



PROVISIONAL INSTITUTIONS OF SELF GOVERNMENT

KUVENDI I KOSOVËS
СКУПШТИНА КОСОВА
ASSEMBLY OF KOSOVO

Law No. 02/L-45

ON INDUSTRIAL DESIGN

Assembly of Kosova,

Based on the UNMIK Regulation, 2001/9, May 15 2001, of the Constitutional Framework for the Provisional Self-Government of Kosova, and based on Chapters 5.1 (d), 9.1.1, and 9.1.26 (a), and in order to establish the conditions for protection of the industrial design and in compliance with the European Union Standards,

Hereby adopts the following:

LAW ON INDUSTRIAL DESIGN

CHAPTER I
GENERAL PROVISION

Article 1

This Law will establish the conditions for protection of the industrial design; the protection right, the right of profit, on volume and protection validity, the exclusive rights, registration procedures, the industrial design changes, cessation of validity and annulment of the industrial design, international design deposit, legal-civil protection and violation provisions.

TERMS AND DEFINITIONS

Article 2

Design - means the outer shape of a whole product or a part of the product, which derives from the product's characteristics, particularly from its shape, color, text and material of the product itself.

Product- means any industrial or handicraft material including, apart others, the parts dedicated for harmonization the complex product, such as; package, books, graphic symbols and typographic types of letters, except the computer programs.

Complex product - means the product made of many parts that can be changed so that they can be separated and reattached to the product again.

CHAPTER II PROTECTION CONDITIONS

Article 3

3.1. The design is protected by the industrial design up to that point while it is an innovation, and which has a specific character.

3.2. Design that was applied on the product or that is a compound part of the product, and which is a compound part of a complex product is considered as an innovation and with a specific character only if: the compound part, after being placed on complex product, remains visible during the normal use of the product, or if this characteristic visibility of the compound part meets, in spite of, the innovation requirements, specialty and individuality.

3.3. The normal use according to paragraph 2, of this article means the use made by the product's user, which does not include maintenance, service and the product repair.

DESIGN INNOVATION

Article 4

4.1. The design of a product is considered as an innovation if not identical to a design available to the public before the date of application for registration of the industrial design (herein after referred as: the application for industrial design), actually if it was required for the advantage right before the date of the advantage recognition.

4.2. Designs are considered identical only if their characteristics differ in unimportant details.

SPECIFIC CHARACTER OF DESIGN

Article 5

5.1. It is considered that the design has a specific character if the consumers' impression differs from the impression left by any other design that was available to public before the date of applying for industrial design or if required for the advantage right, before the date of acceptance of the advantage right.

5.2. During the assessment of the specific character of the design, it should be considered the level of freedom of design creating by the designer.

PUBLIC DESIGN PRESENTATION

Article 6

6.1. It is considered that a design was available for customers if it was published under the registration procedure or exhibited or used in another way in trade or it has become known in other ways. It is not considered that a design was introduced to public even if under confidential conditions the third person was informed about that.

6.2. Design invention will not be considered if the design for which the protection was required was available to public: by the designer himself, by his legal successor or by the third person as a result of the issued data or the activities undertaken by the designer or by his legal heir, during a 12 months' period, actually before the application submission

for industrial design or, if required for the advantage right, before the receiving date of the advantage right.

6.3. Provisions from paragraph 2 of this article will be applied as well in cases when the design is shown to public as a result of abuse, damaging the designer or his legal heir.

CONDITIONAL DESIGN WITH TECHNICAL FUNCTION AND DESIGN OF COMMON ELEMENTS

Article 7

7.1. By the industrial design cannot be protected the characteristics of the product's shape:

- a. which are conditioned by technical functions,
- b. for which is need a reproduction in the same shape and dimension in order that the product in whose composition is the design can be combined in a mechanic way with another product, can be placed into it or together with another product or around it, in order that both products can carry out their functions.

7.2. Apart from the provisions in paragraph 1, item b of this article, the industrial design will exist, in conformity with the above stated conditions in articles 4 and 5 of this Law, within the design, whose dedication will enable the connection of the changeable parts of a product.

A DESIGN AGAINST PUBLIC INTEREST OR AGAINST MORAL PRINCIPLES

Article 8

It will not be protected an industrial design, which is against the public interest and the moral principles.

REASONS FOR REFUSAL OF THE PROTECTION OR FOR LEGAL INVALIDITY

Article 9

The request for design registration will be rejected, actually the registered industrial design will be legally invalid if:

- a. the design is not a design according to Article 2 of this Law,
- b. the design does not meet above mentioned conditions from articles 3 to 8 of this Law,
- c. the applicant or industrial design holder is not authorized to get the industrial design according to this Law,
- d. the design is in contradiction to the previous design that was published after the date of application submission for industrial design or if it was requested for advantage right, after the receiving date of advantage right, and where from previous date it was protected by the industrial design registration in Kosova or by the application of industrial design itself.
- e. if during design form is used distinctive sign , while previous rightful claimant had the right to stop the usage .

- f. if design is considered illegal act usage covered under provision of this law regulated in case for author's right.
- g. if design is used against to any element of article 6 and Convention of Paris under patronage of industrial estate (holding), and if it is used versus sign or national coat-of-arms (which are not behind Convention of Paris) particularly for Kosova.

CHAPTER III DESIGNER'S PROTECTION RIGHT

Article 10

10.1. A designer may be a physical person or a legal entity who has created the design.

10.2. The person during the creation has offered only technical help will not be considered designer.

Article 11

11.1. Apart from the fact whether he is application presenter or the rightful claimant, the designer enjoys the right to be mentioned as a designer in all documents during the public design exhibition.

11.2. Designer's moral right could not be conveyed.

11.3. If some designers have already taken part in design creation, the right from paragraph 1 of this article belongs to all designers, regardless their contribution in design creation.

AUTHORIZERS FOR INDUSTRIAL DESIGN RIGHT OBTAINING

Article 12

12.1. The Designer or his/her legal heir are authorized for initiating the procedures in relation to industrial design obtaining in conformity with this Law.

12.2. If the designer is not as an application presenter of the industrial design, then the presenter of application will be considered as the authorized person, in conformity with the paragraph 1 of this article until it is reprobated.

12.3. If design was created based on the ordered contract, the requester of such a design is authorized for initiating the procedures and the obtaining of the industrial design, unless it is otherwise prescribed in the contract.

12.4. If the designer has created the design, while performing his obligations as an employee, or by obeying his employer's orders, the employer is authorized for opening of procedures and the industrial design obtaining, unless it is otherwise prescribed in contract.

12.5. If the design was created based on the joint work of more designers, then all designers, actually, their legal heirs enjoy the common right for that design, and they are all considered as the authorized in accordance with paragraph 1 of this Article.

12.6. The Designers' participation and their contribution on design creating by several designers will be defined depending on their real contribution of each designer, unless it is defined otherwise in the contract.

12.7. If the designers' participation and contribution are not defined or they cannot be defined in conformity with paragraph 6 of this article, then they are all considered equal.

EQUALITY OF PERSONS WHO CAN BE AS INDUSTRIAL DESIGN BEARERS

Article 13

Foreign physical and juridical persons who have no residence in Kosovo, enjoy the protection right under this Law, if this comes as a result from contracts, which obligate Kosovo or because of policies application of reciprocity.

CHAPTER IV OBTAINING, VOLUME AND PROTECTION VALIDITY OF THE INDUSTRIAL DESIGN

OBTAINING OF THE INDUSTRIAL DESIGN

Article 14

14.1. The Industrial design can be obtained by issuing decision on industrial design registration and its recording in the register.

14.2. The Registration date in the register is considered as the date of decision issuing on industrial design registration.

PROTECTION VOLUME

Article 15

15.1. Protection, which comes from the industrial design, includes any designs, which do not effect any other impression to consumer.

15.2. During the evaluation of the protection volume, the freedom level will be considered the designer has had during his design creation.

PROTECTION DURATION

Article 16

16.1. Protection of the industrial design will last 5 years, calculating the application date of industrial design.

16.2. Protection of the industrial design can be extended for a period of 5 years, and maximum to 25 years including the application date.

16.3. The Industrial design bearer who requests for a protection extension, will have to, during the last year of validity or at the latest for 6 months after the expiring time of validity, he should apply a protection extension for his industrial design to the Office, and pay the tax and compensation expenses for maintenance procedure.

16.4. The new period of protection starts on the expiring date of the previous protection.

16.5. Extension Registration for the industrial design protection will be published in Official Department Bulletin.

16.6. The data, which must contain the request regarding to the extension of the industrial design, will be regulated by other sub-legal acts applying this Law.

CHAPTER V THE EXCLUSIVE RIGHTS COMING FROM INDUSTRIAL DESIGN

THE EXCLUSIVE RIGHTS

Article 17

17.1. Industrial design bearer has the exclusive right for exploration of the registered design and the right to prohibit the other persons to use his design without his permission.

17.2. Usage, according to paragraph 1 of this article, includes processing, offer, putting into circulation, import, export, or the product use in composition in which the design is.

17.3. If publication of registered industrial design has been postponed in accordance to Article 36 of this law, while the postpone period is effective, the bearer has the right to prohibit the third persons in design use, but not in case if this use is a copy result of registered design.

LIMITATION TO EXCLUSIVE RIGHTS ON THE INDUSTRIAL DESIGN

Article 18

18.1. Exclusive rights from article 17 of this Law can not be realized in proportion to:

- a. Undertaken actions in usage for private and no-commercial purposes.
- b. Undertaken actions intending to examination realization or,
- c. The reproduction undertaken actions with the intention of citation and education, if this is in conformity with rules of good conduct in business and if it does not cause any damage during the normal use of design.

18.2. With the mentioned actions in paragraph 1 of this article, the exclusive rights that come from the industrial design after being registered can not be realized in relation to:

- a. The registered aircraft equipments in another country, when they temporarily enter in Kosova territory.
- b. The importing of spare parts in Kosova in order to repair the aircrafts.
- c. Realization of the aircraft repair.

THE PREVIOUS USE

Article 19

19.1. The right of the previous use has every third person, who can argument that before the application data for the industrial design or before the advantage recognition data, if it was requested in Kosova territory, or has started the design use or has done the preliminary preparation with the purpose of use, even if such design was not created by copying the previous protected design.

19.2. Based on the previous use right, the third person is authorized to use the design with purpose of using, but before application data for the industrial design or before the receiving date of the advantaged right, if the advantage was required.

19.3. The person who has the previous use right cannot give to other persons the license for design use.

19.4. The previous use right can not be conveyed, except when the third person has the employer capacity together with independence conveyance within which use actions have been undertaken or regarding to application in conformity with paragraph 1 of this article.

TERMINATION OF THE RIGHT

Article 20

20.1. Right termination in relation to prohibition of the product use, which contains design, ends by its putting up in Kosova market by the industrial design bearer himself or after the permission made by the bearer.

20.2. Termination of the right under the paragraph 1 of this article can be expanded out of Kosova territory, too, if such a matter is determined by the international contracts obliging Kosova.

CHAPTER VI RELATIONS TOWARDS TO OTHER TYPES OF PROTECTION

APPLICATION OF OTHER LAWS

Article 21

Provisions of this Law will not influence the application of other rules, which deal with trademarks, patents and the rules, which will define civil-legal responsibilities or the disloyal competition in market.

ACCOUNT TOWARDS THE COPY RIGHT

Article 22

Design, which is protected by the industrial design, can also be suitable to be protected by the other provisions of the author's right from the moment of its creation or its fiction in whatever way, if it meets the law requirements settled by the copyright.

CHAPTER VII PROCEDURE FOR INDUSTRIAL DESIGN REGISTRATION

OFFICE AUTHORIZATION

Article 23

23.1. The Patent Office, as established by the Law on Patents No. 2004/49, shall perform the administrative work related to the protection of an industrial design.

23.2. An appeal against the decision of the Office may be filed within 15 days with the body of second instance in the Patent Office.

23.3. An administrative dispute may be initiated at the court of competent jurisdiction against the decision of the body of second instance, pursuant to the Law on General Administrative Procedure.

INITIATION OF PROCEDURE FOR INDUSTRIAL DESIGN REGISTRATION

Article 24

The procedure of acknowledgement the industrial design is initiated by document delivery to the Office, which should contain the acknowledgement application of the industrial design.

CONTENT OF APPLICATION FOR INDUSTRIAL DESIGN

Article 25

25.1. The Industrial design application should contain as following:

- a. Application form for industrial design registration,
- b. Information about application submitter,
- c. Design presentation, which should be suitable for reproduction, and if the application contains a request regarding to postpone the publish and a claim contain in conformity with article 36 of this Law, the design presentation can be made by sampling.

25.2. Industrial design application should contain as well as follows:

- a. the product mark where the design is applied,
- b. information about the authorized representative with the required authorization, if the applicant possesses,
- c. information on the joint representative if the application was a joint submission.

25.3. The Industrial design application may contain as follows:

- a. Description by which the presentation or design sample are explained.
- b. Request for publication postpone of the industrial design registration in conformity with article 36 of this Law,
- c. Product classification, actually the class note where should the design be as an integral part or in which design should be applied, an in conformity with Locarna Agreement (basing in: International Classification),
- d. Information about the designer or designers or the ones that do not want to mentioned,
- e. Information on the advantage certificate based on the articles 29 a 30 of this Law.

25.4. By other sub-law acts in details the application of this Law are specified all integral parts in relation to industrial design application.

25.5. The provided information in the industrial design application, and which are mentioned in paragraph 2, item (a) and paragraph 3 item (a) and (c) of this article will not influence in design protection volume.

MULTIPLE APPLICATION OF THE INDUSTRIAL DESIGN

Article 26

26.1. If the industrial design application contains the request for registration of more designs, (in further text referred as, Multiple application) all products where the design is as an integral part, or where it should be applied, they should be connected to the ranged products based on the international classification.

26.2. In Multiple application, the general designs number must be recorded the for which the protection is required.

26.3. To each design, which is included in multiple applications, can be acted separately, in order to apply the provisions of this law. The design, in such cases can be as a subject for rights realization such as for contract on license, mortgage, or guarantee, bankrupt, rights conveyance, publication postpone or nullification.

SEPARATION OF MULTIPLE APPLICATION

Article 27

27.1. Application submitter can split manifold application in two or more applications so that each party can deal with one or with more product designs.

27.2. The application that is completed by separation of manifold application keeps the advantage right of that application.

27.3. Other conditions for separation of manifold application are regulated by other sub-law acts in order to apply this Law.

ADVANTAGE

Article 28

The Applicant of the industrial design with a previous submission date gains the right to advantage in relation to any other applicant who submits later for the same design.

Article 29

29.1. If the applicant for industrial design has applied for the first time in any member country of International Union established by the Paris Convention regarding to protection of the industrial property (in further text as: The Paris Union), in case of application for the same industrial design in Kosova, can refer the date of the first application, provided that the application will be done in Kosova within 6 months from this first date.

29.2. The applicant who refers to the advantage right, according to paragraph 1 of this article, in his/her application submission to the Office, should deposit the basic information about the application he refers:(state, date and application number), at least within 3 months starting from the application date in the Office, presenting the description of the first application certified by authorized organ of the member state in Paris Convention as well as the translated description in an official language applicable in Kosova.

29.3. If the applicant does not fulfill the stated requirements in paragraph 1 of this article, it is being considered that the advantage right was not required.

THE ADVANTAGE RIGHT TO EXHIBITION

Article 30

30.1. If the applicant has done the exhibition of the product, which contains an industrial design in any official exhibition or in international exhibition acknowledged officially in Kosovo or in any other member-state of the Paris Union, he/she can request that as the first application date should be accepted the first date of product exhibition, provided that his/her presentation be done Kosovo within 6 months starting from the specified date.

30.2. The applicant who refers the advantage right in virtue of the product exhibition is obligated that apart the submission to Office to deposit and the issued certification by the authorized government body of a state-member of the Paris Union where will be verified the information in relation to the exhibition type, the place of exhibition, opening and closing and the first date of product exhibition provided in the application as well the proof on product for presented the design in exhibition.

30.3 If the applicant does not fulfill the specified requirements in paragraph 1 of this article, it will be considered that the advantage right was not required.

APPLICATION DATE DEFINITION FOR INDUSTRIAL DESIGN PRESENTATION

Article 31

31.1. After accepting the design application, the Office reviews the concerning application whether it meets all requirements necessary to accept the application date under the article 25 paragraph 1 of this Law.

31.2. If the design application does not fulfill conditions for accepting of the application date, the Office calls the applicant within 60 days from the invitation-receiving day in order to complete the specified lacks.

31.3. If the design applicant completes deficiencies in the application form within the determined deadline and in accordance with paragraph 2, of this article, the Office verifies the receiving date of the application, after deficiencies completion, as the date of application submission.

31.4. If the applicant of the industrial design does not act within the determined deadline, based on the Office's invitation, the application will be rejected.

31.5. After the date verification of application, the Office invites the submitter who has not shown the proof for administrative tax payment and expenses compensation, within 15 days from the receiving date of the invitation to offer the proof on the executed payment.

31.6. If the application submitter does not act according to the invitation from paragraph 5 of this article, the application will be refused.

FORMAL REVIEW OF INDUSTRIAL DESIGN APPLICATION
WITH A VERIFIED APPLYING DATE

Article 32

32.1. By the formal review of industrial design application, when there has been applied with a multiple application, the office verifies if the application fulfills conditions under article 25, paragraph 2 of the Law, respectively the conditions under article 26 and 27 of this Law.

32.2. If the application does not fulfill the conditions under paragraph 1 of this article, the Office calls the applicant that within 60 days, he should complete the application.

32.3. By the request made for industrial design application, the date mentioned in paragraph 2 of this article can be extended maximum for another 60 days.

32.4. If the submitter of the application for industrial design does not act in based on the invitation, the application, by a decision will be rejected.

DECISION ON REJECTION FOR INDUSTRIAL DESIGN REGISTRATION

Article 33

33.1. The Office, through a decision, may refuse an application for registering an industrial design, if: the design does not fulfill the requirements set out in Article 2 (Design), Article 8, and Article 9 paragraph 1 item (a) and (b).

33.2. The Office may partially refuse the registration of an industrial design, if one of the requirements set out in Article 8, and 9 paragraph 1 item (b) and (c), have not been fulfilled.

33.3. A decision to refuse the application for registration may not be issued before the applicant has received a notice in writing stating that the requirements have not been met, to which the applicant must respond, or withdraw the application.

33.4. The applicant requesting the registration of an industrial design has the right, within 60 days after receiving the notice in writing pursuant to paragraphs 3 of this article, to provide proof of new data, which may impact the final decision of the Office.

33.5. Upon the request of the applicant registering an industrial design, the deadline set in paragraph 4 of the present Article may be extended for another 60 days maximum.

DECISION ON INDUSTRIAL DESIGN REGISTRATION

Article 34

If the design product is not excluded from the protection under the article 33, paragraph 1 of this Law, and if the payment was not done on compensation for maintenance procedure for the first period of 5 years in relation to protection of the industrial design, the Office will make decision on industrial design registration and industrial design will be published in the Register.

PUBLISH OF INDUSTRIAL DESIGN

Article 35

35.1. The data on the industrial design are published in the Official Department Bulletin, at latest for 3 months from the date of industrial design registration in register.

35.2. Contain of the data, which are published in Official Department Bulletin will be regulated by other sub-law acts enforcement of this Law

PUBLISH POSTPONE OF THE INDUSTRIAL DESIGN

Article 36

36.1. The submitter of the industrial design application can, at the same time, together with application to submit the request for publication postpone of registered industrial design, within a time period of up to 12 months calculating the time from the applying date or the request at the Office, and if there was required the right of advantage, then from the accepted date of the advantage.

36.2. If there was requested for a publication postpone of the industrial design, in the Official Department Bulletin will be published, as foreseen by other sub-law acts, applying this Law, only because of the fact that industrial design is registered.

36.3. In cases from paragraph 1 of this article, the Office after expiring the extended date, will invite the application submitter or industrial design bearer within a period of 30 days from the receiving day of the invitation, should bring photos and graphic presentation of design application in conformity with article 25, paragraph 1, item c of this Law.

36.4. If the industrial design bearer does not meet the requirements from paragraph 3 of this article or if he has not paid expenses compensation for maintenance procedure for the first five (5) years' period, it will be considered that industrial design did not result to any legal effect.

36.5. If it is about the multiple industrial design under paragraph 1, and 3 of this article it can be also applied to one of several designs the application contains.

DOCUMENT ON INDUSTRIAL DESIGN

Article 37

37.1. Upon the request made by the industrial design bearer, provided that payment was paid in relation to expenses compensation in order to issue the document on industrial design, the Department Office issues the document to industrial design bearer, at latest up to three months from the publication day of the industrial design in the Official Department Bulletin.

37.2. The data composition, which contains the document for industrial design is regulated by other sub-law acts for enforcement of this Law.

CHAPTER VIII
CHANGES IN INDUSTRIAL DESIGN

REGISTRATION OF CHANGES

Article 38

38.1. Upon the request by the applicant or the industrial design owner, the Office registers all changes in the Register dealing with name or residence changes, if it is about a physical person or enterprise changes and the changes dealing with the seat of the juridical person, as well as other changes, which occurred after industrial design application or after industrial design registration, provided that these changes correspond to factual situation, and which did not affect the essence of the industrial design.

38.2. The registered changes in the Register of the industrial designs will be published in the Official Department Bulletin.

38.3. Information that the request should contain in order to register the changes from paragraph 1 of this article are regulated by other sub-law acts for enforcement of this Law.

LICENSE

Article 39

39.1. Industrial design can be license subject entirely or partly, whereas the license can be granted for the whole or for a part of Kosova territory.

39.2. The right to use the industrial design is gained based on the contract on license, whereas this right has the effect to the third person after license registration in Register. The registration of the license is done by a request made by the industrial design bearer.

39.3. Contract on license should be in written and signed by the contracting parties.

39.4. The Industrial design bearer can realize the rights of the industrial design license against any license winner, who violates any contract provisions on licensing, particularly in connection to time duration of the license and limiting regarding to industrial design use.

39.5. License winner can initiate a lawsuit in the aspect of right violation that occur in relation to industrial design, only if the industrial design bearer agrees with it.

39.6. License winner is authorized to issue sub-licenses, only if this is specified in contract.

39.7. License is effective for the third person after it is being registered in register.

39.8. License Registration is published in Official Department Bulletin.

39.9. License Registration is done by the request made by of the industrial design bearer or the License winner, provided that there was submitted at the Office a copy of contract on license.

39.10. The information that the request for license registration must contain is regulated by other sub-law acts for enforcement of this Law.

PAWN AND EXECUTION

Article 40

- 40.1. Industrial design can be subject to pawn case and as a subject of execution.
- 40.2. By a request made by one of the parties the right from paragraph 1 of this article is registered in register.
- 40.3. Hypothec-pawn registration and execution are published in Official Department Bulletin.
- 40.4. Pawn and execution create juridical consequences to other persons after its registration in register.
- 40.5. Content of the records that a request should have for registration of hypothec-pawn is regulated by other sub-law acts for enforcement of this Law.

BANKRUPTCY

Article 41

When the industrial design becomes a bankruptcy subject, by the request of the competent authority, this information is registered and published in Official Department Bulletin.

TRANSFER OF THE RIGHTS

Article 42

- 42.1. The Applicant or the industrial bearer can do his transfer of the rights of application or the whole industrial design or partly to other persons.
- 42.2. Upon the request by one of the parties transfer of rights is registered in register, provided that was submitted a verified contract copy on the transfer of rights at the Office signed by both parties.
- 42.3. The transfer of the rights implies legal effect towards legal persons, only after its registration in register.
- 42.4. Registration of rights transfer is published in Official Department Bulletin.
- 42.5. Information that the request should have for registration of transfer of rights is regulated by other sub-law acts for enforcement of this Law.

CHAPTER IX VALIDITY END AND INDUSTRIAL DESIGN ANNULMENT VALIDITY TERMINATION OF THE INDUSTRIAL DESIGN

Article 43

- 43.1. Industrial design validity is terminated in cases as follows:
- a. If the industrial design validity term is expired in the sense of the article 16 of this Law.
 - b. Based on the bearer's declaration for resignation from the industrial design, then the industrial design is not valid from the date of the delivered written declaration for

resignation at the Office. If the license is registered in register, the resignation of the industrial design should be recorded in the register, only if that license bearer witnesses that the license winner has informed about his intention regarding to his registration from design.

43.2. Termination of industrial design validity will be registered in industrial design register and will be published in Official Bulletin, as anticipated by other sub-law acts for enforcement of this Law.

DECISION ON ANNOUNCEMENT FOR ANNULMENT OF INDUSTRIAL DESIGN

Article 44

44.1. Procedures for null announcement of industrial design apply the Office.

44.2. Office makes decision for annulations of industrial design, if it is verified there were no conditions to register the industrial design as prescribed by this Law.

44.3. Industrial design can be null announced because of the specified conditions in article 9 of this Law, as well as during all times of protection and after validity termination of the industrial design.

44.4. Industrial design can be partly null announced because of the above stated conditions in article 9, items: (b), (e), (f), and (g), of this Law, even though by this partly null announcement of the industrial design fulfills its condition for registration.

44.5. Because of the specified reasons in article 9, item (c) of this article can refer only the person, who, according to provisions of this Law is authorized to gain the industrial design.

44.6. Because of the above mentioned reasons in article 9, item (d) of this article can refer only the person, who, according to provisions of this Law has been infringed his right, application submitter, the Office, according to official duty and public prosecutor.

44.7. Because of the above mentioned reasons in article 9, item (e) and (f), of this Law, can refer only the person, who according to provisions of this Law has been infringed his right.

44.8. Request for null announcement of the industrial design can submit the authorized person, public prosecutor and the Office itself by virtue of its official duty.

44.9. Request for null announcement for of the industrial design should be submitted under other sub-law acts for enforcement of this Law.

44.10. If the industrial design is annulled, all juridical consequences of the industrial design will be annulled.

44.11. Industrial design annulment will be registered in industrial design register and will be published in the official Department Bulletin.

44.12. The null announcement of industrial design is registered in Register and is published in Official Department Bulletin.

CHAPTER X
COMMON PROCEDURE PROVISIONS

OTHER PROVISIONS APPLYING IN THE OFFICE PROCEDURES

Article 45

For specific issues that are connected to the procedure, and which are not regulated by this Law, the Law on General Administrative Procedures will be applied.

TAXES AND PROCEDURE EXPENSES COMPENSATION

Article 46

46.1. For foreseen procedures by this Law taxes and payment of procedure charges will be paid in compliance to other sub-law acts for enforcement this Law.

46.2. If taxes or procedure expenses fees are not paid, application or request will be refused, whereas in case of not payment of charges or taxes regarding to protection extension for the industrial design the same ends its validity.

CERTIFICATE ON THE ADVANTAGE RIGHT

Article 47

Upon the request made by the application submitter for the industrial design or industrial design bearers, the Office issues the certificate on the advantage right.

REGISTERS

Article 48

48.1. The Office runs the applications Register and industrial design Register.

48.2. Industrial design register is public, since the data from register are not disclosed to public.

48.3. Office issues to interested persons, after tax payment and expenses compensation, documents, extracts, and striking off from the industrial design register.

48.4. The registered data in register under the paragraph1 of this article are prescribed by other sub-law acts in enforcement of this Law.

DEPARTMENT OFFICIAL BULLETIN

Article 49

The Office edits the Official Department Bulletin, in which are published all information prescribed according to other sub-law acts in enforcement of this Law.

RESEARCH

Article 50

To each request made by the interested person, the Office does investigation services in relation to registered industrial design innovations in the industrial design Register, which will produce effects in Kosova.

REPRESENTATION

Article 51

Foreign physical persons who do not have permanent residence their business seat in Kosova, can also realize the rights by this law in accordance to the procedures in the Department Office, only through their representatives, who are registered in the representatives' register, which is run by the Office.

CHAPTER XI

INTERNATIONAL DEPOSIT BANKING OF INDUSTRIAL DESIGN

Article 52

International deposit banking of industrial design is applied in conformity with the provisions of the HAG Agreement on international deposit banking for the industrial design. During the recognition procedure of industrial design according to provisions of the international agreement, and where Kosova is a member, will be applied provisions of this Law for all matters, which are not arranged by these agreements.

CHAPTER XII

LEGAL CIVIL PROTECTION

ACTIONS AGAINST ABUSE OF THE RIGHT

Article 53

53.1. If the industrial design bearer's rights were infringed or violated under article 17 of this Law, he can make a lawsuit at the competent court.

- a. Verification on existence of infringement of the industrial design.
- b. Prohibition of executed violation or prohibition of happening infringement in of the industrial design.
- c. Elimination of committed violation of on occasion of the industrial design infringement, including taking or removal of subject by which the infringement was committed to industrial design.
- d. Damage compensation,
- e. Judgment publishing together with the accused expenses,
- f. Usage of the taken over subjects.

53.2. Procedure in the sense of paragraph 1 of this Law is urgent.

53.3. Upon the initiating of the procedure in relation to right's violation of the industrial design, the complainant can testify that the registered industrial design, based on the above mentioned reasons in article 9 of this law, is not any more valid legally.

STALEMATE OF THE CASE

Article 54

A lawsuit regarding to the industrial design abuse can be raised within three years starting from the notification date on violation and its executor, and at latest to 5 years from the accomplished violation.

INTERIM MEASURES

Article 55

55.1. If the industrial design bearer deems his right was infringed or there is a risk of his rights abuse, he can request from the court as follows:

- a. Taking of the interim measures in order to prohibit commitment of actions, by which is violated or infringed the right of industrial design bearer.
- b. Taking over the litigation temporarily or its removal from circulation.
- c. Insuring evidence measures in relation to matters on dispute from the previous item and measures for protection of the existing situation.

55.2. Industrial design bearer can request to take stopgap measures and before he raises a legal action, provided that the legal action will be done within 20 working days or 31 calendar days, depended on the fact, which is a longer term.

55.3. If the industrial design bearer does not raise a legal action in due time according to paragraph 2 of this article, upon the request made by accused, the court can break off the procedure and ban the requested measures.

55.4. The court can settle the interim measures even without hearing the person, against whom is the legal action is raised, in cases when not taking of the interim measures, would result in damage causing for the industrial design bearer.

55.5. For matters that deal with settling of interim measures, which are not prescribed in this Law, then will be applied the provisions of the Law for executive procedure.

COMPENSATION OF DAMAGE

Article 56

56.1. The Court can make a decision regarding to damage compensation to the industrial design bearer, if verified that the requested measures in accordance to article 55, paragraph 1 are baseless.

56.2. The Court can settle to the industrial bearer a deposit banking in a fixed sum of money in order to insure the person against whom, interim measure are announced.

JUDICIAL RECOGNITION AND TRANSFER OF RIGHT

Article 57

57.1. If the industrial design application was done by an unauthorized person or the industrial design was registered in Register under the name of unauthorized person in contradiction to provisions of article 12 of this Law, then the authorized person can submit a request to the Court for recognition or for right transfer, which belong on the whole or partly, apart from other rights and demands that come up from industrial design.

57.2. The authorized persons according to paragraph 1 of this article can initiate judicial procedure within a time period of three years from the publishing date of the industrial design application, but in cases when the Court verifies that the unauthorized person did not have good intent. This procedure can be initiated while applying for protection extension of the industrial design.

57.3. If the Court brings a valid judgment on the recognition and right transfer under this article, the license right, and other registered rights to the good of the third person, are ceased in the registration day of changes in Register. If before the right recognition under by this article, the unauthorized person of the right of the license user have used the right or have done great preparation for right utilization with a good intention, can obtain the continuous license right in time and under usual conditions necessary for right utilization, if they request for it within 3 months from the notification receiving day, which is delivered by the Office after the registration of new owner of the right.

57.4. The Department office records the verified data in the Register copying them from Court valid judgment and other changes under this article and they will be published in the Official Department Bulletin.

CHAPTER XIII VIOLATING PROVISIONS

OFFENCES

Article 58

58.1. With financial penalties from 3.000 € up to 5.000 € will be punished for offences the legal person, who creates, offers, puts in circulation, imports, exports or uses the product, which contains the design or it is applied a foreign industrial design or deposits such a product for the above mentioned purposes.

58.2. With a financial penalty from 3.000 € up to 5.000 € will be punished for offences legal person, who uses the license in contradiction to license contract provisions, or if the designer's title of the industrial design was gained illegally.

58.3. For offences from paragraph 1 and 2 of this article, the physical person will be punished with a fine from 200 € up to 800 €.

58.4. For offences from paragraph 1 and 2 of this article, the responsible person will be punished with a fine from 500 € up to 1.000 €.

58.5. The made products or gained by committing violations under paragraphs 1, 2, 3, and 4, of this Articles, as well the means used manufacturing the product, by which the industrial design is abused, will be taken away and destroyed, regardless they were property of executor.

CHAPTER XIV
FINAL AND TRANSITIONAL PROVISIONS

ONGOING PROCEDURES

Article 59

59.1. Procedures for industrial design recognition, which up to this law enforcement were not completed, will be extended under the provisions, which were valid before the enforcement of this Law.

59.2. Bearers of models and samples, or the industrial design's bearer, whose validity is not suspended up to that day when this Law becomes effective, can request protection extension under the same conditions and the same rights as the rightful bearer of the industrial design based on this Law.

59.3. In cases under paragraph 2 of this article, the Department office will note in register models and samples or industrial design whose validity is being extended and they will be renamed and registered in industrial design register and the extended validity will be published in the Official Department Bulletin.

59.4. Procedures for abuse right industrial design or from abuse or the application procedure violation and procedure on decision pronouncement for recognition of the null industrial design, which from the day of enforcement of this Law, were not completed, they will be concluded under the provisions, which were effective from the day of the beginning of this Law enforcement.

VALIDITY SUSPENSION OF OTHER LAWS

Article 60

By the effective date of this Law, all the previous provisions regulating this field of activity will be suspended.

OTHER LEGAL ENACTMENTS ON ENFORCEMENT OF THIS LAW

Article 61

By other legal enactments, other issues will be regulated, in details, under articles: 16 paragraph 6, article 25, paragraph 4, article 27 paragraph 3, article 35, paragraph 2, article 36 paragraph 2, article 37 paragraph 2, article 38, paragraph 3 article 39, paragraph 10, article 40 paragraph 5, article 48, article 4, and article 49 of this Law, which will be issued within a 1 year from the effective date, approved by the Minister of Ministry of Trade and Industry.

BECOMING EFFECTIVE AND ENFORCEMENT OF THIS LAW

Article 62

The present law shall enter into force after adoption by the Assembly of Kosovo on the date of its promulgation by the Special Representative of the Secretary-General.

Law No. 02/L-45
21 November 2005

President of the Assembly

Academic Nexhat Daci