

**ORDINANCE No. 66 of 17 August 2000 (\*REPUBLISHED)  
ON THE ORGANIZATION AND EXERCISE OF THE PROFESSION OF  
INDUSTRIAL PROPERTY ATTORNEY.**

ISSUER: GOVERNMENT

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-The Government Ordinance no. 66/2000 on the organization and exercise of the profession of industrial property attorney was republished in the Official Gazette of Romania, Part I, no. 758 of 17 October 2002.

## **CHAPTER I**

### **General provisions**

#### **Art. 1**

(1) The profession of industrial property attorney is free and independent with autonomous organization and practice, in the conditions stipulated by the present ordinance.

(2) The activity of industrial property attorney consists in rendering specialized assistance in the industrial property field and in representing the interested Romanian and foreign natural and legal persons before the State Office for Inventions and Trademarks as well as before third parties, in the regular procedures.

(3) The objects of the industrial property field are the patents, industrial designs, trademarks and service marks, trade names, indications of origin, geographical indications or appellations of origin, topographies of integrated circuits as well as the suppression of the unfair competition.

#### **Art.2**

The industrial property attorney is the natural person authorized pursuant to the provisions of the present ordinance and entered in the National Register of Industrial Property Attorneys.

### **Art. 3**

For the purpose of having the interests of the industrial property attorneys represented and protected at the national and international level, the National Chamber of Industrial Property Attorneys in Romania, hereinafter called *the Chamber*, shall be set up.

### **Art. 4**

The profession of industrial property attorney may be exercised only by the natural person entered in the National Register of Industrial Property Attorneys and who is a member of the Chamber.

## **CHAPTER II**

### **Acquiring the status of industrial property attorney**

### **Art. 5**

The status of industrial property attorney may be acquired by passing an examination before the State Office for Inventions and Trademarks, in the conditions specified in this ordinance, by the person who can prove that he fulfils the following conditions cumulatively, namely he:

- a) is a national of Romania or of a Member State of the European Union or of any other State in the EEA;
- b) has domicile, residence or social registered office in Romania;
- c) has full capacity of exercise;
- d) possesses university level technical, scientific or legal qualification;
- e) has been practicing for at least 3 years in the basic professional field and for at least 3 years in the industrial property field. The two periods may overlap wholly or partially;
- f) was not sentenced irrevocably for a crime punished by the criminal law, that made him unworthy of being an industrial property attorney.

### **Art. 6**

The specialists in the industrial property field who were employees of the State Office for Inventions and Trademarks for at least 5 years as well as the teaching staff that can prove

having taught industrial property in accredited or authorized law faculties for at least 5 years before acquiring the status of industrial property attorney need not take the examination in that field of industrial property in which they carried on their activity.

#### **Art. 7**

(1) The qualifying examination for the profession of industrial property attorney is carried on for the following industrial property objects:

- a) patents;
- b) trademarks and geographical indications;
- c) industrial designs;
- d) topographies of integrated circuits.

(2) The conditions concerning the organizing and passing the qualifying examination shall be stipulated in the instructions approved by the Director General of the State Office for Inventions and Trademarks upon proposal by the President of the Chamber.

#### **Art. 8**

(1) The national of a Member State of the European Union or of any other State in the EEA may exercise the profession of industrial property attorney on the territory of Romania under the conditions provided for by the law.

(2) The person mentioned under paragraph (1) who has acquired the qualification of industrial property attorney in the Member State of origin may request the recognition of his/her diploma with a view to acquiring the status of industrial property attorney and practising said profession on the territory of Romania.

(3) The national of a Member State of the European Union or of any other State in the EEA shall prove that he/she fulfils the conditions provided in Art.5. letters d) and e) by presenting the documents issued by the competent authorities in the State of origin, with their lawful recognition or equivalence.

(4) The provisions of paragraphs (2) and (3) shall also apply to nationals of Romania who have acquired the qualification in a Member State of the European Union or of any other State in the EEA .

(5) The provisions of this article shall be completed by the provisions of the Law no.200/2004 on the recognition of diplomas and professional qualifications for the regulated professions in Romania, with the subsequent amendments, as well as by the provisions of the treaties to which Romania is a party.

## **CHAPTER III**

### **Entering in the National Register of Industrial Property Attorneys**

#### **Art. 9**

The State Office for Inventions and Trademarks is the depository of the National Register of Industrial Property Attorneys, which includes:

- a) the list of industrial property attorneys having their residence in Romania
- b) the list of industrial property attorneys which temporarily carry out industrial property services in Romania.

#### **Art. 10**

(1) For the acquisition of the status of industrial property attorney, the State Office for Inventions and Trademarks shall organize the qualifying examination to be held before a board with a nominal composition established by an order of the Director General of the State Office for Inventions and Trademarks.

(2) The board shall have 3 - 7 members for each industrial property object for which the examination is held.

(3) The board shall consist of:

- a) a chairman appointed from among the persons in the leadership of the State Office for Inventions and Trademarks, having duties in the field of industrial property protection;
- b) members, who are persons having technical and/or legal qualification and experience in the field of industrial property, specialists with at least 5 years of employment with the State Office for Inventions and Trademarks, teaching staff at the university level that have taught the industrial property law, as well as one member of the Chamber, who is an industrial property attorney proposed by the President of the Chamber.

#### **Art. 11**

The results of the examination may be appealed against within 15 days from notification thereof and they shall be re-examined by a board established to that purpose and having the Director General of the State Office for Inventions and Trademarks or his representative as a chairman.

#### **Art. 12**

The decisions of the board stipulated by Art. 11 to allow or to reject an appeal shall be notified to the candidate in writing within 30 days from lodging the appeal with the State Office for Inventions and Trademarks.

#### **Art. 13**

The authorized industrial property attorneys shall be nominally entered in the National Register of Industrial Property Attorneys, according to the law, while mentioning the basic profession according to the graduation degree of a higher education institution, the field of industrial property for which they were authorized, namely: inventions, trademarks and geographical indications, industrial designs, topographies of integrated circuits as well as further significant information on the activity of the industrial property attorney.

#### **Art. 14**

The State Office for Inventions and Trademarks shall publish in the Official Industrial Property Bulletin the lists of the industrial property attorneys entered in the National Register of Industrial Property Attorneys and who are members of the Chamber, according to the data communicated by the Chamber.

### **CHAPTER IV**

#### **Rights and duties of industrial property attorneys**

#### **Art. 15**

(1) The freelance industrial property attorney entered in the National Register of Industrial Property Attorneys and member of the Chamber is entitled to render assistance to any Romanian or foreign natural or legal person and to ensure the representation thereof before the State Office for Inventions and Trademarks as well as before third parties on the basis of a power of attorney assumed in writing by both parties.

(2) The industrial property attorney having the position of a specialized employee, entered in the National Register of Industrial Property Attorneys and member of the Chamber is entitled to assist and to represent only the employing enterprise or company before the State Office for Inventions and Trademarks as well as before third parties.

#### **Art. 16**

The freelance industrial property attorney carries on his professional activity on the basis of an agreement, and shall be entitled to a fee charge and to reimbursement of all expenses incurred in his client's interest.

#### **Art. 17**

The industrial property attorney shall be bound not to disclose data and information

entrusted to him by his client or in relation to his client or shall do it only within the limits of his mandate and under the conditions provided for by the law.

#### **Art. 18**

The industrial property attorney shall be bound to act in good faith and professional integrity and only within the limits of his mandate.

#### **Art. 19**

The industrial property attorney who is a member of the Chamber shall have the right to free access to other forms of professional association compatible with his profession.

### **CHAPTER V**

#### **Exercise of the profession of industrial property attorney**

#### **Art. 20**

(1) The freelance industrial property attorneys carry on their activity in authorized private offices, private offices associated on a contract basis, civil professional companies having the status of legal entities or trade companies having as sole object the activities in the industrial property field.

(2) The civil professional company may consist of 2 or more authorized industrial property attorneys. Within said civil professional company, industrial property attorneys, experts or other specialists may exercise their profession as collaborators or employees. The civil professional company and the industrial property attorneys carrying out their activity within said company cannot render assistance to persons having opposing interests.

(3) The industrial property attorney may also exercise his profession as an employee specialized in the industrial property protection field within an enterprise or trade company having another object of activity than the industrial property.

#### **Art. 21**

(1) The industrial property attorneys who are employees specialized in industrial property protection shall exercise their profession for the enterprises or trade companies where they are employed and nominated in the list of functions, within the limits of competence attributed to that function.

(2) The industrial property attorneys specified in paragraph (1) may also carry on activities specific to their profession for other persons, on the basis of a contract and power

of attorney, with the proviso of fulfilling the conditions of:

- a) having the approval of the leadership of the enterprise where he works;
- b) abiding the Code of Professional Conduct
- c) proving the legal fiscal registration of his activity.

#### **Art. 22**

The industrial property attorney cannot render assistance or represent principals if they have opposing interests in the same case or in related cases and cannot act against a principal to whom they lent advice in relation to that case.

#### **Art. 23**

(1) The industrial property attorney who is a member of the Chamber cannot exercise the profession of industrial property attorney as long as he/she is an employee of the State Office for Inventions and Trademarks.

(2) Where the former employee of the State Office for Inventions and Trademarks carried on his activity in one of the following fields of industrial property: trademarks, industrial designs, topographies of integrated circuits, then the representation of the principals for the applications for protection in the mentioned fields shall be made only for the applications that have been filed with the State Office for Inventions and Trademarks after the employee ceased his activity within the Office.

(3) Where the former employee of the State Office for Inventions and Trademarks carried on his activity in the field of patents, the provisions of paragraph (2) shall apply similarly, if the inventions claimed in those patent applications belong to the basic technical field in which the former employee carried on his activity.

#### **Art. 24**

The industrial property attorney who withdraws his services within 3 working days from his empowerment by the client through the power of attorney shall inform the client about his decision, take the necessary steps to avoid prejudicing his client and inform the State Office for inventions and Trademarks in that respect.

#### **Art.25**

The exercise of the profession of industrial property attorney is incompatible with:

a) occupations prejudicing dignity, morality and the independence of the profession of industrial property attorney;

- b) carrying on activities generating unfair competition;
- c) directly exercising trade activities in the industrial property field;
- d) the status of employee of the State Office for Inventions and Trademarks.

## **Art. 26**

(1) Notwithstanding with the provisions of Chapter II, the nationals of Member States of the European Union or of any other States in the EEA, having their residence fixed in one of said States with a view to exercising the profession of industrial property attorney, may occasionally or temporarily carry on activities specific to this profession on the territory of Romania by filing a statement with the Chamber.

(2) The statement specified in paragraph (1) shall include: full name of the person and the professional title in the State where he/she has fixed his/her residence, or, in the absence thereof, the academic title, the designation and address of the competent authority in the State where he/she has fixed his/her residence, where the profession is subject to authorization in that State, the registered office in the State where he/she has fixed his/her residence, where appropriate, the Register where it is registered in said State, the registering number or other equivalent identification data contained in that Register, the place of carrying on the activity in Romania, the address for correspondence.

(3) The statement specified in paragraph (1) shall be accompanied by the following documents:

- a) the proof of his/her citizenship;
- b) the document proving that he/she has legally fixed his/her residence in a Member State of the European Union or in any other State in the EEA with a view to carrying on industrial property attorney activities and that, at the moment of filing the statement, he/she was not subject to any injunction, even temporarily, in respect of the exercise of his/her profession;
- c) the proof of professional qualification, or, where in the Member State where he/she has fixed his/her residence, the exercise of the profession of industrial property attorney is not subject of special regulations, the proof, issued by the competent authorities of said State, of having carried on the activities specific to the profession for at least 2 years during the last 10 years;

(4) The persons specified in paragraph (1) shall be subject to the same rules of professional conduct as the industrial property attorneys having their residence fixed in Romania.



## **CHAPTER VI**

### **Representation**

#### **Art. 27**

(1) The representation of the applicants, of industrial property right holders or of persons interested in all the proceedings before the State Office for Inventions and Trademarks by the industrial property attorney shall be based on a general power of attorney or a power of attorney for each request.

(2) In case of a general power of attorney, a copy of it shall be filed with the State Office for Inventions and Trademarks, provided that the authorized representative indicates in any application the power of attorney based on which he acts.

(3) In the proceedings before the State Office for Inventions and Trademarks the industrial property attorney may represent a client only for the industrial property field in which he was authorized.

(4) In case of representation, the withdrawal, renunciation of applications or the transfer of rights shall only be possible on the basis of a power of attorney comprising explicit mentions concerning those acts.

#### **Art. 28**

(1) In case of appeals and requests for revocation, as the case may be, the applicant or the right holder may also be represented by an attorney-at-law or legal adviser.

(2) The representation of the applicants, right holders or interested persons by the industrial property attorneys before the law courts is conditioned by their status of attorney-at-law or legal adviser.

## **CHAPTER VII**

### **Suspension and cessation of the exercise of the profession of industrial property attorney**

#### **Art.29**

The right to exercise the profession of industrial property attorney shall be suspended:

- a) for incompatibility;
- b) for failure to pay the subscription to the Chamber for one calendar year;

c) over the period of an injunction to exercise the profession of industrial property attorney as a result of the disciplinary penalty maintained by virtue of a court decision.

### **Art. 30**

The right to exercise the profession of industrial property attorney shall cease:

- a) by written renunciation to exercise the profession, filed with the Chamber;
- b) by loss of the Romanian citizenship or renunciation thereof;
- c) where the industrial property attorney has no longer the domicile, residence or social registered office in Romania;
- d) where the condition provided for in Art. 5 letter a) is no longer fulfilled;
- e) where the industrial property attorney was irrevocably forbidden to exercise his profession;
- f) where he is no longer capable to exercise;
- g) where the industrial property attorney was irrevocably sentenced for a crime punishable by the Criminal Code which made him unworthy of being an industrial property attorney;
- h) upon death.

## **CHAPTER VIII**

### **Disciplinary liability**

#### **Art. 31**

The disciplinary penalties incurred by industrial property attorneys are the following:

- a) reprimand;
- b) warning;
- c) injunction to exercise the profession for 3 - 12 months;
- d) final injunction in respect of the exercise of the profession.

#### **Art. 32**

The disciplinary penalties provided in Art. 31 letters a) - d) shall be applied by a Disciplinary Board of the Chamber. The procedure of settling the intimations as to breaches of the Code of Professional Conduct and failure to discharge the professional duties is stipulated in the Statute of the Chamber.

#### **Art. 33**

(1) The Disciplinary Board of the Chamber shall consist of 7 members, industrial property attorneys with at least 5 years of service from which a chairman and a secretary shall be elected.

(2) No member of the Disciplinary Board can be a member of the Chamber leadership.

(3) The decisions of the Disciplinary Board shall be taken by the majority of votes of the members thereof.

#### **Art. 34**

(1) The decisions of the Disciplinary Board of the Chamber imposing a penalty provided for in Art. 29 letters c) and d) may be appealed against with the competent law court, within 30 days since communication.

(2) The competence to judge vests in the administrative disputed claims court. The preliminary procedure is not compulsory.

(3) The decisions of the Disciplinary Board of the Chamber that have not been appealed against in the period provided for in paragraph (1) shall be communicated to the State Office for Inventions and Trademarks immediately after the end of the period.

(4) The final and irrevocable decisions of the law courts by which penalties have been imposed to the members of the Chamber shall be communicated to the State Office for Inventions and Trademarks in order to be mentioned in the National Register of Industrial Property Attorneys and published in the Official Industrial Property Bulletin.

### **CHAPTER IX**

#### **Organization and functioning of the Chamber**

#### **Art. 35**

(1) The Chamber is a non-governmental professional organization carrying on its activity by self-financing and non-profit and having legal status, whose members are industrial property attorneys as natural persons.

(2) The Chamber has the headquarters in Bucharest.

(3) The activity of the Chamber is financed from enrolment fees, annual subscriptions of the members, funds resulting from the organization of symposia, conferences, specific editorial activities as well as from donations, sponsorship or other sources.

#### **Art. 36**

The industrial property attorney shall be entitled to become a member of the Chamber at his request.

### **Art. 37**

The Chamber shall have the following duties:

- a) to ensure the exercise of the profession of industrial property attorney while observing the Code of Professional Conduct;
- b) to administer and to transmit the records of its members monthly to the State Office for Inventions and Trademarks, mentioning the trade company or the enterprise where they work, as the case may be;
- c) to defend the professional interests of its members;
- d) to contribute to the improvement of the professional qualification of its members in the industrial property field;
- e) to ensure the compliance by its members of the Code of Professional Conduct;
- f) to cooperate with similar bodies at national and international level.

### **Art. 38**

(1) The leading bodies of the Chamber are:

- a) the Conference;
- b) the Leading Council;
- c) the President of the Chamber.

(2) The persons elected by the Leading Council and the President of the Chamber can be reelected for at most two successive two-year periods.

### **Art. 39**

(1) The Conference shall consist of all members of the Chamber and shall have the following duties:

- a) to adopt and amend the Statute of the Chamber and the Code of Professional Conduct;
- b) to adopt the organization of the administrative structure of the Chamber;
- c) to elect and to revoke the President and Vice-President of the Chamber;
- d) to elect and to revoke the members of the Leading Council of the Chamber;
- e) to elect the members of the specialized boards and of the Disciplinary Board of the Chamber;
- f) to adopt and amend the Regulations of functioning of the Chamber;
- g) to approve the income and expenditure budget as well as the balance sheet of the Chamber.

(2) The Conference shall be legally constituted on the first summons in presence of the absolute majority of the members of the Chamber and the decisions shall be adopted by

the votes of the simple majority of the members who are present.

(3) Where on the first summons the requirement as to presence is not met, the Conference to come shall be legally constituted by a third of the members of the Chamber and may adopt decisions.

#### **Art. 40**

The ordinary activity of the Chamber shall be managed by the Leading Council which consists of 7 - 11 members and shall adopt decisions by the vote of the majority of its members.

#### **Art. 41**

The summons, organization and taking place of the meetings, the competence of the leadership, the organization and functioning of the specialized boards and of the Disciplinary Board of the Chamber and the rights and obligations of the members of the Chamber shall be established in the Statute of the Chamber.

#### **Art. 42**

The President of the Chamber shall have the following duties:

- a) to represent the Chamber in its relations with natural and legal persons at the national and international level;
- b) to conclude, on behalf of the Chamber, conventions and contracts, approved by the Leading Council;
- c) to be the president of the Leading Council;
- d) to summon and chair the meetings of the Leading Council;
- e) to order the Chamber expenditure;
- f) other duties set by the Conference.

#### **Art. 43**

Where the President is temporarily unable to exercise his duties, these will be taken over by the Vice-President over that period of time.

### **CHAPTER X**

#### **Transitory and final provisions**

#### **Art. 44**

The natural persons who acquired the status of industrial property attorney before the entry into force of the present ordinance shall be entered into the National Register of

Industrial Property Attorneys according to the law.

**Art. 45**

Upon the entry into force of the present ordinance, paragraphs (4) - (12) in the Rule 5 -Representation through authorized representative - in the Government Decision no. 152/1992 for approving the Implementing Regulations of the Patent Law no. 64/1991 published in the Official Gazette of Romania, Part I no. 79 of April 30, 1992, as well as any contrary provisions shall be abrogated.

**Art. 46**

The Chamber shall elaborate the Code of Professional Conduct within 60 days from the entry into force of this ordinance and shall request the competent authority to include the activities of industrial property protection into the Classification of activities in the national economy.

**Art. 47**

This ordinance enters into force within 30 days from the date of publication in the Official Gazette of Romania, Part I.

**Art. 48**

Until this ordinance enters into force, the State Office for Inventions and Trademarks shall elaborate instructions for the implementation thereof to be published in the Official Gazette of Romania, Part I.