

**PARLIAMENT OF THE REPUBLIC OF MOLDOVA**

**LAW  
on the protection of topographies of integrated circuits**

**No. 655-XIV of October 29, 1999**

*Official Gazette (“Monitorul Oficial”) No. 1-4/4 of 06.01.2000  
[modified by Law No.101 of 26.05.2016, in force as from 24.06.2016]  
[modified by Law No.238 of 13.11.2008, in force as from 05.12.2008]  
[modified by Law No.205 of 28.07.2005, in force as from 23.09.2005]  
[modified by Law No.469 of 21.11.2003, in force as from 01.01.2004]  
[modified by Law No.1446 of 08.11.2002, in force as from 31.12.2002]*

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**Article1. Protected Subject Matter**

(1) “Integrated circuit” means a product, in its final form or an intermediate form, in which the elements, at least one of which is an active element, and some or all of the interconnections are integrally formed in and/or on a piece of material and which is intended to perform an electronic function.

(2) “Layout-design (arrangement)” (hereinafter referred to as “topography”) means the three-dimensional disposition, however expressed, of the elements, at least one of which is an active element, and of some or all of the interconnections of an integrated circuit, or such a three-dimensional composition prepared for an integrated circuit intended for manufacture.

(3) The rights in a topography shall be recognized and protected in the territory of the Republic of Moldova by way of registration with the State Agency on Intellectual Property (hereinafter referred to as the Agency”) on terms and conditions provided for in this Law, and by the grant of a certificate of registration.

(4) This Law shall protect topographies that are original in the sense that they are the result of their creators’ own intellectual effort and are not commonplace to the creators of topographies and manufacturers of integrated circuits at the time of their creation.

(5) A topography that consists of a combination of elements and interconnections that are commonplace shall be protected only if the combination, taken as a whole, complies with the requirement of originality referred to in paragraph (4) of this Article.

(6) A topography shall be deemed original unless there is proof to the contrary.

(7) Disclosure of information on a topography shall not affect the originality thereof where the information has been disclosed within 24 months preceding the filing date on which the application for registration of the topography is filed with the Agency by the creator, the applicant or a third party who has obtained the information directly or indirectly from them. Otherwise the interested party shall be obliged to present necessary proof.

*[Art. 1 modified by the Law no.205-XVI of 28.07.05, in force as from 23.09.05]*

## **Article 2. Right to Legal Protection**

(1) The right to legal protection of topographies under this Law shall belong to natural persons and legal entities residing in the Republic of Moldova.

(2) Natural persons and legal entities residing outside the Republic of Moldova shall enjoy the rights afforded by this Law under the international treaties to which the Republic of Moldova is party, or by application of the principle of reciprocity.

(3) Any person entitled to obtain legal protection for a topography shall act either through the Agency directly or through patent agents whose powers must be certified in a power of attorney in conformity with the Statute approved by the Government of the Republic of Moldova.

(4) Natural persons and legal entities residing outside the territory of the Republic of Moldova shall be required to act only through the patent attorney in intellectual property of the Republic of Moldova.

(5) The right to protection of a topography shall belong to its creator or his successor in title. Where there are several creators of the same topography, the right to the protection of the topography shall belong to them jointly unless an agreement concluded between them provides to the contrary.

(6) Where a topography has been created by an employee in the line of duty, or as a

result of a specific task entrusted to him in writing by the enterprise employing him (a topography created in the line of duty), the right to the protection shall belong either to the creator or to the employing enterprise in conformity with the terms provided in the employment contract.

(7) Where a topography has been created under a contract between two parties, the right to the protection of the commissioned topography shall belong to the person stipulated in the contract.

*[Art. 2 modified by the Law no.1446-XV of 08.11.02, in force as from 31.12.02]*

*[Art. 2(4) modified by the Law no.101 of 26.05.16, in force as from 24.06.16]*

### **Article 3. Registration of Topographies**

(1) The registration of a topography with the Agency shall be effected on the basis of a regular national application.

(2) The regular national application written in a Standard Form for the registration of a topography shall contain the following elements:

1. a request for registration comprising
  - (a) the surname and first name or official name, and the address of the applicant;
  - (b) a mention of the applicant's right to have the topography registered in accordance with paragraphs (5) to (7) of Article 2 of this Law;
  - (c) the surname and first name and the address of the creator (or creators) of the topography;
  - (d) the name and intended use of the integrated circuit created on the basis of the topography;
  - (e) the date on which the topography was created;
  - (f) the date of first commercial exploitation;
  - (g) the surname and first name, and the address of the patent agent if there is such an agent;
  - (h) the signature of the applicant or of his agent.
4. a document containing proof of payment of the prescribed fee;
5. a power of attorney, where the application is filed through a representative or a patent attorney in intellectual property.

(3) The patent application shall be written in Moldovan in a Standard Form. The other application documents shall be filed in Moldovan or another language. In the last case, the translation of the application documents into Moldovan shall be submitted to the Agency within two months following the date of the national regulatory filing of the application. Natural persons that have filed the application documents in Russian shall not be obliged to submit the translation thereof into Moldovan.

(4) The filing date of a regular national application shall be the date of receipt by the

Agency of all the documents specified in paragraph (2) 1 to 4 of this Article.

(5) The application for registration shall concern only one topography.

(6) The Agency shall verify the presence of documents prescribed in paragraph (2) above, in order to establish their compliance with

(a) the prescribed requirements of form for a regular national application (preliminary examination) within one month following the receipt thereof;

(b) the requirements prescribed by Article 1(4) to (7) of this Law within two months following the carrying out of the preliminary examination.

(7) Where the examination finding is that all the prescribed requirements have been complied with, the Agency shall take a decision to register the topography and shall effect the registration in the National Register of Topographies of Integrated Circuits, and the applicant shall be notified accordingly.

(8) Where the documents contained in the application do not comply with one or more of the prescribed requirements, the Agency shall, within 15 days following receipt of the application, inform the applicant accordingly in writing and invite him to furnish the corrected or missing documents within two months from the date of receipt of the invitation.

(9) If the applicant complies with the invitation within the prescribed time limit, the Agency shall effect registration as provided in paragraph (7) of this Article.

(11) If the applicant fails to furnish the corrected or missing documents within the prescribed time limit, or where it is established that the subject matter for which registration is sought does not comply with the requirements specified in article 1(4) to (7) of this Law, the Agency shall take a decision to refuse the registration and shall inform the applicant in writing, stating the grounds for the refusal.

(12) The Agency shall publish the particulars of registration of the topography in the Official Bulletin of Intellectual Property (hereinafter referred to as - BOPI)and, within three months following the notification of the applicant of a decision to register the topography, shall issue to the authorized person an official certificate of registration against payment of the prescribed fee.

(13) Where the applicant wishes to contest a decision to refuse the registration of a topography, he may do so within three months following the date of receipt of the notification of the decision by lodging an appeal with the Commission for Examination of Objections of the Agency. The appeal shall be examined within three months from the date of its receipt by the Commission for Examination of Objections. The decision taken by the Commission for Examination of Objections shall be notified to the interested parties within one month from its date and may be contested in court within three months following the date of receipt of the notification.

(14) The owner of the registered topography (hereinafter referred to as “the owner”) shall, for the entire duration of its protection, inform the Agency of any change in the name, the official name, or the address, etc.

*[Art. 3 modified by the Law no.238-XVI of 13.11.08, in force as from 05.12.08]*

*[Art. 1 modified by the Law no.469-XV of 21.11.03, in force as from 01.01.04]*

*[Art. 3 modified by the Law no.101 of 26.05.16, in force as from 24.06.16]*

#### **Article 4. Rights of the Owner of a Topography**

(1) Any natural person or legal entity who has obtained protection for a registered topography under this Law shall be the owner of the rights in the topography.

(2) A topography that has been registered with the Agency shall be protected in the territory of the Republic of Moldova for a term of 10 years from the filing date of a regular national application or from the date of first commercial exploitation of the topography anywhere in the world where such exploitation preceded the filing date.

(3) The exploitation of a topography shall be deemed to include:

(a) reproduction of the whole or a part of the topography by incorporation in an integrated circuit or in some other manner, except where the part that is reproduced is not original under Article 1(4) to (7) of this Law;

(b) exportation, importation, offering for sale, sale and any other form of distribution for commercial purposes of the topography, of an integrated circuit incorporating the topography or of a product incorporating an integrated circuit of that type.

(4) The owner shall have the exclusive right to exploit the registered topography for the entire duration of the protection thereof and also the right to authorize or prohibit the exploitation by others of the registered topography, of an integrated circuit incorporating the topography or of a product incorporating an integrated circuit of that type.

(5) The owner shall have the faculty of affixing to integrated circuits incorporating a registered topography a notice in the form of a capital letter “T”.

(6) The rights of the owner of a topography may not be restricted by or dependent on the actual incorporation or non-incorporation of the integrated circuit in a product.

(7) The rights of the owner shall extend neither to the concepts, methods and technological implements used in manufacturing a registered topography or an integrated circuit nor to information stored in the integrated circuit.

(8) A topography shall be deemed to be commercially exploited where it is normally exploited for commercial purposes as such or when incorporated in an integrated circuit.

(9) A topography shall be deemed to be the subject of first commercial exploitation as

from the date of its first exploitation for commercial purposes, in whole or in part, anywhere in the world, by its owner or with the owner's consent.

(10) Where a topography has been commercially exploited inside or outside the country, it shall be eligible for protection under this Law only where the application for registration thereof is filed with the Agency within two years from the date of the first such commercial exploitation.

(11) Reproduction of a registered topography by a third party in accordance with paragraphs (3) and (4) of this Article shall not constitute an act of infringement where the registered topography has been manufactured

- (a) for private and non-commercial purposes;
- (b) for the purposes of evaluation, analysis, research or teaching.

(12) The following shall likewise not constitute acts infringing the rights of the owner:

(a) the exploitation of a registered topography in manufacturing or operation of any means of transportation that belongs to a State party to an international treaty to which the Republic of Moldova is also party, provided that such means of transportation temporarily or accidentally enters the territory of the Republic of Moldova and the topography is exploited exclusively for the needs of such means;

(b) the exploitation of a registered topography in cases of national emergency and other *force-majeure* situations provided that the owner is immediately informed;

(c) the exploitation of a new topography created by any person on the basis of evaluation and analysis of the registered topography where the new topography complies with the condition of originality set forth in article 1(4) to (7) of this Law;

(d) the performance of any acts specified in paragraph (3)(b) of this article with respect to an integrated circuit incorporating an unlawfully reproduced topography or any product incorporating an integrated circuit of that type, where a person performing the act did not know and had no reasonable grounds to know, when acquiring the integrated circuit or the product incorporating it, that it incorporated an unlawfully reproduced topography. As from the date of receipt by the person concerned of the notification sufficiently informing him that the topography has been unlawfully reproduced, that person may perform any of the acts with respect to his stock in hand or ordered before that date, but shall be liable to pay the owner an amount equivalent to the reasonable royalty that would otherwise have been paid to acquire a freely negotiated license to exploit the topography;

(e) any exploitation by a third party of a registered topography or an integrated circuit incorporating such topography where it has been sold by the owner or with his authorization.

(13) Any person who, before the date of entry into force of this Law, made the necessary preparations for manufacturing or actually manufactured an integrated circuit incorporating a topography that has since been registered with the Agency by another person shall have the right to continue the manufacture and sale of the integrated circuit without the authorization of the owner, but shall have no right to increase the volume of manufactured products.

## **Article 5. Rights of the Creator of a Registered Topography**

(1) The creator of a registered topography shall have the right to put his own name and capacity as creator to his topography in the official certificate of registration thereof and in all publications effected by the Agency.

(2) The creator of a registered topography who is not its owner within the meaning of Article 2(6) of this Law shall be entitled to remuneration commensurate with the amount of any proceeds derived or that would otherwise have been derived by the owner from the exploitation of the registered topography. The amount of remuneration and the terms of payment shall be specified in a contract between the owner and the creator.

### **Article 6. Transfer of Rights**

(1) The right to obtain protection for a registered topography and the rights deriving from the registration of a topography may be transferred in whole or in part to any natural person or legal entity. The transfer of rights may be effected by assignment, by the grant of an exclusive or non-exclusive license or by succession, or they may be inherited by right or by testamentary provision.

(2) The contract of assignment shall enter into force with regard to the third party on the date of its registration with the Agency.

(3) No change in the name of the applicant or the owner may be effected until the contract of assignment has been registered with the Agency.

(4) The Agency shall, within three months from the date of registration, publish the particulars of registered contracts of assignment, granted licenses and compulsory licenses relating to registered topographies as well as any relevant changes made in theBOPI.

*[Art. 6(4) modified by the Law no.101 of 26.05.16, in force as from 24.06.16]*

### **Article 7. Other Types of Exploitation Without the Owner's Consent**

(1) The judicial authorities may authorize exploitation of a registered topography without the consent of the owner where the following conditions are met:

(a) the grant of authorization to exploit a registered topography must be based on all the actual facts of the matter;

(b) exploitation shall be authorized where the owner has failed to exploit or sufficiently exploit the registered topography within three years following the date of its registration, and has declined a request from a prospective user for the grant of authorization to exploit the topography on reasonable commercial terms and conditions, despite all efforts made by the latter for a reasonable period of time. This provision may be disregarded in cases of national emergency and other *force-majeure* situations as well as in the case of non-commercial exploitation by the State. In such a case the owner shall be notified within a reasonably short

time;

(c) the limits and the duration of such exploitation shall be determined by the purposes for which the authorization has been granted, while in the case of semiconductor technology the authorization shall be intended exclusively for non-commercial use by the State or in order to remedy a practice that, in court or administrative proceedings, has been found to restrict free competition;

(d) such exploitation shall be non-exclusive and shall not be transferable, except with that part of the enterprise or goodwill that exploits the registered topography;

(e) any such exploitation shall be authorized primarily in order to satisfy the requirements of the domestic market;

(f) the authorization to exploit the registered topography without the consent of the owner may be revoked, without prejudice to legitimate interests of the duly authorized persons concerned, if the grounds leading to the grant thereof no longer exist and are unlikely to reappear. The judicial authorities shall be competent to review the case, acting on the basis of an appeal stating the reasons for the review, if the above grounds persist;

(g) the owner shall be paid equitable remuneration the amount of which, in every particular case, shall be commensurate with the economic value of the authorization granted;

(h) the legality of any decision concerning the grant of authorization and that of any decision concerning the payment of remuneration may be contested either in court or before any higher independent competent authority;

(i) the provisions contained in subparagraphs 9b) and e) above shall not be applicable where the exploitation is authorized in order to remedy a practice that, in court or administrative proceedings, has been found to restrict free competition. When the amount of the relevant remuneration is determined, the need to remedy the practice that has been found to restrict free competition may be taken into account. The judicial authorities shall be competent to refuse cancellation of the authorization where the grounds that led to the grant thereof are likely to reappear.

(2) Any decision to grant a non-voluntary non-exclusive license shall be communicated to the Agency which shall enter it in the National Register of Topographies of Integrated Circuits. The Agency shall publish in theBOPI, within three months from the date of their entry in the National Register of Topographies of Integrated Circuits, the particulars of non-voluntary non-exclusive licenses granted and of any relevant changes.

*[Art. 7(2) modified by the Law no.101 of 26.05.16, in force as from 24.06.16]*

## **Article 8. Expiration of Rights**

(1) The rights accruing to the owner of the topography by virtue of its registration shall cease to exist on the date of expiration of the term of its protection; after that date the topography becomes part of public domain and may be exploited by any person without any limitation.

(2) Where the topography has not been commercially exploited for a period of 15 years following the date of its creation, the right to protection thereof shall, after the expiration of that term, cease to exist in the following way:

(a) if the topography has not been registered, it may no longer form the subject matter of



an application for registration;

(b) if the topography has been registered, the owner shall lose the rights accruing to him by virtue of registration.

(3) At any time during the term of protection of the registered topography the owner may surrender his rights by filing a request to that end or by failing to pay the prescribed fee for registration or for the issue of an official certificate of registration. The surrender of rights shall cause them to cease to exist, with the consequences set out in paragraph (1) of this Article, as of the date of receipt by the Agency of a written renouncing the registration or the filing date of a regular national application, where the fee for registration or for the issue of an official certificate of registration has not been paid.

(4) Any registration of a topography in the National Register of Topographies of Integrated Circuits may be cancelled, either entirely or in part, on the basis of a notice of opposition filed by an interested party if it is established that the prescribed conditions for the grant of protection were not fulfilled. The notice of opposition may be filed at any time during the term of protection of the registered topography. The Commission for Examination of Objections shall notify the persons concerned of its decision. The decision of the Commission for Examination of Objections may be contested in court within three months from the date of receipt of the notification. Cancellation of the registration shall cause the owner to lose all his rights in the registered topography or, where applicable, in the cancelled part thereof.

(5) The Agency shall enter in the National register of Topographies of Integrated Circuits all changes concerning the protection of topographies having effect in the result of the application of paragraphs (1) to (4) of this Article and shall publish them in theBOPI.

*[Art. 8 modified by the Law no.238-XVI of 13.11.08, in force as from 05.12.08]*

*[Art. 8(5) modified by the Law no.101 of 26.05.16, in force as from 24.06.16]*

## **Article 9. Liability for Infringement of the Owner's Rights**

(1) Any natural person or legal entity exploiting a registered topography in a manner contrary to the provisions of this Law shall be deemed to be infringing the rights of the owner.

(2) At the request of the owner the infringement must be stopped.

The owner shall be compensated by the recognized infringer for the infringement of his rights in an amount sufficient to compensate the damage sustained, including loss of profits resulting from the infringement, and also to pay all the owner's related expenses, including relevant attorney's fees.

(3) The goods found to be infringing shall be withdrawn from sale without any compensation and in such a manner as to avoid any harm to the owner, or they shall be destroyed. The injured party may also request that materials and implements that have been used in the production of infringing goods be withdrawn from sale, without any

compensation, in such a manner as to minimize the risk of further infringement. In such cases, due regard shall be had to consistency with deterrent remedies of other infringements of equivalent gravity and the interests of third parties.

(4) Damages for infringement may also be claimed by the owner of an exclusive license unless otherwise provided in the license contract.

(5) Acts performed by certain public authorities or by their representatives shall not constitute an infringement of industrial property rights where they are performed in good faith or with intended good faith in the application of industrial property law.

### **Article 10. Protection of Topography Rights Abroad**

The filing of applications abroad for the registration of topographies created in the Republic of Moldova shall be effected no earlier than one month after the date of the filing of a regular national application with the Agency. The filing of applications abroad shall be effected in conformity with the national law of the country concerned and with international treaties to which the Republic of Moldova is party.

### **Article 11. State Agency on Intellectual Property**

(1) The State Agency on Intellectual Property shall be the competent authority entrusted with the legal protection of topographies in accordance with the legislation in force.

(2) The State Agency on Intellectual Property shall, in accordance with this Law, receive applications for the registration of topographies, examine them, effect the registration thereof, issue official certificates of registration, publish official information and register contracts transferring rights, and shall draft legal enactments and determine the amount of fees payable for the performance of any legal acts in relation to the protection of topographies.

*[Art. 11 modified by the Law no.205-XVI of 28.07.05, in force as from 23.09.05]*

CHAIRPERSON OF THE PARLIAMENT

Dumitru Diacov

Chişinău, October 29, 1999

No. 655-XIV