

**Republic of Moldova Government**

**DECISION**  
**amending and supplementing the Regulations on the Procedure of Filing and Examination**  
**of a Patent Application and of Issuance of a Patent**

**No. 406 of 06.06.2017**

*Official Gazette No. 181-189/495 of 09.06.2017*

\* \* \*

The Government **DECIDES**:

The Regulations on the Procedure of Filing and Examination of a Patent Application and of Issuance of a Patent, approved by the [Government Decision No.528 of 1 September 2009](#) (Official Gazette of the Republic of Moldova, 2009, No. 138-139, art. 593), with further amendments and supplements, shall be amended and supplemented as follows:

1) in point 1, the words “Industrial Property” shall be replaced by the words “Intellectual Property”, the words “and Eurasian” shall be excluded, and after the words “receiving Office”, the text “the procedure for validation of the European patent in the Republic of Moldova” shall be introduced;

2) the amendment shall be made in the Russian version;

3) point 2 shall finally be supplemented by the sentence “The technical character of the invention shall be determined by the presence of the technical features which can be characterized by physical, chemical, biological parameters or other parameters that can be measured and assessed.”;

(4) in point 3:

letter a) shall have the following content:

“a) a product - device, substance, strain of microorganisms, plant or animal cell culture;

devices include machines, apparatuses, instruments, mechanisms, machine parts, tools, aggregates, electrotechnical and electronic apparatuses and circuits, individually or constructively and/or functionally linked in some systems, as well as control and protection systems, software equipment, algorithm/program-physical structure, algorithm/program-process combinations, building elements, furniture, household objects, toys, etc.;

substances include chemical substances, which may be individual compounds, compositions, pharmaceutical and phytopharmaceutical products, as well as biological materials, mixtures, etc.”;

5) in point 4, the words “for pharmaceutical purposes” shall be introduced after the text “(natural or synthesized)”;

6) point 10 shall be supplemented by the letter f), with the following content:

“f) by online filing via the e-AGEPI service.”;

7) point 16 shall finally be supplemented by the following sentence: “A patent attorney/representative shall be empowered to represent the applicant/owner until the expiration of the term of validity of the power of attorney or until the termination of his/her powers is communicated to the AGEPI by the applicant/owner.”

8) in point 17:

in the first sentence, the text “2 months” shall be replaced by “3 months”;

it shall finally be supplemented by the text “and the materials submitted only under the signature of the patent attorney/representative shall be deemed not to have been filed”;

9) point 24 shall finally be supplemented by the following sentence: “In case of appointment of a new patent attorney/representative, AGEPI shall send correspondence to him/her from the moment of requesting the change of the address for correspondence.”;

10) in point 32, the word “grant” shall be replaced by the word “issuance”;

11) point 36 shall finally be supplemented by the text “in the totality of its essential features and, where appropriate, their constructive and functional relationships”;

12) in point 43:

the word “grant” shall be replaced by the word “issuance”;

in letter (e), the words “as the case may be” shall be deleted;

in letter (i), the word “invoked” shall be replaced by the word “claimed”;

letter l) shall have the following content:

“l) a reference to the initial application from which the divisional application resulted”;

in letter m), the word “to the application” is introduced after the word “related”;

13) point 63 shall have the following content:

“**63.** The title of the invention which relates to the use of a product or process shall include the indication of the destination according to which the product or process according to the invention is used.”;

14) in point 72, the word “grant” shall be replaced by the word “issuance”;

15) in point 107, after the first sentence is introduced the text “In drafting the independent claim, the words “contains”, “consists of”, “is constituted of” shall be used, if the product or process does not contain any other additional elements. In the case of use in the claims of the words “includes”, “comprises”, the product or process may contain additional elements, in addition to those indicated in the claim.”;

16) in point 148, the words “fees for services” shall be replaced by the words “classified list of services”;

17) in point 150, the words “which is the regular national filing” shall be introduced after the words “of the previous application”;

18) in point 152:

after the word “certificate” shall be introduced the text “ , , which shall be filed within 3 months following the filing date of the application and”;

in letter (e), the words “drawn up in the state language” shall be deleted;

19) in point 154, the last sentence shall have the following content: “The statement shall be justified by a certificate, which shall comply with the conditions set out in points 152 and 153 of this Regulations.”;

20) in point 162, the text “The procedures for substantive examination, search or publication of the patent application” shall be replaced by “The procedures for substantive examination or search”;

21) in point 165, after the acronym “AGEPI” shall be introduced the text “prior to the date of delivery of the decision to grant a patent or to refuse the application”;

22) in point 167, the first sentence shall have the following content: “The search for a patent application shall be carried out within six months from the date of filing of the request for search by the applicant or by any person concerned, with the drawing up of a search report or a search report with a written opinion on patentability, subject to payment of the prescribed fee.”;

23) in point 168, in the first sentence, the words “shall be drafted” shall be replaced by the words “shall be drawn up”, and after the words “the search report” shall be introduced the words “or the search report with a written opinion on patentability”;

24) in point 170, the words “for the purpose of establishing the filing date” shall be deleted;

25) point 175:

in the first paragraph, after the words “of the formal examination” shall be introduced the words “or the date of constitution of the regular national filing”;

in letter (a), the text “Article 33” shall be replaced by the text “Articles 32, 33 and 86”;

in letter b), after the text “Rules 32-138” shall be introduced the text “and Rules 142-146”; shall be supplemented by letter j) with the following content:

“j) if the content of translation of the documents submitted in accordance with Article 32, paragraph (3), of the [Law](#) is identical to the content of the documents submitted in another language on the filing date of the application”;

26) in point 176:

the word “the filing” shall be replaced by the word “the materials”;

shall finally be supplemented by the following sentence: “Where it is revealed that the translation submitted under Article 32, paragraph (3), of the [Law](#) does not correspond to the content of the documents submitted on the filing date of the application, the applicant shall be notified of the need to submit the certified translation within 3 months from the date of dispatch of the notification, otherwise the application shall be refused. The applicant has the right to file a new patent application based of the submitted translation, claiming the priority to submit the translation of the patent application.”;

27) points 179 and 181 shall have the following content:

“**179.** If the application contains more than five claims and the additional fee for each claim exceeding five has not been paid, the applicant shall be notified of the need to pay the fee for the uncovered claims or to submit the set of claims which is covered by the paid fee. Otherwise, claims exceeding the number of claims covered by the paid fee shall be deemed to be abandoned and shall be excluded from publication.”;

“**181.** If the applicant fails to reply in due time to the notification, presents an incomplete response, fails to submit the required materials, fails to file a request for extension of the said time limit, AGEPI shall suspend the procedure, notifying the applicant of such fact and giving him the opportunity to re-establish the omitted time limit within 6 months from the date of expiry thereof, with the payment of the fee prescribed pursuant to [Government Decision No.774 of August 13, 1997](#). If, prior to the expiry of the said time limit, the applicant fails to file a request for re-establishment of the omitted time limit, with the submission of the response and the proof of payment of the corresponding fee, the application shall be deemed to be withdrawn, such fact being notified to the applicant.”;

28) point 182 shall finally be supplemented by the following sentence: “If the additional materials amend in whole or in part the essence of the invention and/or do not meet the requirements laid down in the Regulations, the applicant shall be notified that, upon examination, such amendments will not be fully taken into account or in the part that does not comply with the requirements.”;

29) in Chapter III, the title of Section 3 shall have the following content:

### **“Section 3**

#### **Decision on the Refusal of a Patent Application at the Stage of the Preliminary Examination”;**

30) points 186, 192 and 193 shall have the following content:

“**186.** Where the patent application and related documents fall under the provisions laid down in Article 6, paragraph (2), Article 7, Article 12, paragraph (3) or do not meet the requirements laid down in Article 32, paragraph (3), Article 33, paragraph (9) and (10), Articles 48 and 86 of the Law, the decision to refuse the patent application shall be adopted, accompanied by the corresponding grounds.”;

“**192.** For the publication of the patent application before the expiry of the time limit referred to in Article 49, paragraph (1), of the [Law](#), the applicant shall file a request to this effect before the expiry of 15 months from the date of filing or, as the case may be, of priority of the application.

**193.** The publication of the patent application before the expiry of the prescribed time limit shall be made within 3 months from the filing date of the request for publication and the payment of the prescribed fee.”;

31) in point 198, the words “in emergency regime” shall be substituted by the words “before the expiry of the period referred to in Article 49, paragraph (1), of the [Law](#)”;

32) point 201 shall have the following content:

“**201.** AGEPI shall make available to the public the application materials published in BOPI on its official website.”;

33) in point 208, letter g) shall have the following content:

“g) checking of the correctness of recognition of the priority claimed, where appropriate;”

34) in point 210 in the first sentence, after the words “shall be carried out” shall be introduced the words “after completion of the preliminary examination,”;

35) point 223 shall have the following content:

“**223.** Any notification of the AGEPI delivered in the course of the application examination procedure extends the examination period for a period equal to the period elapsing from the date of dispatch of the notification to the date of receipt of the response or if the response has not been submitted, to the date accorded for the submission of the response, as the case may be.”

36) in point 224, after the words “The filing of the patent application” shall be introduced the words “which has the value of a regular national filing”;

37) point 244 shall have the following content:

“**244.** A divisional application filed after the date of dispatch of a decision on the initial application shall be deemed not to have been filed.”;

38) in point 245, the words “of an application or” shall be replaced by the words “of an application and”;

39) in point 246:

letter b) shall finally be supplemented by the words “by technical means”;

letter c) shall have the following content:

“c) disclosure of the invention in accordance with Article 36 of the [Law](#), so as to enable a person skilled in the art to carry out the invention without undertaking an inventive step”;

40) in point 247;

letter c) shall have the following content:

“c) the invention has as subject-matter a product or a process whose operation, respectively use, is obviously contrary to the laws of physics, as is the case of *perpetuum mobile* mechanisms”;

shall be supplemented by letter d) with the following content:

“d) the invention has no technical character, does not solve a technical problem by technical means intended to ensure the obtaining of a technical result”;

41) point 248:

in letter (a), the word “predestined” shall be excluded;

shall be supplemented by letter c) with the following content:

“c) methods for action on the human or animal body without the use of technical means to ensure the obtaining of the expected result”;

42) in point 255, subparagraph 2), letter c) shall have the following content:

“c) European patent applications for which the validation fee has been paid and which have been published, and validated European patents”;

43) in point 257, the words “shall be taken into consideration” shall be replaced by the text “, the minimum collections of documents consulted shall include the MD, EA and EP databases, according to Article 52, paragraph (2), of the [Law](#), and”;

44) point 260 shall be supplemented by the following sentence: “For each citation shall be indicated the claims of the patent application to which it relates, the degree of relevance of the cited document by the symbols used by the international searching offices and, where appropriate, the relevant parts of the documents cited.”;

45) points 261 and 265 shall have the following content:

**“261.** The written opinion accompanying the search report, according to the provisions of Article 18, paragraph (2), and Article 50 of the [Law](#), shall contain a concise assessment of the novelty, inventive step and industrial application of each claim of the patent application as well as explanations on the relevance of the documents cited in relation to the corresponding claims.”;

**“265.** In determining novelty of an invention, only one document in the prior art, namely the one considered to be the closest to the claimed invention, shall be taken into consideration. In this respect, the combination of two separate elements of the prior art and the combination of two separate elements from two different variants described in the same document shall not be allowable unless this combination was explicitly suggested. In a unitary invention, the materials in the prior art shall be taken into consideration individually for each invention.”;

46) point 266 shall finally be supplemented by the words “ , such fact being notified to the applicant.”;

47) point 289 shall finally be supplemented by the following sentence: “If the response submitted does not meet the requirements set out in Article 32, paragraph (4), of the [Law](#) and points 33, 142-145 of this Regulations, the applicant shall be notified of the need to remedy, within one month, the deficiencies found, otherwise the response shall be deemed not to have been filed.”;

48) point 299 shall finally be supplemented by the words“ , such fact being notified to the applicant.”;

49) in point 313, the words “earlier published” shall be excluded;

50) point 325 shall have the following content:

**“325.** In the case of conversion of a patent application into a short-term patent application, the fee difference for the procedures for examination of the application shall not be refunded unless, at the date of filing the request for conversion, the procedure for substantive examination has not commenced.”

51) section 22 shall have the following content:

## **“Section 22**

### **Opposition**

327. The request for examination of an opposition to the grant of a patent shall be completed on a standard form and shall contain:

- a) the name, given name (denomination), address and signature of the person who has filed the opposition (opponent);
- b) the name, address and signature of the representative, where applicable;
- c) the address for correspondence, where applicable;
- d) the request for examination of opposition;
- e) the number and filing date or the number of the patent against which the opposition is filed and the number of BOPI in which the mention of the decision to grant a patent was published.

**328.** The following shall be attached to the request for examination of opposition:

- a) the well-founded opposition, with the statement of the reasons in fact and of the legal grounds on which the opposition is based and its translation, where appropriate;
- b) the proof of payment of the fee prescribed pursuant to [Government Decision No.774 of August 13, 1997](#), for filing of an opposition;
- c) the documents mentioned by the opponent, as well as the additional evidence and arguments on which the opposition is based, where appropriate;
- d) the power of attorney, where appropriate;
- e) the translation of the attached documents, where appropriate.

**329.** In the case of an opposition to the grant of a short-term patent, the opponent shall, in addition to complying with the conditions laid down in points 327 and 328 and in Section 26 of Chapter II of this Regulations, also file the request for carrying out the search for prior art according to Art.8 of the [Law](#), with the drawing up of a search report accompanied by a written

opinion on patentability, as well as the proof of payment of the search fee prescribed pursuant to [Government Decision No.774 of August 13, 1997](#).

**330.** If the Appeals Board notes that the request for examination of opposition and/or the attached documents do not comply with the provisions of point 327 and point 328 letter d) and (e) and, where applicable, point 329 of this Regulations, it shall notify such fact to the opponent and shall give him a period of two months to remedy the deficiencies. If the opponent fails to remedy the deficiencies in due time, the opposition shall be deemed not to have been filed and shall not be admissible for examination in the Appeals Board, and such fact shall be notified to the parties.

**331.** If the Appeals Board finds that the documents referred to in point 328 letter a) and/or letter b) of this Regulations are not annexed to the request for examination of opposition, it shall notify such fact to the opponent who may submit the missing documents within the time limit prescribed for the filing of the opposition. The opposition shall be deemed to have been filed at the date of submission of the missing documents in compliance with the time limit for the filing of the opposition. If the missing documents are not submitted within the time limit prescribed for the filing of the opposition, the opposition shall be deemed not to have been filed.

**332.** If the opposition is admissible, the patent owner shall be notified of the opposition filed and shall be invited to file within two months his observations and, where appropriate, the amendments made to the description, claims and/or drawings.

**333.** The observations and amendments filed by the patent owner shall be notified to the opponent, offering him the opportunity to submit a reply within two months.

**334.** The opponent may submit within 2 months from the filing date of the opposition additional evidence and arguments in support of the reasons in fact and the legal grounds claimed by him. The Appeals Board may require from the opponent or patent owner to submit within two months additional information necessary for examination of opposition.

Any notification made in the examination of opposition and all replies thereto shall be notified to the parties, who may submit within two months their observations on notifications addressed to them or on the communications from the other party.

**335.** Where appropriate, in the examination of opposition in defining prior art, the Appeals Board may require from the responsible subdivision of AGEPI to carry out an additional search, the results of which would make it possible to assess the patentability of the invention.

**336.** If, in the course of examination of opposition, the Appeals Board finds that the maintenance of the decision to grant a patent is possible by way of amendments made to the description and claims, it shall invite the patent owner to file within two months his observations on the proposed amendments or to submit his own version of the amendments in question without extending beyond the content of the original application, the opponent being also invited to file within the same time limit his observations on the proposed amendments.

**337.** If the Appeals Board is of the opinion that at least one of the grounds for opposition provided for in Article 57, paragraph (2), of the [Law](#) is well-grounded, it shall revoke the decision to grant a patent and shall refuse the patent application. Otherwise, it shall reject the opposition.

**338.** If the Appeals Board is of the opinion that, following the amendments made by the patent owner during the opposition proceedings, the patent and the invention to which it relates meet the requirements of the Law, it shall decide to maintain the decision to grant a patent as amended and provided that the conditions laid down in point 336 of this Regulations are fulfilled. Otherwise, it shall revoke the decision to grant a patent and shall refuse the patent application.

**339.** Where AGEPI decides to maintain the decision to grant a patent, it shall invite the applicant to pay within 2 months the fees for the issuance and maintenance of the patent for a period from the filing date up to the issuance of the patent, including for the year of issuance, prescribed pursuant to [Government Decision No.774 of August 13, 1997](#).



**340.** The decision of the Appeals Board to maintain the decision to grant a patent as amended shall contain the text of the claims under which the decision was maintained. The mention of the decision to maintain the decision to grant a patent as amended shall be published in BOPI and shall be entered in the National Register of Patents for Invention.

**341.** The specification of the patent shall be issued within one month from the payment of the prescribed fees, and the particulars concerning the issuance of the amended patent shall be published in BOPI and shall be entered in the National Register of Patents for Invention.

**342.** If the fees provided for in point 399 of this Regulations have not been paid within the prescribed time limit, the proceedings for issuance and maintenance of the patent shall be suspended, such fact being notified to the owner.

**343.** If the owner fails, within six months from the expiry of the time limit provided for in point 339 of this Regulations, to file the request for re-establishment of the omitted time limit and the proof of payment of the corresponding fee, AGEPI shall adopt the decision to forfeit the owner's rights deriving from the patent, which shall be communicated to the owner and shall be published in BOPI.

**344.** Documents mentioned by a party to opposition proceedings shall be filed in two copies.

**345.** If the documents mentioned by a party to the proceedings in support of the reasons in fact and of the legal grounds on which the opposition is based or of the arguments claimed are not attached to the opposition filed or, at the request of AGEPI, are not filed in due time, those reasons, grounds or arguments shall not be taken into account by AGEPI.

**346.** If the patent owner has surrendered the patent or has forfeited the rights in the patent, the procedure for examination of opposition may be continued at the request of the opponent, provided that it is filed within two months of a communication from AGEPI informing him of the surrender or forfeiture.

**347.** In the event of the death or legal incapacity of an opponent, the procedure for the examination of the opposition may be continued ex officio, even without the participation of the successors or legal representatives. The same shall apply where the opposition is withdrawn.”;

52) point 348 shall be repealed;

53) points 349, 350, 352 and 353 shall have the following content:

“**349.** The request for examination of an appeal against a decision adopted by AGEPI shall be completed on a standard form and shall contain:

- a) the name, given name (denomination), address and signature of the appellant;
- b) the name, address and signature of the representative, where applicable;
- c) the address for correspondence, where applicable;
- d) the request for examination of appeal;
- e) the number and filing date or the number of the patent to which the appeal relates.

**350.** The following shall be attached to the request for examination of appeal:

a) the well-founded appeal, with the statement of the reasons in fact and of the legal grounds on which the appeal is based, as well as the evidence and arguments in support of those reasons;

b) the proof of payment of the fee prescribed pursuant to [Government Decision No.774 of August 13, 1997](#) for filing of an appeal;

- c) the power of attorney, where appropriate;
- d) the copies of the relevant materials.”;

“**352.** The appeal filed shall be examined in accordance with the Regulation on the Organization and Functioning of the Appeals Board in the Field of Intellectual Property and the Procedure for Examination of Appeals, approved by the [Government Decision No. 257 of April 2, 2009](#) (Official Gazette of the Republic of Moldova, 2009, No. 69-71, Article 311), with subsequent amendments and supplements, and with Article 59 of the [Law](#).

**353.** Following the examination of appeal, the Appeals Board may adopt one of the following decisions:

- a) to refuse an appeal, while maintaining the appealed decision in force;
- b) to partially or fully admit an appeal, having the revocation or amendment of the adopted decision;
- c) to remit the case to the AGEPI examination subdivision whose decision was appealed for further prosecution.”;
- 54) in point 355, the word “took” shall be replaced by the word “adopted”, and the text “ , in so far as the facts are the same” shall be excluded;
- 55) in point 356, the words “by the examiner who was responsible for the decision appealed or” shall be excluded;
- 56) in point 358, after the words “on the basis of” shall be introduced the word “the results”, and the words “shall be drafted” shall be substituted by the words “shall be drawn up”;
- 57) in point 359, the word “appellant” shall be replaced by the word “parties”;
- 58) in point 361 in the second sentence, the after word “court” shall be introduced the words “remained final and irrevocable”;
- 59) in point 375, the word “published” shall be excluded;
- 60) in point 386, the word “fascicle” shall be replaced by the word “specification”, and the after the text “(title sheet)” shall be inserted words “containing the bibliographic data and the abstract”;
- 61) point 388 shall finally be supplemented by the following sentence: “The maintenance fee shall be paid for each year of protection until the first day of that year of validity.”;
- 62) points 395 and 400 shall have the following content:
- “**395.** The search shall be carried out pursuant to Section 12 of this Chapter for the purpose of establishing whether the subject-matter of the short-term patent is not comprised in prior art and whether it meets the requirements of Article 12 of the [Law](#). The search report pursuant to points 258-261 of this Regulations shall be drawn up on the basis of the carried out search.”;
- “**400.** For the utility model certificate, registered and issued in accordance with the Provisional Regulations on the Protection of Industrial Property in the Republic of Moldova, approved by the [Government Decision No.456 of July 26, 1993](#), the provisions of this Regulations relating to the maintenance, surrender, limitation, cancellation, anticipated forfeiture of rights of the owner and re-establishment of rights shall apply *mutatis mutandis*.”;
- 63) in point 402, the words “substantive examination and search report” shall be replaced by the text “search report, accompanied by a written opinion on patentability”;
- 64) in point 403, first paragraph, after the word “owner(s)” shall be introduced the words “and completed on a standard form”;
- 65) in point 408, the word “reprinting” shall be replaced by the words “printing and issuance”, and the words “a new fascicle” shall be substituted by the words “a new specification”;
- 66) in point 411, first paragraph, after the words “for limitation of patent” shall be introduced the words “shall be completed on a standard form and”
- 67) in point 418, the words “a new fascicle” shall be replaced by the words “a new specification”, and after the word “the printing” shall be introduced the words “and issuance”;
- 68) in point 419, the words “The printed fascicle” shall be replaced by the words “The reprinted specification”, and the words “for reprinting” shall be substituted by the word “prescribed”;
- 69) in point 420, after the word “printing” shall be introduced the words “and issuance”, and the words “a new fascicle” shall be substituted by the words “a new specification”;
- 70) in point 424, letter (c) shall be abrogated;
- 71) in point 425, the words “shall be entered in the Register of Issued Decisions” shall be excluded;
- 72) in Chapter IV, the title of Section 1 shall have the following content:

### **“Section 1**



### **Application for Grant of a Certificate”;**

73) in point 426, the word “a certificate” shall be replaced by the words “for the grant of a supplementary protection certificate”, and the words “and phytopharmaceutical” shall be replaced by the words “or phytopharmaceutical”;

74) points 427 and 428 shall have the following content:

“**427.** The application for grant of a certificate shall contain:

- a) an express request for the grant of a certificate;
- b) the name or address of the applicant;
- c) the name and address of the representative, where appropriate;
- d) the number of the basic patent and the title of the invention;
- (e) the name of the product;
- (f) the description of the product, in particular the relation to the basic patent;
- g) the number and date of the authorization to place the pharmaceutical or

phytopharmaceutical product on the market.

428. The application for the grant of a certificate shall be accompanied by:

(a) a copy of the authorization to place on the market, identifying the authorized pharmaceutical or phytopharmaceutical product;

(b) an abstract of the characteristics of the pharmaceutical or phytopharmaceutical product;

c) proof of payment of the fee for filing the application for the grant of a certificate, prescribed pursuant to [Government Decision No.774 of August 13,1997.](#)”;

75) in point 429, the word “a certificate” shall be replaced by “for the grant of a certificate”;

76) in point 430 letter (c), the words “of the pharmaceutical and phytopharmaceutical product: shall be replaced by the words “of the pharmaceutical or phytopharmaceutical product”;

77) in point 431, the words “the applications for a certificate” shall be replaced by the words “the applications for the grant of a certificate”;

78) in point 432:

the word “a certificate” shall be replaced by the words “for the grant of a certificate”;

letter a) shall finally be supplemented by the words “for the grant of a certificate”;

79) in points 433 and 434, the word “a certificate” shall be replaced by the words “for the grant of a certificate”;

80) shall be supplemented by point 434<sup>1</sup> with the following content:

“**434<sup>1</sup>.** For the request for examination of opposition against the grant of a supplementary protection certificate, the provisions of points 327 and 328 of this Regulations shall apply *mutatis mutandis*.”;

81) points 436-438 shall have the following content:

“**436.** If the opposition is well-founded, the decision to reject the application for the grant of a certificate shall be adopted, otherwise the opposition shall be rejected. The adopted decision shall be communicated to the parties and shall be published in BOPI within 2 months from the date of adoption.

**437.** The decision of the Appeals Board may be appealed by the parties in the courts within two months from the date of delivery of the decision.

**438.** If no opposition has been filed at the expiry of the time limit referred to in point 434 or if any opposition filed has been rejected, the decision to grant the supplementary protection certificate shall be adopted, which shall be communicated to the applicant.”;

82) in point 440 letter f), the words “and phytopharmaceutical” shall be replaced by the words “or phytopharmaceutical”;

83) in point 442 letter a), the text “point 441 of the present Regulations” shall be replaced by the text “in Article 69, paragraphs (2) and (3), of the [Law](#)”;

84) Chapter V shall have the following content:

### **“Chapter V**

## **EUROPEAN PATENT APPLICATION AND VALIDATED EUROPEAN PATENT**

**444.** AGEPI shall publish any request for validation in the Republic of Moldova of the European patent application and the European patent issued on the basis of such a request and enter it in the National Register of Patent Applications within 3 months after it has been informed by the European Patent Office (hereinafter “EPO”) that the prescribed validation fee has been paid, but not before the expiry of a time limit of 18 months from the filing date of the European patent application or, if a priority has been claimed, the earliest priority date.

**445.** The request for validation shall be entered in the National Register of Patent Applications, in the compartment “European Patent Applications”, by assigning a filing number and keeping the filing date of the European patent application.

**446.** The publication in BOPI of the request for validation in accordance with point 444 of the present Regulations shall include the following bibliographic data relating to the European patent application furnished by the EPO:

- a) the number and date of filing of the European patent application;
- b) the number and date of publication of the European patent application;
- c) the number and date of publication of the international application, where appropriate;
- d) the indexes of classification of patents;
- e) information on the priority claimed, where appropriate;
- f) information identifying the applicant(s), inventor(s);
- g) the title of the invention.

**447.** If, following the publication of the request for validation, the European patent application has been finally refused, withdrawn or deemed withdrawn, the request for validation shall be deemed withdrawn, and AGEPI shall publish such information within 3 months after it has been informed by the EPO and enter it in the National Register of Patent Applications, in the compartment “European Patent Applications”.

The publication shall include the following data:

- a) the number and date of filing of the European patent application;
- b) the number of BOPI in which the request for validation of the European patent application was published;
- c) the fact of withdrawal of the request for validation and, where appropriate, the reason for the withdrawal;
- d) the date of withdrawal of the request for validation.

**448.** In accordance with the provisions of Article 44<sup>1</sup>, paragraph (3) of the Law, in order to grant provisional protection to a published European patent application, AGEPI shall make available to the public the translation into the state language of the claims of the European patent application within 3 months from the date of filing by the applicant of a request in this respect, drafted on a standard form approved by AGEPI, a translation of the claims and the proof of payment of the prescribed publication fee. The publication referred to in this point shall include the publication in BOPI of the bibliographic data relating to the European patent application and the making available to the public, on paper and in electronic form, of the translation into the state language of the claims of the European patent application.

**449.** The fee for publication of the translation into the state language of the claims of the European patent application shall be paid at the same time as the translation is furnished or within 3 months from that date, otherwise the request for publication of the translation into the state language of the claims shall be deemed not to have been filed.

**450.** A European patent application for which the validation fee has been paid and which has been rejected, withdrawn or deemed withdrawn may be converted into a patent application or a short-term patent application by filing with the AGEPI a request for conversion drafted on a standard form approved by AGEPI, a copy of the European patent application and its translation into the state language, and the proof of payment of the prescribed fee.

The request for conversion shall be accompanied by the applicant representation power of attorney, where appropriate, the search report prepared by the EPO or by an international searching authority.

**451.** In all actions before AGEPI, the owners shall be represented by a patent attorney empowered by a power of attorney.

**452.** A European patent application converted into a national patent application shall be published in BOPI prior to the expiry of the period of 6 months from the filing date of the request for conversion, but not before the expiry of a period of 18 months from the filing date of the European patent application or, if a priority has been claimed, from the date of the earliest priority.

**453.** AGEPI shall publish the translation into the state language of the specification of the validated European patent (description, claims, drawings and abstract of the European patent) filed in accordance with Article 42<sup>2</sup>, paragraph (6), of the [Law](#), within 3 months from the date of filing with the AGEPI of the request for publication drafted on a standard form approved by AGEPI and payment of the prescribed publication fee, and shall enter the validated European patent in the National Register of Patents, in the compartment “Validated European Patents”.

**454.** AGEPI shall publish the translation in the state language of the validated European patent, amended following the opposition or limitation procedure with the EPO, filed in accordance with Article 42<sup>2</sup>, paragraph (7), of the [Law](#), within 3 months from the date of filing with the AGEPI of a request in this respect, drafted on a standard form approved by AGEPI, a translation of the amended claims and payment of the prescribed publication fee and shall enter the amendments of the validated European patent in the National Register of Patents, in the compartment “Validated European Patents”.

**455.** The fee for publication of the translation into the state language of the documents referred to in points 453 and 454 of this Regulations shall be paid at the same time as the translation is furnished or within 3 months from that date, otherwise the request for publication of the translation into the state language of the said documents shall be deemed not to have been filed.

**456.** The publication referred to in points 453 and 454 of this Regulations shall include the publication in BOPI of the bibliographic data relating to the validated European patent and the making available to the public, in electronic form, of the translation into the state language of the European patent specification, where appropriate, of the amended claims filed pursuant to Article 42<sup>2</sup>, paragraphs (6) and (7), of the [Law](#).

**457.** AGEPI shall, according to Art.44<sup>2</sup>, paragraph (9), of the [Law](#), issue to the owner, upon request and subject to the payment of the prescribed fee, a certificate on the validation of the European patent within 2 months from the date of publication of the translation referred to in point 456 of this Regulations. The certificate shall include the diploma of certificate, signed by the Director General of AGEPI, to which is attached the title page containing the bibliographic data and the abstract, and the translation into the state language of the European patent specification, comprising the description, the claims, the drawings and, where appropriate, the search report.

**458.** The publication of the corrected translation of the claims of a published European patent application or a validated European patent specification in accordance with Article 44<sup>3</sup>, paragraph (3), of the [Law](#) shall be made within 3 months of the filing of a request to that effect, drafted on a form approved by AGEPI, a corrected translation and payment of the prescribed fee by publication in BOPI of the bibliographic data relating to the corrected validated European patent application or patent and making available to the public in electronic form of the corrected translation.

**459.** The publication of the translation of the documents filed in accordance with Article 41<sup>1</sup>, paragraph (3), Article 44<sup>2</sup>, paragraphs (6)-(8), and Article 44<sup>3</sup>, paragraph (3), of the Law shall be made in the version presented by the owner. AGEPI shall not verify the translation of the filed documents.

**460.** If the validated European patent is deemed void *ab initio* under Article 44<sup>2</sup>, paragraph (10), of the [Law](#), AGEPI shall publish in BOPI and enter in the National Register of Patents, in the compartment “Validated European Patents”, the relevant information within 3 months from the expiry of the period of 6 months from the publication by the EPO of the mention of the issuance of the European patent or of the mention of the decision to maintain the European patent in amended form or to limit the patent.

**461.** The maintenance fees for a valid European patent shall be paid with the AGEPI for each year calculated from the filing date of the European patent application for the years following the year in which the mention of the issuance of the European patent has been published by the EPO, being performed until the beginning of each respective year.

If the patent maintenance fee is not paid within the prescribed time limit, it may still be paid within a period of 6 months from the date of expiry of the prescribed time limit, provided that a 50% surcharge is paid. If the maintenance fee is not paid within the prescribed additional period, the owner shall be deprived of the rights deriving from the patent.

If the annual fee for a European patent is due in the period between the date of publication of the mention of the grant of the European patent and the date of filing with the AGEPI of the translation into the state language of the European patent specification, the owner shall pay the prescribed maintenance fee at the same time as he files the translation of the patent specification, without payment of an additional fee. Otherwise, the provisions of the above paragraph shall apply.”;

85) in point 469, letter c) shall be repealed;

86) in point 477, the words “and search fee” shall be excluded, and the words “a search copy shall be transmitted” shall be replaced by the words “a search copy and the search fee shall be transmitted”;

87) points 482 and 483 shall have the following content:

**“482.** The national phase shall begin prior to the expiry of the period of 31 months from the date of filing or priority of the international application, provided that the request for opening of the national phase drafted in the state language on a form approved by AGEPI, a copy of the international application and the translation thereof into the state language are submitted.

**483.** The copy of the international application and its translation into the state language, including the description of the invention, the claims, the drawings, where applicable, and the abstract, shall be furnished in the version in which the international phase was finished. If the claims have been amended by virtue of Article 19 of the PCT, the claims both as filed and as amended shall be filed in the form of a translation of the complete set of claims furnished pursuant to Rule 46.5(a) of the Regulations under the PCT, accompanied by a letter which shall identify the amended claims and shall indicate the references in the application as filed on the basis of which the amendments were introduced.”;

88) in point 484:

after the first sentence shall be introduced the following sentence: “The fee for opening of the national phase shall be paid for the set of claims with which the international phase was finished.”;

in the last sentence, the words “shall be deemed to be withdrawn” shall be replaced by the words “shall be refused”;

89) in point 485, the word “grant” shall be replaced by the word “issuance”;

90) in point 494<sup>16</sup>, after the words “filing date” shall be introduced the text “ , the date of opening of the national phase or the date of filing of the documents in the European patent validation procedures”;

91) in point 502, the text “within two months from the regular national filing date without payment of the fee, and after the expiry of two months,” shall be excluded;

92) point 503 shall finally be supplemented by the following paragraph:

“The additional materials shall be filed on substitution sheets. If the additional materials refer to the amendment of the claims, a letter shall be attached to the substitution sheets

indicating the claims as amended, the excluded claims as filed and the elements of the application materials as filed on which the amendments are based according to the furnished additional materials.”;

93) in point 504, the text “but which may serve as a basis for establishing the priority of the invention” shall be excluded;

94) in point 506, the text “in a free form” shall be replaced by the words “on a standard form approved by AGEPI”;

95) in point 509, the words “written in a free form” shall be excluded, and the words “abandoned and refused” shall be replaced by the word “withdrawn”;

96) in point 510, the words “To the request for re-establishment of the time limit” shall be replaced by the words “To the request for re-establishment of the omitted time limit”;

97) point 519 shall finally be supplemented by the following paragraph:

“Upon calculation of the time limit set in days, the working days shall be taken into account.”;

98) in point 523:

letter a) shall finally be supplemented by the words “number of the patent”;

letter q) shall finally be supplemented by the words “and the term of validity thereof”;

letter r) shall have the following content:

“r) date of forfeiture of rights and date of re-establishment of rights”;

shall be supplemented by letter t), with the following content:

“t) for validated European applications and patents, their bibliographic data furnished by the EPO shall be indicated”.

**PRIME MINISTER**

**Pavel FILIP**

**Countersign:**

**Deputy Prime Minister, Minister of Economy**

**Octavian Calmic**

**No.406. Chisinau, June 6, 2017.**