

Intellectual Property Protection in the European Union and the Republic of Moldova

Rodica Crudu, Natalia Mogol

Policy Brief

Nr. 1
August, 2020



Association
Henri Capitant
Moldova



With the support of the
Erasmus+ Programme
of the European Union

About authors:

Rodica Crudu – PhD., Associate professor, Academy of Economic Studies of Moldova, Coordinator of the EUPROIN Jean Monnet Project implemented by the Association of Legal Culture Henri Capitant from Moldova

Natalia MOGOI - PhD., Deputy Director General, State Agency for Intellectual Property (AGEPI), key expert in the Jean Monnet EUPROIN project

This publication was elaborated within the project Jean Monnet Support to Associations in European Integration and Intellectual Property Protection Studies / EUPROIN, implemented by the Association of Legal Culture Henri Capitant Moldova, nr. ref. 611344-EPP-1-2019-1-MD-EPPJMO-SUPPA

For more details: <https://euproin.md/>



"The European Commission's support for the production of this publication does not constitute an endorsement of the contents, which reflect the views only of the authors, and the Commission cannot be held responsible for any use which may be made of the information contained therein."

**ASSOCIATION OF LEGAL CULTURE HENRI
CAPITANT MOLDOVA**

Policy Brief

**Intellectual Property Protection in the
European Union and the Republic of
Moldova**

Rodica Crudu, Natalia Mogol

Chisinau, 2020

Introduction

Intellectual property is private property, which belongs to natural or legal persons with the right of possession, use and disposal. Intellectual property includes objects resulting from intellectual activity in the industrial, economic, commercial, scientific, informational, literary and / or artistic fields, as well as in other fields. Intellectual property consists of the following components:

a) industrial property (inventions, plant varieties, integrated circuit topographies, trademarks, industrial designs, geographical indications, designations of origin and traditional specialties guaranteed);

b) copyright (literary, artistic and scientific works) and related rights (interpretations, phonograms, videograms and broadcasts of broadcasting organizations).

Intellectual property rights are essential for the economic activity and growth. They have a special value for the owners and the economy as a whole. Over the years, both the European Union and the Republic of Moldova have developed a comprehensive IPR regulatory base, establishing a specialized institutional framework.

Intellectual property rights (IPR) legislation in the Republic of Moldova (Moldova) is largely in line with European Union (EU) IPR directives and regulations.

Chapter 9 of the Association Agreement (AA) between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part, regulates intellectual property rights.

I. Legal basis for the intellectual property rights (IPR) regulation

<p>Articles 114 and 118 of the Treaty on the Functioning of the European Union (TFEU) refer to intellectual property, which means that the field of intellectual property rights falls within the explicit competence of the EU.</p> <p>According to the Article 118 of the TFEU, the European Parliament and the European Council lay down measures for the establishment of the EU's intellectual property rights legal regime, in order to ensure uniform IPR protection in the EU, as well as for the establishment of centralized authorization, coordination and control systems at the EU level.</p>	<p>The right of citizens to intellectual property as one of the fundamental rights is guaranteed by the Constitution, the supreme law of the Republic of Moldova.</p> <p>Article 33 (2) of the Constitution expressly stipulates: The right of citizens to intellectual property, their material and moral interests arising in connection with various kinds of intellectual creation is protected by law.</p>
---	---

II. IPR Governance

<p>In the EU: The European Union Intellectual Property Office (EUIPO) is a decentralized EU agency responsible for managing the rights associated with trademarks, designs and designs throughout the EU.</p> <p>Since 2012, EUIPO has also hosted the European Observatory on the Infringement of Intellectual Property Rights and the Orphan Works Database.</p> <p>EUIPO receives and examines applications for registration of trademarks, designs or industrial</p>	<p>In the Republic of Moldova (RM): The State Agency for Intellectual Property (AGEPI) is a central administrative authority subordinated to the Government, responsible for promoting and carrying out activities in the field of legal protection of intellectual property on industrial property rights, copyright and related rights. In 2008, the National Commission for Intellectual Property (hereinafter - the Commission) was set up as an advisory body to the Government to coordinate and ensure the interaction of</p>
--	--

<p>designs. It also encourages convergence of practices among national intellectual property offices, through cooperation activities carried out by the European Intellectual Property Network. At the same time, through the Observatory, EUIPO brings together stakeholders in an extended network, which aims to raise awareness of IPR infringements through studies, projects and tools.</p> <p>In collaboration with intellectual property offices and user associations, EUIPO has set up the European Intellectual Property Network. This allows members to exchange expertise and good practices. The network thus ensures interoperability at EU level between various systems, services and tools, such as databases and online platforms.¹</p> <p>In order to raise awareness of IPR protection, EUIPO is collaborating with the European Patent Office (EPO) and the World Intellectual Property Organization (WIPO), implementing several joint training programs and activities.</p>	<p>ministries, other central administrative authorities and holders of IPR in targeted activities; to develop and strengthen the national IPR system, combat and prevent IPR infringements and combat counterfeiting and trade of counterfeit products in the R. Moldova.</p> <p>Also, since 2011 the Observatory for the observance of IPR have been established within AGEPI, whose priority directions of activity are: monitoring the observance of intellectual property rights; promoting the observance of intellectual property rights; organizing society awareness campaigns; collaboration with public authorities and rights holders; informing the World Trade Organization about the implementation of the TRIPs Agreement.</p> <p>At international level - AGEPI represents Moldova in the WIPO and other international, regional and interstate organizations related to IPR, as well as with the profile institutions of other states. In particular, in order to take over the best practices, collaboration agreements have been signed and implemented with WIPO, Eurasian Patent Organization (EAPO), EPO, EUIPO, etc.</p>
--	---

III. IPR Legislation

Hereafter, the most important achievements in terms of legislative harmonization in various fields or objects of intellectual property are described.

1. Trademarks

<p>In the EU, the legal framework is based on a four-tier system for trademark registration, which consists of:</p> <ul style="list-style-type: none"> - national trademark systems harmonised by means of the Trademark Directive²; - the Benelux trademark protection system; - European Union brand; - the international trademark protection system <p>In 2017, the European Parliament and the EU Council adopted a regulation on the European Union trade mark (introduced in 1994), which codifies and replaces all previous EC regulations</p>	<p>In the Republic of Moldova the legal framework for trademarks consists of:</p> <ul style="list-style-type: none"> - Law on trademark protection no. 38-XVI (adopted on 29.02.2008, in force since 06.09.2008); - Regulation on the procedure for filing, examination and registration of trademarks, (approved by the Decision of the Government of the Republic of Moldova no. 488 of 13.08.2009. <p>Also, other normative acts are applicable to the trademark registration procedure. Moldova participates and applies all international treaties in the field of trademarks managed by WIPO.</p>
---	---

¹ European Union. The EU Office for Intellectual Property (EUIPO). Retrived from: https://europa.eu/european-union/about-eu/agencies/euiipo_ro

² Directive 2015/2436 of the European Parliament and of the Council of 16 December 2015 to approximate the laws of the Member States relating to trade marks. Retrieved from: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32015L2436>

<p>on the EU trade mark.³ The 2017 codification was carried out in the interests of clarity and transparency, given that the EU trademark system had been substantially amended several times. The EU Trademark Regulation supersedes the various acts it incorporates and codifies by fully preserving their content.</p>	<p>As of October 1, 2018, the Guide for the examination of trademark applications is approved and applied (ensures transparency and predictability in the decision-making act).</p> <p>In accordance with Law 38/2008, the trademark rights are acquired and protected on the territory of the Republic of Moldova by:</p> <ol style="list-style-type: none"> national registration; international registration with the claim of protection in the Republic of Moldova; recognition of the brand as notorious.
---	--

2. *Designs and industrial models*

<p>The EU has approved a number of directives and other legislative acts aimed to harmonize the design regulations, as follows:</p> <ul style="list-style-type: none"> - Directive 98/71 / EC of 13 October 1998 approximates national legislation on the legal protection of designs and models⁴; - Council Regulation (EC) on Community Designs nr. 6/2002 from 12 December 2001 (amended) institutes a Community system for the protection of designs and models⁵; - Council Decision (2006/954/EC) of 18 December 2006 approving the accession of the European Community to the Geneva Act of the Hague Agreement concerning the international registration of industrial designs, adopted in Geneva on 2 July 1999⁶; - Regulation (EC) no. 1891/2006 of the Council of 18 December 2006 amending Regulations (EC) no. 6/2002 and (EC) no. 40/94 for the accession of the European Community to the Geneva Act of the Hague Agreement on the International Registration of Designs. These amendments were mostly oriented to make it to produce effects. <p>The last two documents create a connection between the EU design system and the international industrial design system managed by WIPO.</p>	<p>In the Republic of Moldova, the legal framework for industrial designs consists of:</p> <ul style="list-style-type: none"> - Law on the protection of industrial designs no. 161-XVI (adopted on 12.07.2007, in force since 01.12.2007); - Regulation on the procedure for submission, examination and registration of industrial designs, (approved by Government Decision of the Republic of Moldova no. 1496 of 29.12.2008). <p>At the same time, other normative acts are applicable to the registration procedure of industrial designs.</p> <p>As of January 1, 2020, the Guide for the examination of applications for registration of industrial designs is approved and applied (ensures transparency and predictability in the decision-making act);</p> <p>The Republic of Moldova participates and applies all international treaties in the field of industrial designs managed by WIPO.</p>
--	--

³ Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark. Retrieved from: <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1581521274609&uri=CELEX:32017R1001>

⁴ Directive 98/71/EC of the European Parliament and of the Council of 13 October 1998 on the legal protection of designs. Retrieved from: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:31998L0071&from>

⁵ Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs. Retrieved online from: <https://eur-lex.europa.eu/legal-content/RO/TXT/?uri=CELEX%3A32002R0006>

⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32006D0954&qid=1560416751525&from=EN>

3. Copyright and related rights

<p>In EU:</p> <p><u>a. Legal Framework</u></p> <p>- Directive 2001/29 / EC of the European Parliament and of the Council of 22.05.2001 on the harmonization of certain aspects of Copyright and related rights in the context of the information society (adapted the legislation on copyright and related rights to technological developments). However, the extraordinary evolution of digital technologies is changing the way of distribution and access to radio and television programs. Eurostat estimates that almost half of EU internet users access music, audiovisual content and games online. These developments in the digital world highlight the need to revise the provisions of this directive;</p> <p>- Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the digital single market and amending Directives 96/9 / EC and 2001/29 / EC - provides a related author for press publishers and fair remuneration for copyrighted content. To date, online platforms have had no legal responsibility for the use and uploading of copyrighted content on their sites. The new requirements will not affect the non-commercial upload of copyrighted works in online encyclopedias such as Wikipedia⁷;</p> <p>- Directive (EU) 2019/789 of the European Parliament and of the Council of 17 April 2019 laying down rules on the exercise of copyright and related rights applicable to certain online broadcasts of broadcasters and certain broadcasts of television and radio programs, and amending Council Directive 93/83 / EEC⁸ - introduces the country of origin principle to facilitate licensing of rights for certain programs that broadcast and television providers offer on their online platforms (eg. simultaneous and rerun services). Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 7 June 2021;</p>	<p>In R.Moldova:</p> <p><u>a. Legal Framework</u></p> <p>- Law on copyright and related rights no. 139 (adopted on 02.07.2010, in force since 01.01.2011) is largely harmonized with the provisions of Community regulations in the field of copyright;</p> <p>- Law on the distribution of copies of works and phonograms no. 1459-XV (adopted on 14.11.2002, in force since 01-05-2003);</p> <p>- Decision for the approval of the Regulation on the registration of the objects of copyright and related rights no. 89 from 10.02.2012.</p> <p>Draft Law amending Law no. 139/2010 on copyright and related rights, developed in order to achieve point 291 of the National Action Plan for the implementation of the Moldova-EU Association Agreement in the period 2017-2019, approved by Government Decision no. 1472/2016 was repeatedly submitted to AGEPI for further examination and finalization.</p> <p>The proposed amendments aim to transpose several regulations of Community relevance, including Directive 2014/26 / EU of the European Parliament and of the Council of 26 February 2014 on the collective management of copyright and related rights and the granting of multi-territorial licenses for rights in musical works for online use in the internal market and aim at establishing clear rules on the collective management of copyright and related rights and, last but not least, regulating the transparent collection, distribution and effective payment of copyright and related rights' holders.</p> <p><u>b. Term of protection of copyright and related rights</u></p> <p>The exclusive patrimonial rights and the right to remuneration last for the whole life of the author and for the period of 70 years after the death, starting with January 1 of the year following the year of the author's death.</p>
--	---

⁷ European Parliament. Factsheets on the European Union: Intellectual, industrial and commercial Property. Retrieved online form: <https://www.europarl.europa.eu/factsheets/en/sheet/36/intellectual-industrial-and-commercial-property>

⁸ <https://eur-lex.europa.eu/legal-content/RO/TXT/HTML/?uri=CELEX:32019L0789&from=RO>

- Directive (EU) 2017/1564 of the European Parliament and of the Council of 13 September 2017 on certain permitted uses of certain works and other objects of protection by copyright and related rights for the benefit of the blind, visually impaired or disabled reading printed matter and amending Directive 2001/29 / EC on the harmonization of certain aspects of copyright and related rights in the information society - facilitating access to and circulation of books and other printed matter in appropriate formats within the internal market;

- Regulation (EU) 2017/1128 of the European Parliament and of the Council of 14 June 2017 on cross-border portability of online content services in the internal market⁹ - aims at ensuring that consumers who buy or subscribe to films, sport broadcasts, music, e-books and games can access them when they travel to other EU Member States.

b. Term of protection of copyright and related rights

In accordance with the provisions of Directive 2011/77 / EU of the European Parliament and of the Council of 27 September 2011 amending Directive 2006/116 / EC on the term of protection of copyright and certain related rights¹⁰, copyright is protected for life and time. 70 years after the death of the author / creator.

The 70-year duration has become an international standard for the protection of sound recordings. Currently, 64 countries around the world protect sound recordings for a period of at least 70 years.

c. Computer programs and databases

- Council Directive 91/250/EEC of 14 May 1991 on the legal protection of computer programs¹¹ - imposes on Member States the obligation to protect computer programs through copyright, similar to literary works, within the meaning of the Berne Convention for the Protection of Literary and Artistic Works. It was

The moral (personal) rights of the author are protected indefinitely. After the death of the author, the protection of his moral rights is exercised by the heirs and the organizations duly authorized to ensure the protection of the authors' rights. Such organizations ensure the protection of the moral rights of authors even when they have no heirs or in case of copyright infringement.

Terms of protection of related rights: Rights are protected for 50 years from the date of the first interpretation. The interpreter's rights to the name and the right to a reputation are protected indefinitely.

Upon expiration of the term of protection of patrimonial rights, the work enters the public domain. Works entered in the public domain may be freely exploited, provided that the moral rights of authors and other holders are respected and legal remuneration is paid.

c. Computer programs and databases

The legal framework for the protection of computer programs and databases is regulated by the Law on copyright and related rights no. 139/2010.

The right to extract and / or reuse the contents of a database is protected for a period of 15 years from the date when the database was completed.

Any substantial change in the content of a database, including any substantial change resulting from the accumulation of successive additions, deletions or changes, which indicates a significant new investment, assessed qualitatively or quantitatively, allows the protection of the database this investment.

d. Collecting societies

In accordance with the legal provisions, collective management organizations represent non-commercial organizations (registered with the Ministry of Justice as public associations) established by free association and directly by the holders of copyright and / or related rights.

⁹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1557493780595&uri=CELEX:32017R1128>

¹⁰ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011L0077>

¹¹ <https://eur-lex.europa.eu/legal-content/RO/TXT/HTML/?uri=CELEX:31991L0250&from=RO>

codified through Directive 2009/24/CE of the the European Parliament and the Council¹².

- Directive 96/9 / EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases - defines a database as 'a collection of works, data or other independent elements, arranged systematically or methodically, and individually accessible by electronic or other means". The provisions of this Directive refer both to the protection of copyright in the database and to the protection of investments in obtaining, verifying or presenting the content of databases.

d. Collecting societies

Holders of copyright and related rights are free to entrust the management of their rights to a collecting society (the obligation to manage those rights) or to independent management entities (commercial entities other than collective management bodies because they are not owned or controlled by rights holders).

In 2014. The European Parliament and the Council adopted Directive 2014/26 / EU of the European Parliament and of the Council of 26 February 2014 on the collective management of copyright and related rights and the granting of multi-territorial licenses for rights in musical works for online use on the domestic market¹³.

This Directive sets high standards of administration, financial management, transparency and reporting applicable to collective management organizations. At the same time, this Directive aims to ensure that rightholders have a word to say in the management of their rights and aim for a better functioning of collective management organizations through EU standards.

They are endorsed by AGEPI and the Decision to issue the opinion is published in the Official Journal (Monitorul Oficial) of the Republic of Moldova .

The collective management organization has the following attributions:

- a) issues licenses to users;
- b) negotiates with the users the amount of remuneration;
- c) accumulates, distributes and pays the remuneration to the rights holders.

Unfortunately, the Republic of Moldova has not yet succeeded in establishing an efficient copyright management system. Moreover, we cannot yet attest a transparent and equitable mechanism for distributing author's remuneration.

4. Patents

In Europe, inventions can be protected either by national patents, granted by the competent national authorities, or by European patents, granted centrally by the European Patent

In the Republic of Moldova the legal framework for inventions consists of:

¹² Directive 2009/24/EC of the European Parliament and of the Council of 23 April 2009 on the legal protection of computer programs (Codified version). Retrieved from: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32009L0024&from=EN>

¹³ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32014L0026&from=EN>

Office (EPO). The European Patent Organization, which is currently joined by 38 states, also covers non-EU countries. The EU as a whole is not a member of this organization.

In 2012, after lengthy discussions and debates, Parliament and the Council approved the legal basis for a European patent with unitary effect (unitary patent). An international agreement between Member States, therefore, establishes a single, specialized patent jurisdiction. The previous regime will coexist with the new system until the establishment of the Unified Patent Court (UPC). A unitary patent will provide uniform protection with equal effect in all participating countries. Businesses will have the option of protecting their inventions in all EU Member States with a single unitary patent.

- Law on the protection of inventions no. 50-XVI (adopted on 07.03.2008, in force since 04.10.2008);

- Regulation on the procedure for filing and examining the patent application and issuing the patent, (approved by the Decision of the Government of the Republic of Moldova no. 528 of 01.09.2009).

Moldova has aligned its patent system with the European Patent Convention, and as of November 1, 2015, European patents can be validated in Moldova based on the Moldova-EPO Validation Agreement;

Draft Law amending Law no. 50/2008 on the protection of inventions, elaborated in order to consolidate the legal framework in the field of protection of inventions, was repeatedly submitted for approval.

The draft provides, in particular, for the implementation in national law of the flexibilities offered by the TRIPs Agreement, one of which is compulsory licensing.

5. Plant varieties as IPR

The EU Plant Variety Protection System, based on the principles of the WIPO Act 1991 of the International Convention for the Protection of New Varieties of Plants, contributes to the development of agriculture and horticulture. EU law establishes a system for the protection of plant variety rights. The Community Plant Variety Office shall implement and apply this system.

In the Republic of Moldova, the legal framework for plant varieties consists of:

- Law on the protection of plant varieties no. 39-XVI (adopted on 29.02.2008, in force since 06.09.2008);

- Regulation on the procedures for filing and examining the application, granting and maintaining in force the plant variety right.

At the same time, the Republic of Moldova is part to the International Convention for the Protection of New Varieties of Plants.

6. Indicații geografice (IG)

The title or label of "geographical indication" (GI) is granted for product names that have a specific link with the place where they are manufactured. GI recognition enables consumers to trust and distinguish quality products, while helping manufacturers to better promote their products. Recognized as intellectual property, geographical indications are playing an increasingly important role in trade negotiations between the EU and other countries.

In the Republic of Moldova, the legal framework for geographical indications consists of:

- The Law on the protection of geographical indications, designations of origin and traditional specialties guaranteed nr. 66-XVI (adopted on 27.03.2008, in force since 25.10.2008) is largely harmonized with the provisions of Community regulations in the field of reference;

- Law for the approval of national symbols associated with protected geographical

<p>In the EU, the title of geographical indication is legally protected by Commission Delegated Regulation (EU) 2019/33 of 17 October 2018 supplementing Regulation (EU) nr.1308/2013 of the European Parliament and of the Council on applications for protection of designations of origin, geographical indications and traditional terms in the wine sector, opposition procedure, restrictions on use, amendments to product specifications, cancellation of protection and labeling and presentation.¹⁴</p> <p>At the same time, the EU is part of the Geneva Act of the Lisbon Agreement on Designations of Origin and Geographical Indications (the "Geneva Act"). With the accession to the Geneva Act (2019), the EU also adopted a regulation setting out the rules governing the EU's exercise of its rights (and fulfillment of its obligations) under the Geneva Act.</p> <p>The Geneva Act is a treaty administered by the World Intellectual Property Organization (WIPO). It extends the scope of the Lisbon Agreement on the International Protection and Registration of Designations of Origin (the "Lisbon Agreement") to include not only designations of origin but also geographical indications. In addition, the Geneva Act allows international organizations, such as the EU, to become contracting parties.</p>	<p>indications, protected designations of origin and traditional specialties guaranteed no. 101 (adopted on 12.06.2014);</p> <ul style="list-style-type: none"> - Regulation on the procedure for submission, examination and registration of geographical indications, designations of origin and traditional specialties guaranteed, (approved by Government Decision of the Republic of Moldova no. 610 of 05.07.2010). <p>At the same time, the Republic of Moldova participates to:</p> <ul style="list-style-type: none"> - Lisbon Agreement on the protection of indications of the place of origin of products and their international registration; - Agreement between the Republic of Moldova and the EU on the protection of geographical indications for agricultural products and foodstuffs, which has become an integral part of the Association Agreement; - Agreement on measures to prevent and combat the use of false marks and geographical indications, signed in Minsk. <p>A major challenge for the system of geographical indications in the Republic of Moldova is the official control. The official control system in the field of reference does not work for products other than wines and wine products, so that producers who have made considerable efforts to recognize and protect geographical indications, designations of origin of traditional specialties do not have the opportunity to benefit from a system of control provided in art. 33-34 of Law 66/2008.</p>
---	---

IV Application of the IPR legislation

<p>In EU IPR law, the theory of 'exhaustion' of rights is applied, which means that the holder of an industrial or commercial intellectual property right protected by the law of a Member State cannot rely on that law to oppose the 'importation of a product which has been placed on the market in another Member State'. However, this theory does not apply to the marketing of counterfeit products or products put into circulation outside the European Economic Area (Article 6 of the</p>	<p>In the Republic of Moldova, each special law in the field of intellectual property contains a separate chapter on ensuring the observance of rights harmonized with Directive 48/2004. The Observatory for the IPR Protection (hereinafter - the Observatory) was established on 29.07.2011, based on the order of the Director General of AGEPI. Annually, starting with 2012, the National Report on the enforcement of IPR in Moldova is prepared. Two information systems have been developed under the EU-financed</p>
---	--

¹⁴ <https://eur-lex.europa.eu/legal-content/RO/TXT/PDF/?uri=CELEX:32019R0033&from=DE>

Agreement on Trade-Related Aspects of Intellectual Property Rights - TRIPS).

It is estimated that about 5% (about EUR 85 billion) of imports into the EU are counterfeit products, which is much more than the global average (about 2.5% of trade, or about EUR 338 billion).

In order to combat counterfeiting and piracy, the European Parliament and the Council initially adopted Directive 2004/48 / EC on the enforcement of intellectual property rights.¹⁵ This Directive eliminates the differences between the sanctions regimes applicable in the Member States, ensures a high, equivalent and homogeneous level of protection of intellectual property in the internal market and provides for measures, procedures and compensation under civil and administrative law

In order to prevent counterfeit goods from entering the internal market, the European Parliament and the Council adopted Regulation (EU) No 182/2011. 608/2013 on ensuring the observance of intellectual property rights by customs authorities¹⁶.

project "Support for the enforcement of intellectual property rights":

- The module that contains data on all intellectual property rights protected in the Republic of Moldova and ensures the access of the competent bodies with functions to ensure IPR compliance in real time (Police, Prosecutor's Office, APCSP, etc.);

- The module that provides the Customs Service and rightholders wishing to request actions for border interventions a tool for the application and administration of requests for intervention (request for action) at customs (similar to the EU - AFA instrument).

Draft Government Decision on the Information Platform in the field of protection of IPR, through which an information platform will be established, consisting of the Information System on Intellectual Property Objects (SI e-OPI) and the Information System "Register of requests for intervention "(SI e-RCI), aiming to improve communication and institutional coordination by automating the process of collecting and transmitting data relevant to the procedure for applying IPR protection mechanisms by the authorities involved in implementing government laws and regulations on IP rights from the Republic of Moldova was submitted for repeated approval. Thus, at the moment, the mentioned information products cannot be implemented (already for more than 12 months).

Conclusions

Intellectual property creates added value for businesses and economies around the world. Both the European Union and the Republic of Moldova have established systems for the protection of intellectual property rights that provide reliable tools to protect the objects of industrial property, as well as copyright and related rights. The set of rules adopted contributes to innovation, competitiveness, job creation and research funding.

Although many efforts have been made in recent years to harmonize and unify the regulations relating to intellectual property, there are still differences, even between the Member States of the European Union, but also in the legislation of the Republic of Moldova regarding the application of special laws, regulation legal relations, etc. In addition, the revolutionary development of information technologies radically changes the way of access and capitalization of intellectual property objects. Respectively, it is necessary a continuous connection of the legislation to the new realities.

¹⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32004L0048&from=GA>

¹⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32013R0608&from=EN>

In the context of the above, the following recommendations are presented that would allow a more efficient exploitation of the potential of intellectual property:

- Intensify the efforts of the public authorities of the Republic of Moldova in order to adjust and harmonize the normative acts to the legal framework of the European Union, especially in the fields: copyrights, geographical indications, geographical indications, ensuring the observance of rights;
- Strengthen the activity of the institutions involved in ensuring IPR compliance in the Republic of Moldova, including by increasing the importance of the IPR Compliance Observatory;
- Creation of reliable control mechanisms that would allow the capitalization of the geographical indications system in the Republic of Moldova.