Capacity Building on Intellectual Property Rights (example of the Republic of Moldova)

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Republic of Moldova - an integral part of Europe

Due to the restructuring process that started in the Central and Eastern Europe, in June 1990 Moldova proclaimed its sovereignty, and on August 27, 1991 – its State Independence. In March 2, 1992, the Republic of Moldova became a member of the United Nations, and on 13 July 1995 Moldova became a full-fledged member of the Council of Europe.

- Location: in the central part of Europe
- Area: 33,843 sq. Km
- Population: 4,264,300 inh.
- Capital: Chișinău
After the collapse of the USSR and the declaration of its independence on 27 August 1991, the Republic of Moldova passed through a complex stage of transition to the market economy and experienced a significant economic recession.

The deficiencies in the field of IP could be described as follows:

- Lack of adequate legal framework;
- Lack of related specialized institutions;
- Lack of sufficient trained personnel;
- Lack of private property, in general, and lack of exclusive rights, in particular, on intellectual product.

The Republic of Moldova, like other post-soviet countries, had to develop its national IP system ab origin.

This stage is characterized by the establishment of the institutional and legislative framework of the IP system, namely the structures, instruments and institutions, responsible for carrying out the intellectual property related issues. By the President Decrees were established:

- The State Agency on Copyright (ADA) - on 25 November 1991;

AGEPI being the central public administration body mandated to elaborate strategy, define the directions and to assure the realisation of the State Policy in the Industrial Property field. The date of establishment of the AGEPI – 8 September 1992 – is considered the official date of the constitution of the National IP System.

The main achievements to be mentioned at this stage:
• crystallization of the core of experts in the IP field;
• adoption of the first normative acts in the field, creation of the institution of representatives in industrial property;
• establishment of certain constructive bilateral and multilateral relations with the international organizations and specialized offices from abroad;
• adhesion to the most important international conventions in the field; and
• integration of the Republic of Moldova in the International Intellectual Property Protection System.
II. Consolidation and modernization of the system (1996-2003) (I)

- implementation of the intellectual property legislation;
- preparation and upgrading of a large number of specialists and representatives in industrial property;
- creation of the first association of collective administration of patrimonial copyrights – AsDAC;
- fruitful cooperation with the offices of other countries and with the World Intellectual Property Organization (WIPO);
- harmonization of the national legislation with the norms of the international law, especially with the provisions of the TRIPS Agreement, fact that contributed to the adhesion in 2001 of the Republic of Moldova to WTO;
- adoption of the Regulations on evaluation of IPOs and on attestation of evaluators of IPOs, which set out the rules for the implementation of the provisions of the Law on Evaluation Activity, and as a result - the first group of valuators in the IP field was attested;
- multiple IP promotion activities, especially by wide promotion of IP knowledge in the business media, educational and research institutions, administrative and law bodies, Customs Service etc.
II. Consolidation and modernization of the IP system (1996-2003) (II)

In this stage the Republic of Moldova continued to join to international treaties and agreements administered by WIPO and signed some regional acts within CIS.

On 18 September 2003 the Government of Moldova adopted the Strategy on developing the National System of Protection and Use of Intellectual Property Objects up to 2010, by which it is pursued:

- the promotion of a coherent state policy in the filed of IP, compatible with the mechanisms of the European Union and other developed states of the world,
- the insurance of an efficient protection of the rights on IPOs,
- the integration of the national system of IP protection in the economic, social and cultural development of the Republic of Moldova.
III. Unification of the IP system and its inclusion in the research and innovation system (starting from 2004)

- On 15 July 2004 the Parliament of the Republic of Moldova enacted the

  **Code on Science and Innovation**


- The Code regulates the state policy in the field of science and innovation, including the scientific research activity, transfer of technology, accreditation of R&D institutions, scientific and technological information, **protection of intellectual property** etc.
Institutional reform (I)

• With the view to implement the provisions of the Code, the State Agency on Intellectual Property of the Republic of Moldova (AGEPI) was created by merging the two, existing at that moment, bodies dealing with IP issues, namely: the State Agency on Industrial Property and the State Agency on Copyright:

  (new) AGEPI = (former) AGEPI + ADA

• AGEPI is a specialized governmental body, invested with a right to grant protection to intellectual property objects.

• AGEPI organizes and performs the legal protection of intellectual property in the form of industrial property and of copyright and related rights on the territory of the Republic of Moldova.
Institutional reform (II)

AGEPI ([http://www.agepi.md/](http://www.agepi.md/)):

- elaborates proposals on state policy and drafts of legislative and other normative acts in the field of protection of intellectual property, makes proposals for improvement of the national legislation in this field;
- creates national system of protection of intellectual property and administers it in accordance with the legislation of the Republic of Moldova and international agreements, to which the Republic of Moldova is a party;
- elaborates proposals for improvement of the national system of protection of intellectual property and exercises the control of the application of the legislation of the Republic of Moldova and international agreements in this field, to which the Republic of Moldova is a party;
- elaborates, coordinates and performs programs for development of its activity and of collaboration with similar organizations from other countries or international organizations in this field;
- elaborates and performs programs of theoretical and practical training and improvement of specialists in the field of intellectual property;
- elaborates and perform programs of implementation of the intellectual property, stimulation of activity in the field of science and innovations; etc.
Institutional reform (III)

For the purpose of coordination, stimulation and implementation of the mechanisms of the activity in the field of innovations and transfer of technologies the **Agency for Innovations and Transfer of Technologies (AITT)** was created.

**AITT** ([http://www.aitt.md/](http://www.aitt.md/)):

- carries out the state policy in the field of innovations and transfer of technologies;
- elaborates proposals for improvement of normative-legal basis in the field of innovations and transfer of technologies;
- determines the strategic directions of activity in the field of innovations and transfer of technologies, which are stipulated in the programs and projects at all levels;
- coordinates the creation process of the infrastructure in the field of innovations and transfer of technologies;
- provide specialized help in the field of innovations of transfer of technologies; etc.
Enforcement of IPRs

- During the last years, AGEPI realized a wide range of activities aimed to contribute to a better enforcement of IPR in Moldova, including:
  - IP training (for police, customs, IP owners, etc);
  - observance of the market as to the pirated audio-visual-products;
  - elaboration of a Study on counterfeiting and piracy;
  - organization of seminars and workshops for different categories of stakeholders;
  - dissemination of information to the large public;
  - establishment of a communication mechanism with the civil society, etc.
Growth of the IP importance

Special chapters focused on IP issues have been included in various state programs:

- Strategy for Sustaining the Development of Small and Medium Sized Enterprises for the period 2006 - 2008 and the Strategy implementation action plan;
- Strategy for the Economic Growth and Reduction of Poverty (SEGRP);
- National Strategy for the Innovation for the period 2008 – 2011 (draft), etc.
Implementation of the Action Plan
Republic of Moldova – European Union (RM-EU). Objectives related to the IPRs

Ensure a level of protection similar to that in the EU, including effective means of enforcement, in line with provisions in articles 49 & 50 of the EU-RM Partnership and Cooperation Agreement (PCA)

Objective 1. Apply international standards in this area, including in particular the TRIPS Agreement

- During the implementation of the RM-EU Action Plan, the Republic of Moldova’s efforts were focused on the approximation of the national legislation to the Acquis Communautaire requirements, and this reason for, new laws have been drafted that will ensure the compliance of the Moldavan IP legislation with the EU regulations and directives
New laws on intellectual property have been developed as to harmonize the IP legal system of Moldova with the international standards and UE legislation in the field:

**Adopted:**
- *Law on the Protection of Inventions;*
- *Law on the Protection of Industrial Designs;*
- *Law on the Protection of Trademarks;*
- *Law on the Protection of Geographical Indications, Appellations of Origin and Traditional Specialties Guaranteed;*
- *Law on the Protection of Plant Varieties.*

**Drafted:**
- *Law on Copyright and Related Rights.*

This activity is carried out on the basis of a grant offered to the Republic of Moldova by the European Union, with the assistance of the European Union experts.
Objective 2. Ensure proper functioning of the judicial system to guarantee access to justice for right-holders and availability and effective implementation of sanctions

As a result of the constructive dialogue, between the AGEPI, the Court of Appeals and the Supreme Court of Justice, in order to offer public access to the legal information and case law in the field of intellectual property rights enforcement, the following actions have been undertaken:

- a data base on the legal decisions in the IP field has been elaborated. The data base is available on the AGEPI web page: www.agepi.md/md/decizii_judecata/index.php;
- publication of the legal decisions summaries in the Official Bulletin of Industrial Property;
- dissemination of the information via e-mail and the AGEPI web site, regarding the evolution of the legislative system;
- seminars and round tables are regularly organized, within which the legislative news and case law in the field are presented;
- two Data bases have been elaborated permitting the e-administration of the data related to the litigations examined within the AGEPI Board of Appeals (data base “Board of Appeals”) and the litigations in court trials in which the AGEPI participate as a party to the process or as a third party (data base “Contentious”).
Objective 3.1. Consolidation of the relevant institutional structures, as well as of the offices for industrial rights, copyrights protection and collective societies

Institutional consolidation of the IP system:
• a single specialized body - AGEPI and the strengthening of its legal and institutional capacities;
• the customs system of the Republic of Moldova has been upgraded, the structure and the responsibilities of the Customs Service being enhanced.

Collaboration agreements between the AGEPI and the Ministry of Internal Affairs, the Customs Service, the Ministry of Information Development, were signed providing for common actions, rendering consultations, exchange of information and training of the personnel involved in IP rights enforcement;
Objective 3.2. Extend cooperation with third country authorities and industry associations (I)

- The bilateral Agreements of collaboration in the field of IP between the AGEPI and the third countries authorities and IP regional organizations are supervised and implemented on a regular base;
- Exchange of information, legislation and experience with similar institutions from over 30 countries, with which the RM established bilateral relations of collaboration. There were strengthened relations of collaboration with the European Patent Office (EPO);
- Negotiations on establishing cooperation relations with the Community Offices in the field of intellectual property have been initiated, namely with Community Plant Variety Office (CPVO) and Community Office for Harmonization of the Internal Market (OHIM);
- Mutual advantageous relations with CIS state members and Eurasian regional organizations are maintained;
- At the regional level, the AGEPI collaborates with the Eurasian Patent Organization (EAPO), the Interstate Council on the Industrial Property Protection (ICIPP) and the Joint Working Commission on enforcement of the Agreement of Cooperation for the Prevention and Repression of the IP rights infringements.
Objective 3.2. Extend cooperation with third country authorities and industry associations (II)

- AGEPI keeps relations of collaboration with the Embassies accredited in the Republic of Moldova, representatives of foreign companies and associations of foreign right holders operating on Moldavian market.

Relations of cooperation with:
- the representatives of the BSA (Business Software Alliance),
- the International Federation of Phonographic Industries (IFPI),
- the Coalition for Intellectual Property Rights (CIPR) and
- the Microsoft in Moldova,

have been established in order to identify the most effective methods of involvement of the right holders in the process of strengthening the system of IP rights enforcement on the territory of Moldova, including the assessment of means to improve the protection of the software. In the year 2007 some trainings on licensing and protection of software and working meetings with the representatives of the BSA and Microsoft were organized.
Objective 4. Increase resources dedicated to enforcement, in particular for the customs authorities and the judicial system and increase seizures and actions against counterfeit/pirated goods in specifically targeted sectors

Consolidation of the legal framework in the field of IP rights protection:

- the amendments to the Penal Code of the Republic of Moldova - liability for industrial property rights infringement was introduced and the provisions related to the penal liability for copyright and related rights were modified.

- a draft law on amending and completing the Customs Code was elaborated, including the chapter regarding the protection of intellectual property rights, which transpose the provisions of the Acquis Communautaire.
Consolidation of the institutional capacities of the IP enforcement bodies:

- A permanent dialogue between AGEPI, the Ministry of Internal Affairs, Customs Service and the National Agency for the Protection of Competition was established, common activities programs are elaborated on an annual base, including activities for repressing counterfeiting and piracy;
- AGEPI in cooperation with the Ministry of Internal Affairs and other competent authorities, undertake, *ex-officio* and at the request of the right holders, inspections on observance of the copyright and related rights, and participate in seizures and destructions of the counterfeited or pirated audio-visual goods;
- in October 2007, AGEPI made available to the Customs Service, the Ministry of Internal Affairs and the National Agency for the Protection of Competition on-line access to the Registers of industrial property objects (trademarks, inventions, industrial designs and utility models) protected on the territory of the Republic of Moldova.
Objective 5. Improve enforcement of the relevant conventions provided for by PCA Article 49(2). Conduct a study on piracy and counterfeiting in Moldova and ensure effective dialogue with rights holders

AGEPI actively collaborates with the international specialized organizations:

- WIPO, which administers 22 international treaties and agreements in the field of intellectual property, to which the Republic of Moldova is party;
- UN: AGEPI participate at the UNECE activities in the field of intellectual property and innovations;
- WTO: AGEPI presents the country’s position on IP protection issues approached within the TRIPS Council and notifies the WTO Secretariat on the amendments intervened in the national IP legislation, monitors the implementation of the TRIPS Agreement at the national level.
# National and Regional Seminars organized by the AGEPI in collaboration with International Organizations (I)

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<td>3.</td>
<td>EAPO-WIPO Subregional Seminar on Industrial Property Administration and Information Technology</td>
<td>Feb 27 to Mar 1, 2007</td>
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<td>4.</td>
<td>WIPO-CISAC Seminar on Copyright and Broadcasting</td>
<td>Nov 8-9, 2006</td>
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### National and Regional Seminars organized by the AGEPI in collaboration with International Organizations (II)

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<td>8</td>
<td>WIPO Regional Seminar on Industrial Property as a Power Tool for Economic Growth in the Commonwealth of Independent States (CIS)</td>
<td>Mar 11-12, 2003</td>
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<td>9</td>
<td>WIPO National Seminar on Trademarks and Geographical Indications</td>
<td>Sep 5-6, 2002</td>
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<td>10</td>
<td>UPOV-WIPO Roving Seminar on the Protection of Plant Varieties under the UPOV Convention, the Patent System and the TRIPS Agreement</td>
<td>Mar 13-14, 2000</td>
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<td>12</td>
<td>WIPO Regional Seminar on the Valuation of Industrial Property Assets</td>
<td>May 13-14, 1997</td>
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Communication with the rightowners and other interested stakeholders

- The AGEPI organizes national seminars, round tables, etc. for different categories of interested persons so as to disseminate the information on IPRs protection system and the economic benefits to be achieved as a result of IP assets capitalization. An important goal is the increase of the level of awareness on the risks of counterfeiting and piracy for both producers and consumers.

- A special attention has been paid to the collaboration with the representatives in the field of IP, members of the local Unions of Creations and Publishing Houses, broadcasting and TV companies, information technologies firms.

- Starting with June 2007, a mechanism of collaboration with civil society has been established. In this respect, meetings with civil society organizations and representatives in the field of intellectual property are monthly organized.

- In the year 2006, a survey on IP rights enforcement and extent of counterfeit and piracy, has been developed. The survey results were submitted to the European Commission and placed on the AGEPI web site: www.agepi.md.
National Commission on Intellectual Property

Recently, the National Commission on Intellectual Property has been created by the Governmental Decree no.489 of March 29, 2008. The Commission has the responsibility to coordinate and ensure the interaction between the ministries, other central administrative bodies with the IP rightowners on the activities oriented towards:

- the development and consolidation of the national IP system;
- repressing and prevention of IPR infringement;
- anti-counterfeiting activities, including repressing of import and commercialization of counterfeited goods in the Republic Moldova.