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António Andrade | aja@vda.pt
Sara Nazaré | ssn@vda.pt

INDUSTRIAL PROPERTY CODE APPROVED BY THE GOVERNMENT OF SAO TOME AND PRINCIPE

It was published in the *Diário da República* Decree-Law no. 23/2016, enacting the first Industrial Property Code of Sao Tome and Principe (IPC-STP).

The diploma came immediately into force. It took about fifteen years to be approved as from the first legislation on the matter, which 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 given then towards the acknowledgement of industrial property as a central drive for the economic and trade development but also for the scientific and technical progress of the country.

The “growing internationalization of the economy” and the “worldwide standardization of new concepts and tools concerning activities related with industry, services and trade” supported the updating of the industrial property legal regime of Sao Tome and Principe (STP).

We point the following three main 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, well as its infringement regime;
- 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

- In what concerns inventions:
 - It is now allowed to protect **utility models** and **topographies of semiconductor products**;
 - the patents regime was improved and made more transparent (granting procedure, effects of the grant and conditions of use).
- Some specific rules were included about logos and symbols/insignias.
- **Two new trademarks 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 makes it now clear that any decisions that grant or refuse IPR may be judicially appealed from; 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 the 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.