

Updated information on certain aspects of the applicable national patent law provided by the State Agency on Intellectual Property of the Republic of Moldova (AGEPI) as requested in the WIPO Circular C.8653 relating to the Standing Committee on the Law of Patents (SCP).

I. For the Heading at http://www.wipo.int/scp/en/annex_ii.html, AGEPI informs you that no amendments have occurred;

(i). national/regional laws on opposition system and other administrative revocation and invalidation mechanisms, available at: Taking into account the amendments made by Law No. 160/2015 to Law No. 50/2008, it is necessary to substitute the existing information from this heading as follows:

“Article 57. Opposition”

(1) Within 6 months from the publication of the mention of the grant of the patent, any person may give notice of opposition to the patent granted by filing a request in this regard with the Appeals Board of AGEPI.

[Art.57 paragraph (1) in the wording of Law No.160 of 30.07.15, OM 258-261/18.09.15 Art.491]

(2) Opposition shall only be filed in writing and on the grounds that:

- a) the subject-matter of the patent is not patentable within the meaning of Articles 6-11 and, as the case may be, Article 12;
- b) the patent does not disclose the invention in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art;
- c) the subject-matter of the patent extends beyond the content of the application as filed, or, if the patent was granted on a divisional application or on a new application filed under Article 16, beyond the content of the earlier application as filed.

(3) The opposition filed shall have suspensive effect. It shall not be deemed to have been filed until the opposition fee has been paid.

(4) If AGEPI is of the opinion that at least one of the grounds for opposition referred to in paragraph (2) above prejudices the maintenance of the patent, it shall revoke the respective decision. Otherwise, it shall reject the opposition.

[Art.57 paragraph (4) amended by Law No.160 of 30.07.15, OM 258-261/18.09.15 Art.491]

(5) If AGEPI is of the opinion that, taking into consideration the amendments made by the applicant during the opposition proceedings, the patent and the invention to which it relates:

- a) meet the requirements of this law, it shall decide to maintain the decision to grant a patent as amended, provided that the conditions laid down in the Regulations are fulfilled;
- b) do not meet the requirements of this law, it shall revoke the decision to grant a patent.

(6) If a patent is amended under paragraph (5) above, AGEPI shall, after payment of the prescribed fee, publish a new specification of the patent containing the description, the claims and, as the case may be, any drawings, in the amended form.

(ii) exception and limitations to patent rights available at: Taking into account the amendments made by Law No. 160/2015 to Law No. 50/2008, it is necessary to substitute the existing information:

Section I: General

Pct. 1 According to the **Art.6** of the national Law 50/2008 on the Protection of Inventions:

- (2) The following shall not be regarded as inventions within the meaning of

paragraph(1):

a) discoveries, scientific theories, ideas and mathematical methods;

[Art.6 paragraph (1) a) amended by Law No.160 of 30.07.15, OM 258-261/18.09.15 Art.491]

b) aesthetic creations;

c) schemes, rules and methods for performing mental acts, playing games or doing business, and programs for computers;

d) presentations of information.

(3) The provisions of paragraph (2) shall exclude the patentability of the subject-matter or activities referred to therein only to the extent to which a patent application or patent relates to such subject-matter or activities as such.

Pct. 1 According to the **Art.12** Subject-Matter Protected by a Short-Term Patent for Invention

(2) An invention shall be considered as involving an inventive step within the meaning of paragraph (1) if it does not directly result from the state of the art and gives a technical or practical advantage. [Art.12 paragraph (2) amended by Law No.160 of 30.07.15, OM 258-261/18.09.15 Art.491]

(3) Additionally to Article 7, short-term patents for invention shall not be granted in respect of inventions concerning:

a) biological material;

b) chemical or pharmaceutical substances and processes for their preparation.

[Art.12 paragraph (3) b) in the wording of Law No.160 of 30.07.15, OM 258-261/18.09.15 Art.491]

Pct. 2 According to Art.20 of the Law 50/2008 on the Protection of Inventions

(1) A patent for invention, a short-term patent for invention, a Eurasian patent and a validated European patent shall confer on its owner an exclusive right to exploit the invention for the entire term thereof.

[Art.20 paragraph (1) in the wording of Law No.160 of 30.07.15, OM 258-261/18.09.15 Art.491]

(2) The patent shall confer on its owner, in accordance with paragraph (1), the right to prevent third parties from performing, without his authorization, on the territory of the Republic of Moldova, the following acts:

a) manufacture, offering for sale, selling, use, importing or stocking for these purposes of the protected product;

b) the using of a process which is the subject-matter of the patent or, where the third party knows, or it is obvious in the circumstances, that the process cannot be used without the consent of the patent owner, offering of the process for use;

c) offering for sale, selling, use, importing or stocking for such purposes of the product obtained directly by a process which is the subject-matter of the patent.

According to the Art.19 of the Law 50/2008 on the protection of inventions

Article 19. Rights Conferred by a Patent Application after Publication

(1) A patent application shall, from the date of its publication and up to grant of the patent, provisionally confer upon the applicant the protection provided for by Article 20 paragraph (2).

(2) Any natural or legal person who exploits the invention during the period referred to in paragraph (1) above shall be required, after grant of a patent, to pay a reasonable monetary compensation to the owner. The amount of such compensation shall be determined by agreement between the parties, taking account of the good faith of the person who exploited the invention, or by the court, where it cannot be determined by amicable arrangement.

(3) The effects of the patent application referred to in paragraph (1) shall be considered to be null and void when the patent application has been withdrawn by the applicant and when it has been withdrawn or refused in accordance with the provisions of this Law.

[Art.19 paragraph (4) repealed by Law No.160 of 30.07.15, OM 258-261/18.09.15 Art.491]

[Art.19 paragraph (5) repealed by Law No.160 of 30.07.15, OM 258-261/18.09.15 Art.491]

Section VI: Use of articles on foreign vessels, aircrafts and land vehicles

Pct. 42 According to Art. 22 of the Law 50/2008 on the Protection of Inventions

Article 22. Limitation of Effects of a Patent

(1) The rights conferred by a patent shall not extend to:

a) acts done privately on a non-commercial scale;

[Art.22 paragraph (1) a) amended by Law No.160 of 30.07.15, OM 258-261/18.09.15 Art.491]

b) acts done for experimental purposes relating to the subject-matter of the patented invention;

c) extemporaneous preparation for individual cases, in a pharmacy, of a medicine in accordance with a medical prescription or acts concerning the medicine so prepared;

d) use of the subject-matter of a patented invention on board of any foreign vessel of a State party to the international conventions in the field of inventions to which the Republic of Moldova is also party which temporarily or accidentally enters the waters of the Republic of Moldova, provided that the invention is used exclusively for the needs of the vessel;

e) use of the subject-matter of the patented invention in the construction or operation of foreign aircraft or land vehicle or other means of transport of a State party to the international conventions in the field of inventions to which the Republic of Moldova is also party, or in the manufacture of spare parts for such vehicles when such means of transport temporarily or accidentally enter the territory of the Republic of Moldova;

f) acts done for the purpose of ensuring state security.

[Art.22 paragraph (1) f) introduced by Law No.160 of 30.07.15, OM 258-261/18.09.15 Art.491]

(2) The use referred to in paragraph (1) above shall be allowed, provided that it does not unreasonably conflict with a normal use of the patented invention and does not unreasonably prejudice the legitimate interests of the patent owner, taking account of the legitimate interests of third parties. In the contrary case, the patent owner is entitled to an adequate compensation for the injury suffered because of the unauthorized exploitation of the invention.

(iii) laws and practices regarding the scope of client attorney privilege and its applicability to patent advisors, available at: The information on **Confidentiality of Communications between Clients and their Patent Advisors**, which can be found at: http://www.wipo.int/export/sites/www/scp/en/confidentiality_advisors_clients/docs/03_republic_of_moldova.pdf, is necessary to be substituted as follows:

According to the Rule 45 of the Regulations on the Activity of Patent Attorneys of the Republic of Moldova of July 22, 2011, which entered into force from July 22, 2012, patent attorneys shall exercise their powers according to the principles of good faith, honesty, trust and confidentiality. According to Article 185², **par. 1** of the Penal Code of the Republic of Moldova, the disclosure of information on IP prior to the official publication of data from the registration request, by a person to whom such information was entrusted is sanctioned.

(iv) international worksharing and collaborative activities for search and examination of patent applications, available at:

At the moment, in patent search and examination for international applications our office uses search reports made by an international search authority under the PCT.