

Legal News

March 2017

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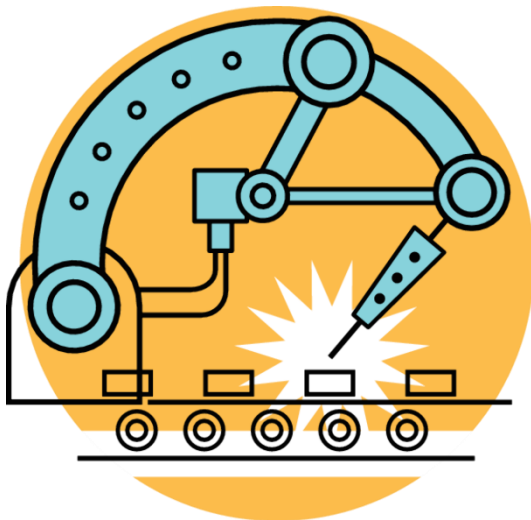
- **Law no. 17/2017 "On some amendments and additions to the law no. 9947, dated 07.07.2008 "On industrial property", as amended**

I. Law no. 17/2017 "On some amendments and additions to the law no. 9947, dated 07.07.2008 "On industrial property", as amended

On 16.02.2017, the Albanian parliament approved the law no. 17/2017 ("Amending Law") amending the law no. 9947, dated 07.07.2008 "On industrial property", as amended ("Law 9947/2008"). The law published with the Official Gazette no. 43, dated 09.03.2017, entered into force 15 days from its publication (i.e. 24.03.2017).

The latest amendments bring Law 7746/2008 closer to the *acquis* by aligning its provisions with the following acts:

- Directive 98/44 /KE of the European Parliament and the European Council, dated 06.07.1998 "On the legal protection of biotechnological inventions";
- Regulation (EU) No. 1151/2012 of the European Parliament and of the Council, dated 21.11.2012 "On quality schemes for agricultural products and foodstuffs";
- Regulation (EU) No. 1308/2013 of the European Parliament and of the Council, dated 17.12.2013 "On establishing a common organization of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No. 234/79, (EC) No. 1037/2001 and (EC) No 1234/2007", as amended.



Pursuant to the Amending Law, the respective authority responsible for the industrial property in the Republic of Albania, changes its denomination from General Directorate of Patents and Trademarks to General Directorate of Industrial Property ("GDIP"). Additionally, the Amending Law provides for definitions of several concepts regulated by the law itself, mainly related to electronic means and electronic communication, such as electronic means, environment for electronic application, the system of administration of industrial property SAPI, etc.

Below are described a few of the novelties brought by the Amending Law.

Pledge and enforcement procedures for patents, industrial designs and trademarks

Under the Amending Law, patents, industrial designs and trademarks, may be subject to pledge contract (i.e. patents can be object of a guarantee contract, as well). Registration of the pledge and publication at the bulletin of the authority is a precondition for its validity and enforcement toward third parties.

The Amending Law sets also the legal basis for the enforcement procedures with regard to patents, industrial designs and trademarks. In this regard, it is required that bailiff's actions should be registered with the GDIP and published in the respective bulletin, in order to produce effects towards third parties.

Opposition and appeal procedures

The Amending Law provides for novelties with regard to the opposition and appeal procedure and creates the legal basis for the functioning of new bodies, being the Chamber for Examination of Oppositions and the Chamber for Revocation/Invalidation.

Under the new provisions, the procedure of opposition to a published industrial design, trademark shall now be examined in a two-tier system, first by the Chamber of Examination of Oppositions and afterwards by the Board of Appeal.

On the other hand, the Chamber for Revocation/Invalidation will be the 'first instance' of administrative appeal procedure for the revocation of industrial designs and revocation and invalidation of trademarks, though it should be noted that several exceptions apply. Decision of such a chamber can be appealed with the Board of Appeal.

Electronic application and electronic means

Any individual, after being electronically identified, has the right to apply or carry out any request or action at the electronic counter, including procedures of administrative appeal, and obtain confirmation of the application from the GDIP. Electronic applications shall be accompanied by an electronic signature, in order to ensure legal validity of the document.

Any individual, free of the requirement of electronic identification, can carry out searches, obtain extracts and copies of accompanying documents, or carry out any other action for obtaining the information made public by GDIP.

Licensing of Authorized Representatives and Experts of Industrial Property

The Amending Law regulates the role and status of the authorized representatives and introduces the role of experts of industrial property, distinguishing the licensing conditions for each category. The Amending Law specifies and unifies the criteria to be met, the procedures for licensing, the cases of removal from the register and all procedures related to the activity of such representatives and experts.

An absolute novelty for, both, authorized representatives and experts of industrial property is the obligation to re-take the test for obtaining the license, in case they do not carry out the licensed activity for a 5-year term.

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