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Proposed changes to the industrial property law – what you need to know

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- **The GDIP has published proposed amendments to the Law on Industrial Property for public consultation**
- **The draft law proposes to formalise the national database for industrial property rights**
- **The amendments also relate to the competence of the State Inspectorate on Market Supervision with regard to the protection of industrial property rights**

On 22 June 2020 the General Directorate of Industrial Property (GDIP) published a notice for public consultation on proposed amendments to the Law on Industrial Property (No 9947, 7 July 2008, as amended).

The draft law proposes to introduce the following novelties:

- the protection of trade secrets;
- the establishment of a database system for industrial property rights (the Industrial Property Management System or IPMS); and
- regulatory instruments for the protection of industrial property rights by the State Inspectorate on Market Supervision (SIMS).

Trade secrets

Within the framework of the harmonisation with the *acquis communautaire*, Albanian legislation must be harmonised with Directive 2016/943 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure. Albanian legislation currently provides a superficial description of the protection of trade secrets in Article 18 of the Law on Entrepreneurs and Commercial Companies (No 9901, 14 April 2008). As a result of such weak protection, in practice there has been a misuse of trade secrets and industrial espionage in business. The draft law provides specific rules regarding:

- the protection of trade secrets against illegal use or detection in the domestic market;
- the provision of a sufficient level of compensation in case of misuse;
- the maintenance of the confidentiality of trade secrets during and after litigation; and
- the prevention of third-party misuse or dishonest use of trade secrets.

Industrial Property Management System

The draft law proposes to formalise the state database by stipulating specific rules. The IPMS is a registered database which was set up in 2006, but is not provided for in any legal act.

The IPMS is a unique register that collects and processes data on industrial property deposited by local or foreign individuals/entities wishing to register industrial property objects in the Republic of Albania. The proposed system will mean that the provision of information and interaction with both domestic and international organisations in the field of industrial property will be more efficient. The IPMS will also facilitate procedures by avoiding bureaucratic burdens and allowing applicants to obtain information in real time. The GDIP will be responsible for the establishment and administration of the IPMS.

State Inspectorate on Market Supervision competences

The last proposal relates to the SIMS' competence with regard to the protection of industrial property rights, as a result of a recommendation of the European Commission. Currently, the SIMS faces difficulties when operating in the field of industrial property due to a lack of legal regulations. The draft law stipulates that the SIMS is responsible for monitoring the observance of IP rights if there are reasonable grounds to suspect that goods placed on the market in the territory of the Republic of Albania violate an IP right, following the release of the goods into free circulation by the customs authorities. It is proposed that the SIMS may act *ex officio* or based on a claim by the right holder.

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