

LAW
Criminal Code of the Republic of Moldova
no. 985-XV of 18.04.2002

(Extract)
(art.185¹, 185², 185³, 246¹, 246²)

Article 185¹ Infringement of copyright and related rights

(1) Violation of copyright and related right, if committed on a large-scale through:

a) reproduction of works or related rights objects in the course of the entrepreneurial activity relating to intellectual activity in the field of copyright and related rights, especially in literature, art and science, for sale or commercialization purpose, import, export, as well storing, transporting musical productions or phonograms for the above mentioned purposes, or any other form of exploitation of the copyright and related rights objects in order to obtain profit, without the consent of the right holder;

b) renting, exchange or other form of making available to the third parties, free of charge or onerously, and storage for the above mentioned purposes, or any other form of valorification of the musical productions or phonograms, in any manner and in any form, without certification mark and without holding the contracts for copyrights concluded with the rights holders, upon inspection;

c) sale or offering for commercialization, renting, import or storage of the technical equipments or their components designed to facilitate access to transmissions of the broadcasting organizations communicating conditionally via ether, cable, satellite on an interactive basis, including via Internet;

d) indication on musical productions or phonograms of a false information about membership and limits on exercising of copyright and related rights, as well as any other information that may mislead the beneficiary;

e) inappropriate application of the certification marks, other than those for media materials specified in the annexes to the application for issuance of the control marks on musical productions or phonograms exploited without the consent of the right holder;

f) modifying, removing from all copies of musical productions or phonograms, the symbols and signs of the copyright and related rights protection, mentioned by the owner the respective rights, removal from the copies of musical productions or phonograms, the information on the administration of the copyright and related rights; removal from all copies of musical productions or phonograms, the technical means of protection of copyright and related rights;

g) assumption of authorship or co-authorship under constraints

shall be sanctioned with a fine from 800 to 1000 conventional units or from 180 to 240 hours of community work and the legal entity shall be sanctioned with a fine from 2000 to 4 000 conventional units with deprivation of such legal entity of the right to carry out certain activities for a term from 1 to 5 years.

(2) Illegal labelling, commercialisation, import, export, transportation or storing or falsification of control marks, which caused large-scale damages

shall be sanctioned with a fine from 2000 to 4000 conventional units or from 180 to 240 hours of community work, and the legal entity shall be sanctioned with a fine from 2000 to 6000 conventional units with deprivation of such legal entity of the right to carry out certain activities for a term from 1 to 5 years.

(3) Actions mentioned in paragraphs (1) and (2), committed:

a) by two or more persons;

b) by an organized criminal group or criminal organization;

d) by physical or psychical constraints;

e) in extremely large proportions

shall be sanctioned with a fine from 4000 to 5000 conventional units or imprisonment for a term from 3 to 5 years, with a fine from 8000 to 10 000 conventional units imposed on the legal entity and deprivation of such legal entity of the right to carry out certain activities for a term from 1 to 5 years, or its liquidation.

185². Violation of industrial property rights

(1) Dissemination of information about an invention, utility model, industrial design, plant variety, topography of integrated circuit without the author's (creator's) or the consent of its successor in right before the official publication of data from the application for registration by a person to whom, such data were entrusted or became available otherwise, as well as a fraudulent appropriation by a third party of the authorship over the invention, utility model, industrial design, plant variety, topography of integrated circuit, or forcing to co-authorship, which caused large-scale damages

shall be sanctioned with a fine from 800 to 1000 conventional units or from 180 to 240 hours of community work.

(2) Use without the consent of the owner of a protected trademark or sign, the identity or similarity with the registered trademark of which, and the identity or similarity of the goods or services covered by the sign and trademark generate the risk of consumer confusion, application of the sign on the products or packages, as well the use of this sign as a package in case of three-dimensional trademarks, offering the products under this sign for commercialization or sale, or their storage for this purpose, or, where appropriate, offering or providing services under this sign, importing or exporting the goods under this sign, use of the sign during the advertisement, multiplication, storage or commercialization of the sign for the above mentioned purposes, and inciting third persons to carry out such actions, which caused large-scale damages

shall be sanctioned with a fine from 500 to 1000 conventional units or from 180 to 240 hours community work, with a fine from 3500 to 5 000 conventional units imposed on the legal entity, as well as deprivation of such legal entity of the right to carry out certain activities for a term from 1 to 5 years.

(2¹) direct or indirect commercial use of a designation of origin / geographical indications registered for products not covered by the registration so far as those products are comparable to those registered under this name or insofar this usage allows to take advantage of the reputation of the protected name, and usurpation, imitation or evocation of the associations related to a registered appellation of origin / geographical indication, even if the true origin of the product is indicated or if the protected name is used in translation or accompanied by an expression such as "kind", "type", "style", "imitation" or other similar expressions, false or misleading indication to the provenience, origin, nature or essential qualities of the product listed on the product or on its package, in advertising, as well packaging use of a recipient likely to create a wrong impression regarding the origin of product, unfolding of the practices likely to mislead the consumer relating to the true origin of the product and inciting third parties to perform these actions, which caused large-scale damages

shall be sanctioned with a fine from 800 to 1000 conventional units or from 180 to 240 hours community work, with a fine from 3500 to 5 000 conventional units imposed on the legal entity and deprivation of such legal entity of the right to carry out certain activities for a term from 1 to 5 years.

(2²) Any practice liable to mislead the consumer on a designation of traditional specialty guaranteed, any imitation of a registered and reserved designation pursuant to the Law on the protection of geographical indications, designations of origin and traditional specialties guaranteed, any commercial use of the products names that could be confused with designations of the traditional specialties guaranteed registered with reservation of the name according to the Law on the protection of geographical indications, designations of origin and traditional specialties guaranteed, any abusive misuse or misleading usurpation of the term “Traditional Specialty Guaranteed’ and its associated national symbol, and inciting third parties to perform such actions, which caused large-scale damages

shall be sanctioned with a fine from 800 to 1000 conventional units or from 180 to 240 hours of community work, with a fine from 3500 to 5 000 conventional units imposed on the legal entity and deprivation of such legal entity of the right to carry out certain activities for a term from 1 to 5 years.

(2³) Illegal use under par. (2¹) of an unregistered designation of origin/geographical indication, protected under bilateral agreements to which Republic of Moldova is a party, and inciting third parties to perform such actions, committed at large scale

shall be sanctioned with a fine from 800 to 1000 conventional units or from 180 to 240 hours of community work, with a fine from 3500 to 5 000 conventional units imposed on the legal entity and deprivation of such legal entity of the right to carry out certain activities for a term from 1 to 5 years.

(3) The manufacture, importation, exportation, transportation, offering for sale, sale, other methods of commercial distribution or storage for such purposes of products, use of processes that constitute inventions or utility models, or incorporate the object of a protected invention or utility model that require, according the legislation, authorization from the rightholder, conducted without such authorization and inciting third parties to perform such actions, which caused large-scale damages

shall be sanctioned with a fine from 800 to 1000 conventional units or from 180 to 240 hours of community work, with a fine from 3500 to 5 000 conventional units imposed on the legal entity and deprivation of such legal entity of the right to carry out certain activities for a term from 1 to 5 years.

(4)The manufacture, importation, exportation, offering for sale, sale, other methods of commercial distribution or storage for such purposes of a product obtained by using a protected industrial design or model, if this product is entirely or substantially a copy of the protected industrial design or model that require, according to the legislation, authorization from the rightholder, conducted without such authorization and inciting third parties to perform such actions, which caused large-scale damages

shall be sanctioned with a fine from 800 to 1000 conventional units or from 180 to 240 hours of community work, with a fine from 3500 to 5 000 conventional units imposed on the legal entity and deprivation of such legal entity of the right to carry out certain activities for a term from 1 to 5 years.

(5) Production, re-production, conditioning aimed at propagation, offering for sale, selling or other forms of marketing, import, export, stocking for such purposes of the plant variety material that require, according to the legislation, authorization from the rightholder, conducted without such authorization and inciting third parties to perform such actions, which caused large-scale damages

shall be sanctioned with a fine from 800 to 1000 conventional units or from 180 to 240 hours of community work, with a fine from 3500 to 5 000 conventional units imposed on the legal entity and deprivation of such legal entity of the right to carry out certain activities for a term from 1 to 5 years.

(6) Reproduction in the whole or a part of a topography of integrated circuit, import, export, offering for sale, selling or distribution in any other form for commercial purposes of an topography of integrated circuit that require, according to the legislation, authorization from the rightholder, conducted without such authorization and inciting third parties to perform such actions, which caused large-scale damages

shall be sanctioned with a fine from 800 to 1000 conventional units or from 180 to 240 hours of community work, with a fine from 3500 to 5 000 conventional units imposed on the legal entity and deprivation of such legal entity of the right to carry out certain activities for a term from 1 to 5 years.

(7) Actions mentioned in paragraphs (1), (2), (2¹), (2²), (2³), (3), (4), (5) and (6) committed:

- a)) (*Excluded by the Law no.277-XVI of 18.12.2008, in force as from 24.05.2009*);
- b) by two or more persons;
- c) by an organized criminal group or criminal organization;
- d) by physical or psychical constraints;
- e) in extremely large proportions

shall be sanctioned with a fine from 3000 to 5000 conventional units or imprisonment for a term from 3 to 5 years, with a fine ranging from 7000 to 10 000 conventional units imposed on the legal entity, as well as deprivation of such legal entity of the right to carry out certain activities for a term from 1 to 5 years, or its liquidation.

Article 185³. Intentionally false statements in intellectual property registration documents

Intentionally false statements, operation with intentionally false entries in intellectual property protection documents, as well as counterfeiting of documents needed for issuance of protection titles, drafting of intentionally false documents or intentional submission of documents that undermine the authority of the applicant of an intellectual property protection object

shall be sanctioned with a fine from 800 to 1000 conventional units or from 180 to 240 hours community work, with a fine from 3500 to 5 000 conventional units imposed on the legal entity, as well as deprivation of such legal entity of the right to carry out certain activities for a term from 1 to 5 years.”

Article 246¹. Unfair competition

Any act of unfair competition, including:

- a) creating, by any means, of confusion with the competitor’s enterprise, products or industrial or commercial activity;
- b) dissemination, in the course of trade, of false statements discrediting the competitor’s enterprise, products or business activity;
- c) misleading the consumer regarding the nature, manufacturing process, characteristics, usability and quantity of the competitor’s goods;
- d) use of the trade name or trademark in a manner that produces confusion with the ones lawfully used by another company;

- e) comparing, for publicity purposes, of goods produced or marketed by one company with goods of other companies

shall be sanctioned with a fine ranging from 600 to 1000 conventional units or imprisonment for a term from 1 to 3 years, with a fine from 3500 to 5000 conventional units imposed on the legal entity, as well as deprivation of such legal entity of the right to carry out certain activities for a term from 1 to 5 years.

Article 246². Forgery and counterfeiting of products

(1) Forging products, namely their manufacturing for marketing purposes without accompanying documents of provenance, quality and compliance, as well urging third parties to perform such an action, committed on a large scale,

shall be sanctioned by a fine of 1000 to 2000 conventional units or by imprisonment up to one year, with a fine from 3500 to 5000 conventional units imposed on the legal entity, as well as deprivation of such legal entity of the right to carry out certain activities for a term from 1 to 5 years.

(2) Counterfeiting products, namely actions specified in para. (1) with reference to products that constitute or include a protected intellectual property object, as well urging third parties to perform such an action, committed on a large scale,

shall be sanctioned with a fine of 1000 to 2000 conventional units or by imprisonment up to one year, with a fine from 3500 to 5000 conventional units imposed on the legal entity, as well as deprivation of such legal entity of the right to carry out certain activities for a term from 1 to 5 years.