

## Industrial property code approved - VdA Vieira de Almeida



**The first Industrial Property Code of Sao Tome and Principe (IPC-STP) has been published in the Diário da República.**

Decree-Law no. 23/2016 took around 15 years to be approved. The first legislation on the matter dates back to 2001 (Law no. 4/2011 concerning industrial property, which was then regulated by Decree no. 6/2004, the Internal Execution Regulation of Law no. 4/2001). An important – yet insufficient – step had already been taken then with regard to the acknowledgement of industrial property as a key driver for economic and trade development of the country, as well as a driver of scientific and technical progress. The updating of the industrial property legal regime was partly due to the growing internationalisation of the economy and the “worldwide standardisation of new concepts and tools concerning activities related with industry, services and trade”.

We highlight the following three key amendments:

- new types of industrial property rights (IPR) were established and the legal regimes of the rights that already existed were improved;
- the administrative procedures and the legal judicial means relating to the grant and the revocation of industrial property rights were extended, as well as the relevant infringement regime; and
- the industrial property guarantees were placed under general property protection.

### **New types of industrial property rights were established**

### **Legal regimes of the rights that already existed were improved**

- Concerning inventions:
  - it is now permitted to protect utility models and topographies of semiconductor products;

- the patents regime was improved and made more transparent (including the granting procedure, effects of the grant and conditions of use)
- Some specific rules were included about logos and symbols/insignias
- Two new trademark categories were created (and the general trademarks regime was also improved): association marks and certification marks.
- The licensing legal regime was also improved and enhanced (articles 38 to 41).

#### **Administrative procedures were extended**

#### **Legal judicial means relating to the grant and the revocation of IPR were extended**

#### **Regime of IPR infringement was extended**

- The general rules relating to the administrative procedures for the grant of industrial property rights were updated and extended; the SENAPIQ-STP tasks were clarified, as well as the administrative procedures that it must comply with (articles 10 to 36); moreover, the acts that are subject to publication in the relevant gazette are now listed in article 304, which facilitates the evidence regime.
- The IPC-STP now makes it clear that any decisions that grant or refuse IPR may be judicially appealed; the corresponding proceedings are governed, in some detail, in articles 50 to 59.
- Law no. 4/2001 already foresaw the possibility of an IPR being annulled, but the IPC-STP listed new grounds for revocation of these rights (which are now the waiver, the nullity, the expiry and the annulment) set out and extended in articles 42 to 49.
- The major amendment towards the recognition of industrial property in STP relates to the actual implementation of a specific regime of IPR infringement, introducing preliminary measures to protect these rights and concretely defining which acts constitute criminal and minor offences.

#### **Industrial property guarantees were placed under general property protection**

- By virtue of article 4 of IPC-STP, industrial property is today under the protection granted to general property – in other words, industrial property is directly protected by the constitution.

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