) and h) shall be converted in subparagraphs i) and j) respectively;

in paragraph (6):

subparagraph a) shall have the following content:

“a) the statute of the collective mark, including the list of the members of the association who have the right to use the collective mark signed by them; the purpose of registration of the collective mark and the conditions of its use; the list and the qualitative characteristics or other common characteristics of the goods or services, on which the mark shall be applied; the liability for breaking the conditions of use of the collective mark. In the event that one of the members of the association is

issued the title of the protection, his relations with the other members of the association and their rights in the collective mark shall be governed by a special agreement;”;

in subparagraph c), the words “authorized attorney” shall be replaced with the words “representative in industrial property”.

subparagraphs f) and g) shall be included at the end, with the following content:

“f) for the registration of an appellation of origin - a certified attestation ascertaining that the applicant is situated within the geographical area stated and that he manufactures the product in that area and that the special properties of the product are determined by natural and/or human factors, typical of the geographical area in question;

g) for the registration of the certification mark - the authorization or the document confirming the legal display of the certification activity or, if necessary, a proof that the certification mark has been registered in the country of origin”;

after paragraph (7), paragraph (8) shall be included, with the following content:

“(8) The applicant shall be entirely responsible under legislation in force for the legitimacy and correctness of the materials filed with respect to the registration of a trademark or of an appellation of origin.”

6. In Article 9, paragraph (2), the text “in subparagraphs a) to d)” shall be replaced with the following text “in subparagraphs a) to c), f) and g)”, and the word “renewal” shall be replaced with the word “extension”.

7. In Article 10:

paragraph (2) shall be completed with the following text: “ These periods shall start from the date of filing the first application; the date of filing shall not be included in the period,”;

paragraph (4) shall at the end be completed with the following sentence: " Documents justifying the claim of the priority date shall be accompanied by a certificate from the same authority showing the date of filing, and by a translation in the national language.”

8. In Article 11, paragraph (2), after the word “without” the word “essentially” shall be introduced.

9. In Article 12, paragraph (3), the word “abandoned” shall be replaced with the words “not filed”.

10. In Article 13, paragraph (2), the words “within 10 days” shall be excluded.

11. Article 14:

the words “Restoration of Rights Related to Time Limits” shall be excluded from the title;

in paragraph (1), the words “concerning” shall be replaced with the words “given at the outcome of”;

paragraph (3) shall be excluded.

12. Article 17:

in paragraph (1), after the words “may oppose” the words “before the Appeal Board of the Agency” shall be included”;

paragraph (4), (5) and (6) shall be excluded;

paragraph (7) shall be converted into paragraph (4).

13. In Article 18, paragraph (1), the text “in the National Register of Trademarks and Appellations of Origin” shall be replaced with the text “in the National Register of Trademarks or in the National Register of Appellations of Origin”.

14. Article 22 shall have the following content:

“Article 22. Exploitation of Trademarks and Appellations of Origin

(1) The exploitation of a trademark or an appellation of origin shall mean its use on goods for which the trademark or appellation of origin has been registered, or on the packing and/or as packing of such goods, by the owner or by a person having acquired a right of exploitation under a licensing contract. Use of a trademark or appellation of origin in advertising, in printed matter, on business paper, firms, on signs and on articles shown at exhibitions and fairs that take place on the territory of the Republic of Moldova as well as the use by another person, when subject to the control of its owner, shall also be deemed to constitute exploitation. Use shall be allowed of a trademark identifying the undertaking producing the goods or services along with, but without linking it to, the trademark distinguishing the specific goods or services in question of that undertaking.

(2) It shall not be prevented the continued use of similar geographical indications in connection with goods or services of any natural persons or legal entity of the Republic of Moldova or its domiciliaries who have used that geographical indication in a continuous manner with regard to wines and spirits on the territory of the Republic of Moldova for at least 10 years before April 15, 1994, if the geographical indications were used in good faith.

(3) Geographical indications of products and services for which the relevant indication has an identical significance with the customary dictionary term, which is deemed as common name of those products or services on the territory of the Republic of Moldova or geographical indications of viticultural products for which the relevant indication is identical with the customary name of a sort of grapes on the territory of the Republic of Moldova shall not be subject to this Law.

(4) Any opposition in connection with the use or registration of a product mark, containing a geographical registration, may be presented within 5 years after the adverse use of the protected indication has become known in the Republic of Moldova or after the date of registration trademark in the Republic of Moldova, provided that that the trademark has been published by that date, if such date is earlier than the date on which the adverse use became known in the Republic of Moldova, provided that the geographical indication is not used or registered in bad faith;

(5) Any person shall have the right to use, in the course of trade, his name or the name of his predecessor in business, except where such name is used in such a manner as to mislead the public.”

15. Article 24:

paragraphs (1), (2) and (3) shall have the following content:

“(1) Rights deriving from filing a trademark application or from the registration of the may be transferred in whole or in part.

(2) Transfer of rights may be performed either through an assignment contract, exclusive or nonexclusive license, or through succession, legal or testamentary inheritance. Compulsory licensing

of trademarks shall not be permitted and the owner of the registered trademark shall have the right to assign the trademark with or without the transfer of the business to which the trademark belongs.

(3) Rights transferred under paragraph (2) shall also have effect for third parties and shall determine the alteration of the legal status of the trademark immediately as the contract is registered with the Agency.”;

in paragraph (4), the text “or grant them the right to exploit such mark” shall be excluded, and the word “rights” shall be replaced with the words “the right”;

paragraph (6) shall have the following content:

“(6) Any provisions containing exclusive grantback conditions, conditions containing challenges to validity and coercive package licensing as well as any other conditions limiting fair competition based on professional principles shall not be included in license contracts;

16. Article 25 shall have the following content:

“Article 25. Liability for Unlawful Exploitation of Trademarks and Appellations of Origin

(1) The unlawful use of a protected trademark or appellation of origin, or of a sign similar to it, to distinguish goods or services for which the trademark or the appellation of origin has been registered, or for goods or services of the same type, manufacture, use, importation, offering for sale, selling and any other way of marketing or storing for that purpose shall incur civil, penal or administrative liability laid down by the legislation in force.

(2) The infringer shall be liable to a fine and shall pay the infringed side a compensatory monetary sum for violating his rights, including lost profit and the expenses which include appropriate attorney’s fees.

(3) Any product, including its packing, shall be deemed as counterfeit, if it bears, without authorization, a product mark identical with the registered product mark which is valid for the products in question or which may not be distinguished in its essential characteristics from the registered product mark and therefore violates the rights of the owner of the registered trademark under the legislation in force.

(4) Products on hand under a counterfeit trademark or appellation of origin that infringe owner’s rights shall be, without compensation of any sort, disposed of outside the channels of commerce so as to avoid any prejudices of the owner’s rights, and the trademarks and appellations of origin illegally used shall be removed from the products in question, even if this may cause the destruction of these products.

(5) The infringed side may request that materials and implements the predominant use of which has been in the creation of the infringing goods be, without compensation of any sort, disposed of outside the channels of commerce in such a manner as to minimize the risks of further infringements. In considering such requests, the need for proportionality between the seriousness of the infringement and the remedies ordered as well as the interests of third parties shall be taken into account.

(6) In regard to counterfeit trademark goods, the simple removal of the trademark unlawfully affixed shall not be sufficient, other than in exceptional cases, to permit release of the goods into the channels of commerce.

(7) The infringed side may publish, on infringer’s expenses, the decision of the judicial authority with the purpose of restoration of his business reputation.

(8) Actions of public authorities and officials in respect of the administration of any law pertaining to the protection of or enforcement of intellectual property rights shall not constitute

infringement of intellectual property rights, where such actions are taken or intended in good faith in the course of the administration of that law.”

17. Article 26

paragraphs (1) and shall have the following content:

“(1) The registration of a trademark or appellation of origin may be cancelled in whole or in part anytime during its term of validity, provided that:

- a) it has been effected with the infringement of the present Law;
- b) its use is misleading as to the origin of the goods;
- c) the conditions creating the specific nature of the geographical area concerned have disappeared;
- d) the products no longer possess the special properties specified in the Register;
- e) other well-grounded reasons.”;

After paragraph (1), paragraph (2) shall be included, with the following content:

“(2) On request, the registration may be cancelled after an uninterrupted period of at least five years of non-use, unless valid reasons based on the existence of obstacles to such use are shown by the trademark owner. Circumstances arising independently of the will of the owner of the trademark which constitute an obstacle to the use of the trademark, such as import restrictions or other government requirements for goods or services protected by the trademark, shall be recognized as valid reasons for non-use.”;

paragraph (2), (3), (4) and (5) shall be converted into paragraphs (3), (4), (5) and (6).

18. In Article 27,

paragraph (2) shall be excluded;

paragraph (3) shall be converted into paragraph (2).

19. Article 28

subparagraph e) shall be included after subparagraph d), with the following content:

“e) the non-use of a trademark within 5 years of the date of registration with the Agency.”;

subparagraph e) shall be converted into subparagraph f).

20. In Articles 29, 31 paragraph (2) and 32 paragraph (2), after the wording “under the Madrid Agreement” the text “or under the Protocol Related to the Madrid Agreement” shall be added.”

21. In Article 30:

the last sentence shall have the following wording: “Acts whose accomplishment shall be subject to the payment of fees together with the amounts of the fees and the time limits for paying them shall be decided by the Government.”

Article VI. Law No. 915-XIII on New Plant Varieties of July 11, 1996 (The Official Bulletin of the Republic of Moldova, 1996, no. 77, art. 728) shall be amended and completed as follows:

1. In Article 13, paragraph (1) shall have the following content:

“(1) The patent owner holds the exclusive right on the protected patent and on the new variety of plant, authorizing him to exploit, under the condition that in the course of exploitation it does not infringe the rights of other patent owners, to use it and prohibit third parties to perform the following acts with respect to the material of the variety:”

2. Article 14:

in paragraph (1), subparagraph a) and b) shall have the following content:

- “a) for private use;
- b) for scientific research and experiments or for non-commercial purposes;” ;

a new paragraph (3) shall be included after paragraph (2), with the following content:

“(3) Activities of public authorities concerning the enforcement of industrial property laws shall not be regarded as infringement of the owner’s rights, under the condition that the public authority in question acted in goodwill.”

3. Article 15:

in paragraph (1) the words “the right to obtain a patent” shall be excluded.

paragraph (2), (3) and (4) shall have the following content:

“(2) Transfer of rights may be performed either through an assignment contract, exclusive or nonexclusive license, or through succession, legal or testamentary inheritance.

(3) Rights transferred through an assignment contract under paragraph (2) shall also have effect for third parties and shall determine the alteration of the legal status of the patent immediately as the contract is registered with the Agency.”;

(4) Any provisions containing exclusive grantback conditions, conditions containing challenges to validity and coercive package licensing as well as any other conditions limiting fair competition based on professional principles shall not be included in license contracts;

4. In article 16, paragraph (3), the word “patent attorney” shall be replaced with the words “representative in industrial property.”

5. Article 17:

in paragraph (2) subparagraph (e) the words “patent attorney” shall be replaced with the words “representative in industrial property”.

a new paragraph (6) shall be included after paragraph (5) with the following content:

“(6) The Agency may require an applicant for a patent to provide information concerning the applicant’s corresponding foreign applications and grants.”

6. Article 20:

in paragraph (1), after the words “a preliminary examination” the words “and a examination as to form” shall be included;

after paragraph (1) a new paragraph (2) shall be included, with the following content:

“(2) In the course of the examination as to form, within one month, the Agency shall satisfy itself that all the documents under Article 17 of this Law have been filed with the Agency. Under a positive outcome, the Agency shall enter the data concerning the application in the National Patent Applications Register for New Plant Varieties.”;

paragraphs (2), (3), (4), (5), (6), (7) and (8) shall be converted into paragraphs (3), (4), (5), (6), (7), (8) and (9).

paragraph (6) shall have the following content:

“(6) In the event that the patent application meets the prescribed requirements, the Agency shall notify the applicant of the termination of the preliminary examination.”;

paragraph (9) shall have the following content:

“(9) Upon completion of the examination as to form, the Agency shall provide the State Commission with a copy of the documents.”

7. Article 22, paragraph (2) shall have the following content:

“(2) Within 3 months following the date of notification of the applicant, the Agency shall publish its decision to grant a patent or to reject the application in the Official Bulletin. The list of particulars shall be drawn by the Agency.”

8. Article 26, paragraph (1) shall have the following content:

“(1) At the same time as it publishes the decision to grant a patent, the Agency shall register the patent in the Register of Variety Patents. Within 3 months following the date of registration the Agency shall issue the patent to the person in whose name it was sought against payment of the prescribed fee and shall publish the respective information in the Official Bulletin.”

9. Article 31:

paragraphs (1), (4) and (5) shall have the following content:

“(1) The court may authorize the use of a new plant variety, without the consent of the patent owner, under the following conditions:

a) authorization of such use shall be considered on its individual merits;
b) before such use, the proposed user has made efforts to obtain authorization from the right holder on reasonable commercial terms and conditions and that such efforts have not been successful within a reasonable period of time.

Such an use may be granted in situations of national emergency or other circumstances of extreme urgency or in cases of public non-commercial use; the right holder shall, nevertheless, be notified as soon as reasonable practicable;

c) the scope and duration of such use shall be limited to the purpose for which it was authorized;
d) such use shall be non-exclusive and non-assignable, except with the part of the enterprise or goodwill which enjoy such use;

e) any such use shall be authorized predominantly for the supply of the domestic market;
f) any such use shall be liable, subject to adequate protection of the legitimate interests of the persons so authorized, to be terminated if and when the circumstances which led to it cease to exist and are unlikely to recur. Competent authorities shall have the authority to review the case, upon grounded request, if the conditions when conditions which led to such authorization are likely to recur.

g) the right holder shall be paid adequate remuneration in the circumstances of each case, taking into account the economic value of the authorization;

h) the legal validity of any decision relating to the authorization of such use shall be subject to judicial review or other independent review by a distinct higher authority;

i) provisions of the paragraphs b) and e) shall not apply where such use is permitted to remedy a practice determined after judicial or administrative process to be anti-competitive. The need to correct anti-competitive practices may be taken into account in determining the amount of remuneration in such cases. Competent authorities shall have the authority to refuse termination of authorization if and when conditions which led to such authorization are likely to recur.”;

“(4) The decision to grant a compulsory non-exclusive license shall be notified by the holder of the license to the Agency, which shall enter it in the National Register for Variety Patents. The Agency shall also publish in the Official Bulletin the data concerning granted non-exclusive compulsory licenses granted, as well as other related information within three months following the date of the registration of their registration with the Agency.

(5) In the event of failure to undertake preliminary actions to exploit the non-exclusive compulsory license within one year following the date of the grant by the license owner, the non-exclusive compulsory license may be cancelled. The non-exclusive compulsory license may also be cancelled in the event that the license owner fails to exploit the new variety within two years following the date of the grant.”;

paragraph (6) shall be excluded.

10. In Article 32, paragraph (8), after the words “of the court” the text “Specialized Arbitration Center” shall be included.

11. Article 35:

paragraph (2) shall be at the end completed with the following text “as well as expenses which may include appropriate attorney’s fees”;

in paragraph (3), the expression “the court may” shall be replaced with the following text “the court or the Specialized Arbitration Center may”.

12. Article 39 shall have the following content:

“ Article 39. Representation

(1) Natural and legal persons domiciled in the Republic of Moldova and legal entities having their headquarters therein (national) entitled to the protection of a plant variety may act either directly or through a professional representative in industrial property, authorized by a power of attorney.

(2) Foreign natural and legal persons domiciled and having their headquarters therein shall act through professional representatives in industrial property in the Republic of Moldova, except where international treaties to which the Republic of Moldova is party provide otherwise.”;

(3) The activity of professional representatives in industrial property shall be subject to the regulations approved by the Government.”

13. Article 40 shall have the following content:

“Article 40. Fees

(1) The filling of the patent application, publication and examination of the application, grant of patent, its maintenance as well as the performance of any legal acts shall be subject to the payment of fees. Acts for which fees are payable, the amounts of fees and the time limits for the payment thereof shall be determined by the Government.

(2) The fees shall be payable by the applicant, the patent owner or other natural or legal entity concerned.

Article VII. Law No. 991-XIII, 1996 on the Protection Industrial Designs of October 15, 1996 (The Official Bulletin of the Republic of Moldova, 1997, no. 10-11, art. 119) shall be amended and completed as follows:

1. In Article 2:

a new paragraph (1) shall be included, with the following content:

“(1) Legal protection shall include matters affecting the availability, acquisition, scope, maintenance and enforcement of intellectual property rights as well as those matters affecting the use of intellectual property rights.”;

paragraphs (1), (2) and (3) shall be converted into paragraphs (2), (3) and (4) respectively

paragraphs (5) and (6) shall be introduced after paragraph (4), with the following content:

“(5) The protection of industrial designs shall not, under any circumstances, be subject to any forfeiture, either by reason of failure to work or by reason of importation of articles corresponding to those which are protected.

(6) Protection granted under the present law shall not exclude protection granted by copyright.”

2. Articles 3, 4, 5, 6 and 7 shall have the following contents:

“Article 3. Representation

(1) Natural persons domiciled in the Republic of Moldova and legal entities having their headquarters therein (national) entitled to the protection of an industrial design may act either directly or through a professional representative in industrial property.

(2) Foreign natural and legal persons domiciled and having their headquarters therein shall act through professional representatives in industrial property in the Republic of Moldova, except where international treaties to which the Republic of Moldova is party provide otherwise.

(3) The activity of professional representatives in industrial property shall be subject to the regulations approved by the Government.”

Article 4. Subject matter of protection

(1) Protection shall be provided for independently created industrial designs with a utilitarian function that are new or original, including textile designs.”

(2) The article as subject matter of protection can have either a bi-dimensional or a three-dimensional form, or it can be a combination of both these forms.

Article 5. Novelty

(1) An industrial design is considered novel if its characteristics significantly differ from known designs or combinations of known design features which became available to the public in the Republic of Moldova and abroad before the priority date.

(2) Due regard shall also be paid, for the assessment of the novelty of an industrial design, to all applications for certificates filed by third parties in the Republic of Moldova that have an earlier priority date, with the exception of those that have been withdrawn.

Article 6. Utility

An industrial design is considered novel if the product in which it is incorporated has an utilitarian function, including in the form of decorations.

Article 7. Subject matter excluded from protection

Protection shall not extend to designs:

- a) dictated essentially by technical or functional considerations;
- b) are unstable; and
- c) are contrary to *ordre public* or morality.

3. In Article 9,

paragraph (2) shall be excluded;

paragraphs (3), (4), (5) and (6) shall be converted into paragraphs (2), (3), (4) and (5).

4. In Article 10, paragraph (1), the expression “to the creator or his successor” shall be completed with the word “(successors)”.

5. Articles 11, 13 and 16 shall have the following content:

“Article 11. The Application and its Enclosures

(1) The application shall be filed with the Agency, either directly by the person to whom the right to the grant of the certificate belongs under Article 10 (hereinafter referred to as “the applicant”) or through an representative in industrial property.

(2) The application shall be drawn in the official language, on a standard form, and shall give particulars identifying the creator and the applicant.

(3) The application shall be accompanied by

- a) a set of photographs or graphic representations of the industrial design that constitute a full and detailed representation of the outward appearance of the article.
- b) a description of the industrial design;
- c) an overall plan of the article and an assembly diagram where necessary for the disclosure of the nature of the industrial design;
- d) a power of attorney where the application is filed through a representative in industrial property;
- e) proof of payment of the described fee or of the existence of such conditions as reduction in that fee;
- f) all documents that are essential for attesting the priority of the industrial design.

(4) The documents listed in paragraphs (2) and (3), subparagraph (3) shall constitute a regular national deposit.

(5) The date of receipt of the documents listed in paragraphs (2) and (3) subparagraph a) shall constitute the regular national deposit.

(6) The documents referred to in paragraph (3), subparagraphs b) to e) shall be filed with the Agency at the same time with the application or within two month following the regular national deposit. If on the expiration of that period the applicant has not submitted those documents or filed a request for prolongation of the period, consideration of the application shall end and the applicant shall be notified accordingly.

(7) The application's enclosures shall be filed in the state language or in any other language. If the enclosures have been filed in other than the state language, a translation of these shall be filed with the Agency within two months following the application date.

(8) A regular national application may relate to one or more industrial designs (not more than 100) that are intended for use in articles belonging to one and the same class of the International Classification for Industrial Designs(multiple deposit). Applicants and creators, provided that they are more than one, should be identical for all industrial design of the multiple deposit.

“Article 13. Amendments made to the Application and its Enclosures on the Applicant's Initiative

(1) During two months following the filing date of the application, the applicant has the right, without paying any fees, to correct or specify the application and the enclosures, provided that the subject matter of the industrial design is not thereby altered.

(2) Subject to payment of fee, corrections or specifications may be made even after the period mentioned in paragraph (1) has expired, provided that the subject matter of the industrial design is not thereby altered.

(3) A multiple deposit not meeting the requirements mentioned in Article 11, paragraph (8), may be divided by the applicant into more applications (divisional deposit) by distributing the industrial designs, enumerated in the original deposit in each of the divisional deposit. The priority of a divisional deposit shall be determined either by the filing date or according to the priority date of the initial regular national deposit.

(4) Two or more applications may be merged, provided that:
a) they are filed on the same date;
b) the applicant and the creator are identical;
c) they contain industrial designs belonging to the same class of the International Classification of Industrial Designs.

(5) If there are more applicants, correction and specifications may be made with the written agreement of all of them.”;

“Article 16. Examination of the Application and its Enclosures.

(1) In the consideration of the application and its enclosures, the Agency shall undertake examination as to form, preliminary and substantive examination.

(2) The duration of the examination and its procedure shall be established according to the Regulations of the Agency.

(3) In the course of the examination as to form, the Agency shall satisfy itself:
a) that the content of the application and the photographs or graphic representations meet the prescribed requirements;
b) that the industrial design is not excluded from legal protection under Article 7.

(4) In the course of the preliminary examination, the Agency shall satisfy itself:

a) that all the documents listed in Article 11, have been enclosed with the application;
b) that the content of the enclosures meet the prescribed requirements;
c) that the applicant has correctly indicated that class and the subclass of the International Classification of Industrial Designs.

(5) In the course of the substantive examination, the Agency shall determine the priority, in the event it is claimed, and satisfy itself that the industrial design to which the application relates conforms to the criteria of protection specified in Article 4.

(6) If the application and its enclosures do not meet the prescribed conditions, the Agency shall invite the applicant to make adequate corrections and specifications within two months following the date of filing. If the applicant fails to make the amendments within the prescribed period or does not fill a request for prolongation of that period, consideration of the application shall end the applicant shall be notified accordingly.

(7) If the industrial design is excluded from protection under this Law, the Agency shall reject registration of the application and notify the applicant accordingly.

(8) Where the application and the photographs or graphic representations of the industrial designs meet the prescribed conditions, the Agency shall enter the information concerning it in the National Register of Applications for Industrial Designs and shall inform the applicant that his application is under consideration.

(9) The Agency may invite the applicant to supply additional material concerning the industrial design, without which the substantive examination can not be carried out. The additional material shall be provided by the applicant within the two months following the date on which he received the invitation, and may not modify the subject matter of the industrial design. If the applicant does not act on the invitation within the period allowed, or does not file a request for prolongation, the Agency shall discontinue its consideration of the application and notify the applicant accordingly.

(10) The Agency shall decide to register the industrial design in the event that in the process of the substantive examination of the application the industrial design has been confirmed eligible for protection.

(11) In the event that the industrial design does not conform to the protection criteria, the Agency shall decide to refuse registration.

(12) In the case of new circumstances, the Agency may invalidate, on its own initiative, any previous decision.

(13) The Agency shall notify the applicant of its decision within the month following the date of the said decision.

(14) The applicant may appeal against the decision of the Agency concerning the industrial design before the Appeal Board of the Agency within three months following receipt of notice of the said decision.

6. In Article 20, paragraph (1), after the expression “of applications” the text “or for appeal actions before the Appeal Board” shall be introduced.

7. In Article 23, subparagraph a) shall have the following content:

“a) the manufacture, use, importation, exportation, any other form of marketing or holding for that purpose of an article produced by using the registered industrial design or which is a full or partial copy of this industrial design;”

8. Article 24.

the single paragraph becomes paragraph (1);

in paragraph (1), subparagraph c) shall have the following content:

“c) in extraordinary circumstances, such as natural disasters and catastrophes, epidemics or other circumstances of extreme urgency;”;

after paragraph (1), paragraphs (2) and (3) shall be introduced, with the following content:

“(2) The use referred to in paragraph (1), subparagraphs b), c) and d) shall be allowed, provided that such exceptions do not unreasonably conflict with the normal exploitation of protected industrial designs and do not unreasonably prejudice the legitimate interest of the owner of the protected design, taking account of legitimate interests of third parties. In such cases, the owner of the protected design is entitled to claim a compensation adequate to the damages suffered as a result of unauthorized exploitation of the design;”

(3) Actions of public authorities related to enforcement of the industrial property laws shall not be regarded as infringement of the owner’s rights, provided that the public authority in question acted in good faith.”

9. In Article 25, the word “essential” shall be excluded.

10. In Article 26, the text “embodies all the characteristics shown on the photographs or graphic representation of the design” shall be replaced with the following text “is a full or partial copy of this industrial design”.

11. In Article 29, subparagraph b) the expression “in the documents that accompanied it” shall be replaced with the following text “in photographs or graphic representations of the industrial design”.

12. Article 30 shall be provided at the end with paragraph (7), with the following content:

“(7) Applications for which grant of registration was adopted shall also be subject to this article.”

13. Article 32 shall have the following content:

“Article 32. Transfer of Rights

(1) Rights given by the registration and by the certificate of the industrial design may be subject to full or partial transfer.

(2) The transfer of rights may be based on a contract for transfer of rights or a license contract, or if may take place by testamentary provision or *ab intestat*.

(3) Right transferred by contract under paragraph (2) shall also have effect for third parties and shall determine the alteration of the legal status of the industrial design immediately as the contract is registered with the Agency.

(4) Any provisions containing exclusive grantback conditions, conditions containing challenges to validity and coercive package licensing as well as any other conditions limiting fair competition based on professional principles shall not be included in license contracts.

(5) Data related to the transfer of rights shall be published in the Official Bulletin. The list of particulars to be included in the notice shall be drawn by the Agency.

14. Article 34:

paragraph (3) shall be completed at the end with the following text “and shall pay the owner on adequate compensatory monetary amount for violating his rights, including lost profit and the expenses which may include appropriate attorney’s fees.”

paragraph (4) shall be included after the paragraph (3), with the following content:

“(4) The infringed side may request that all materials and implements the predominant use of which has been in the creation of the infringing goods be, without compensation of any sort, disposed of outside the channels of commerce in such a manner as to minimize the risks of further infringement or destroyed. In considering such requests, the need for proportionality between the seriousness of the infringement and the remedies ordered as well as the interests of third parties shall be taken into account.”;

paragraph (4) becomes paragraph (5)

15. Article 35.

in paragraph (1), after the expression “the Appeal Board of the Agency” the expression “Specialized Arbitration Center” shall be included.

paragraph (2), subparagraph (b) shall have the following content:

“b) abandonment or withdrawal of the application;”

16. In Article 36, paragraph (2) the text “of the National Register of Applications for Industrial Designs” shall be excluded.

17. In Article 37, paragraph (3) shall be excluded.

18. In Article 38, paragraph (1), the last sentence shall have the following content: “Acts for which fees are payable, the amounts of fees and the time limits for the payment thereof shall be determined by the Government.”
