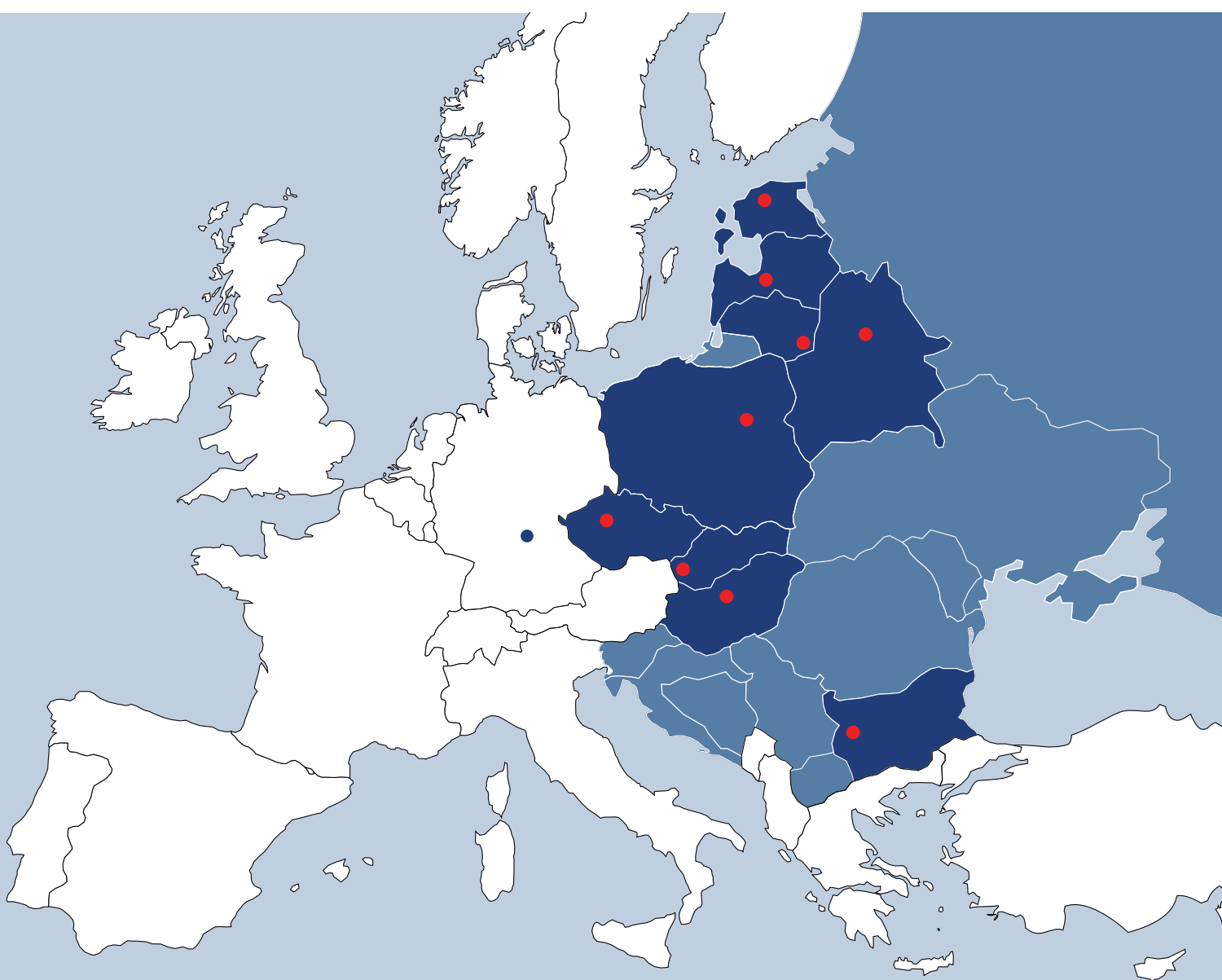


TRADEMARK AND DESIGN PROTECTION SURVEY

Central- and Eastern Europe
2013/2014



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Introduction

It is with pleasure, that the International Intellectual Property Practice Group publishes this second edition of the bnt Survey Trademark and Design Protection, which covers 8 jurisdictions in Central- and Eastern Europe (CEE). The information in this survey is up to date as of 1 June 2013.

The protection of intellectual property rights is defined by national laws – and the respective scope of such protection may differ considerably from country to country.

Companies and other businesses in Central- and Eastern Europe are therefore well advised to compare the national systems of protection: differences in fees, terms of protection, procedures, and the relevance of international protection systems, will all have an impact on business strategies in this region. This bnt survey Trademark and Design protection in Central- and Eastern Europe 2013/2014 is the systematic overview of the respective regulatory framework in this region.

The issues and questions dealt with in this publication were defined by legal experts working in the area of IP protection in their day-to-day legal practice in these countries. The IP experts of bnt attorneys-at-law have gained considerable experience and developed effective protection strategies, consulting international and local companies from all sectors of industry, including consumer products, foodstuffs, technical products, finance, pharmaceuticals and construction. The results of comparative analysis are displayed in charts and graphs, as well as in the explanations in text format. This will enable the reader to compare and evaluate relevant key issues and statistics more easily.

This publication will be of use to any company doing business or planning to do so in the CEE region. It is part of the bnt international survey series, in which certain legal issues relevant for business are analyzed and compared with a view to the jurisdictions of this region. For other publications in this series, see the publications section in the website www.bnt.eu.

Theis Klauberg

Head of the bnt International Practice Group IP, Visiting Lecturer in IP at the Riga Graduate School of Law

Trademark and Design protection 2013/2014

- **National legal basis**
- Civil Code of the Republic of Belarus of 7 December 1998;
 - Law of the Republic of Belarus “On Trademarks and Service Marks” of 5 February 1993 N 2181-XII;
 - Regulation of the Council of Ministers of the Republic of Belarus “On adoption of Rules of trademarks and service marks registration and on amendments to several regulations of the Council of Ministers” of 28 December 2009 N 1719;
 - Regulation of the Council of Ministers of the Republic of Belarus “On approval of rules for submitting claims, claims of opposition and applications and their consideration by the Appellate Council at the patent authority” 22 December 2009 N 1679;
 - Code of civil procedure of the Republic of Belarus of 11 January 1999.
- **What can be a trademark?**
- A trademark and a service mark are designations meant to distinguish between goods and services of one person and goods and services of others.
 - The following marks may be registered as a trademark: verbal, including names, colour combinations, literal, digital (Arabic numerals), figurative, three-dimensional, including shapes of goods or their packaging, as well as combinations of these. A trademark may be registered in any colour or combination of colours.
- **Where to file a trademark application?**
- National Intellectual Property Center**
Contact: 20 Kozlova str.
220034 Minsk
Belarus
ncip@belgopatent.by
- **Database of registered trademarks**
- http://www.belgopatent.org.by/eng/index.php?option=com_content&view=article&id=285&Itemid=88

Trademark and Design protection 2013/2014

- **National legal basis**
- Law on Marks and Geographic Indications published in the Bulgarian State Gazette (DV) Nr. 81/14 September 1999.
 - Rules on Applications for Registration of Marks and Geographic Indications, their Submission and Examination published in the Bulgarian State Gazette (DV) Nr. 9/1 February 2000.
 - Rules on Oppositions under the Law on Trademarks and Geographic Indications, their Submission and Examination published in the Bulgarian State Gazette (DV) Nr. 43/ 7 June 2011.
 - Rules on Procedure by which the Patent Office Declares a Mark as Well Known or Known in the Territory of Bulgaria published in the Bulgarian State Gazette (DV) Nr. 77/ 25 September 2007.
 - Regulation on Fees Collected by the Bulgarian Patent Office set by Ruling Nr. 242/100 of the National Government published in the Bulgarian State Gazette Nr. 14/1999.
- **What can be a trademark?**
- A mark is any sign capable of distinguishing the goods or services of one person from those of other persons and capable of being represented graphically. Such signs can be words, including names of persons, letters, numbers, drawings, shapes, forms of goods or their packaging, combinations of colours, sound signs or any other combination of such signs.
- **Where to file a trademark application?**
- Bulgarian Patent Office**
Contact: Dr. G.M.Dimitrov Blvd. 52 b
Sofia 1040
Bulgaria
bpo@bpo.bg
- Online applications are possible under
<https://portal.bpo.bg/>
- **Database of registered trademarks**
- http://www1.bpo.bg/index.php?option=com_content&task=view&id=20&Itemid=43&lang=en

Trademark and Design protection 2013/2014

- ➔ **National legal basis**
 - Act No. 441/2003 Coll., on Trademarks, as amended (the “Trademark Act”)
- ➔ **What can be a trademark?**
 - Any sign capable of graphic representation, in particular, words including personal names, colours, designs, letters, numerals, the shape of goods or their packaging, provided that such sign is capable of distinguishing goods or services of one person from those of another person
- ➔ **Where to file a trademark application?**
 - By electronic application on the webpage of the Industrial Property Office at:
<http://upv.cz/cs/sluzby-uradu/elektronicke-podavani-prihlasek.html>
 - By application in written form (offline application) at the following address:

Úřad průmyslového vlastnictví
Contact: Antonína Čermáka 2a
160 68 Praha 6 – Bubeneč
Czech Republic
Phone: +420 220 383 111
Fax: +420 224 324 718
E-mail: posta@upv.cz
- ➔ **Database of registered trademarks**
 - <http://upv.cz/en/ip-rights/trade-marks.html>

Trademark and Design protection 2013/2014

- ➔ **National legal basis**
 - Trademarks Act;
 - Trademark Regulation.

- ➔ **What can be a trademark?**
 - A trademark is a sign used to distinguish the goods or services of one person from other similar types of goods or services of other persons. Protected trademarks are capable of being represented graphically.
 - A trademark may be expressed in the form of:
 - a word or words (e.g. an artificial word, a phrase, a slogan);
 - images (e.g. symbols, ornaments, geometric images, stylised forms of objects, animals, people);
 - a word or a combination of words and images;
 - a label;
 - three-dimensional forms (an original package or the original shape of goods);
 - a combination of letters;
 - a combination of a number and a letter or letters;
 - a trade name.

- ➔ **Where to file a trademark application?**

Estonian Patent Office
Contact: Toompuiestee 7
Tallinn 15041
Estonia
Phone: +372 627 7900
Fax: +372 645 1342
patendiamet@epa.ee

- ➔ **Database of registered trademarks**

<http://www2.epa.ee/Patent/mark.nsf/SearchEngl?OpenForm>

Trademark and Design protection 2013/2014

- ➔ **National legal basis**
 - Law on Protection of Marks and Other Indications (Mark Law) published in the German Federal Gazette BGBl. I S. 3082; 1995 I S. 156; 1996 I S. 682.
 - Rules on Implementation of the Mark Law published in the German Federal Gazette BGBl. I S. 872.
- ➔ **What can be a trademark?**
 - A mark can be any sign capable of distinguishing the goods or services of one person from those of other persons. In particular personal names, graphics, letters, numbers, sounds, three-dimensional forms, colours and combinations of colours can be registered as marks.
- ➔ **Where to file a trademark application?**

DPMA (Deutsches Patent- und Markenamt)
Contact: 80297 München
Germany
info@dpma.de

For online-applications:
http://www.dpma.de/service/e_dienstleistungen/dpmadirekt/index.html and
<https://direkt.dpma.de/marke/>
- ➔ **Database of registered trademarks**

<https://register.dpma.de/DPMAregister/marke/uebersicht?lang=en>

Trademark and Design protection 2013/2014

- ➔ **National legal basis**
 - Act XI of 1997 on Protection of Trademarks and Geographical Indications.
- ➔ **What can be a trademark?**
 - Any sign which can be graphically represented and is suitable for distinguishing goods and services from other goods and services can be protected by trademark.
 - A trademark may consist of any of the following signs:
 - a) a word, combination of words, including personal names and slogans;
 - b) letters, numerals;
 - c) designs, graphics;
 - d) flat or three-dimensional figures, including the shape of goods or packaging;
 - e) a colour, a combination of colours, a light signal, a hologram;
 - f) a sound, as well as
 - g) a combination of the signs listed in Paragraphs a)-f).
- ➔ **Where to file a trademark application?**

Hungarian Intellectual Property Office.
Contact: Garibaldi utca 2.
H-1054 Budapest
Hungary
sztnh@hipo.gov.hu
- ➔ **Database of registered trademarks**

<http://sztnh.gov.hu/English/vedjegy/>

Trademark and Design protection 2013/2014

- **National legal basis**
 - Law on Trademarks and Geographical Indications in force since 15 July 1999.
- **What can be a trademark?**
 - All distinctive and graphically representable signs, such as words, names, acronyms, letters, numbers, devices, sounds, combinations or shades of colours, three-dimensional forms, the three-dimensional form of a good or its packaging, and any combination of these signs.
- **Where to file a trademark application?**

Patent Office of the Republic of Latvia
Contact: Citadeles iela 7/70
LV-1010 Rīga
Latvija
valde@lrpv.lv
- **Database of registered trademarks**

<http://www.lrpv.gov.lv/en/trademarks/databases>

Trademark and Design protection 2013/2014

- **National legal basis**
- The Law on Trademarks of the Republic of Lithuania of 10 October 2000 (Zin., 2000, No. 92-2844);
 - Rules on Examination of Appeals and Oppositions of 18 August 2009 (Zin., 2009, No. 101-4238);
 - Rules on Registration of Trademarks of 30 June 2004 (Zin., 2004, No. 98-3679);
 - Methodical Instructions on Establishing Identicalness and Similarity of Goods and Services, of 11 July 1996;
 - Regulations on Register of Trademarks of the Republic of Lithuania of 17 April 2008 (Zin., 2008, 49-1815);
 - Order on Publication of Data of the Register of Trademarks of the Republic of Lithuania of 9 March 2001 ("Publication Order") (Zin., 2001, No. 23-782);
 - Order on Implementation of Protocol Relating to the Madrid Agreement Concerning International Registration of Marks of 29 December 2000 (Zin., 2001, Nr. 11-331, No.);
 - Inventory on the Procedure for Granting a Permit on Use of Official or Traditional (Short) Name of State, Coat of Arms, Flag or Other State Objects of Heraldry or Mark Imitation as well as Marks of Identity, Hallmarks, Stamps, Marks of Note and Award in Trademarks and Designs of 10 April 2001 (Zin., 2008, Nr. 138-5466).
- **What can be a trademark?**
- Any sign capable of distinguishing the goods or services of one person from those of other persons and capable of being represented graphically. For the purposes of the Law on Trademarks, a service mark is also treated as a trademark.
 - Trademarks may consist of the following signs:
 - 1) words, personal surnames, names, artistic pseudonyms, business names of legal entities, slogans;
 - 2) letters, numbers;
 - 3) drawings, emblems;
 - 4) three-dimensional forms (the shape of products, their packaging or containers);
 - 5) colours or combinations of colours, their compositions;
 - 6) any combination of signs specified in subparagraphs 1–5.
- **Where to file a trademark application?**
- State Patent Bureau of the Republic of Lithuania**
Contact: Code 188708943
Kalvarijų str. 3
LT-09310 Vilnius
info@vpb.gov.lt
Lithuania
- **Database of registered trademarks**
- <http://www.vpb.lt/index.php?l=en&n=271>

Trademark and Design protection 2013/2014

- ➔ **National legal basis**
 - Polish Industrial Property Law of 30 June 2000 (J.L. 2003, no. 119, item 1117);
 - Prime Minister's Regulation on Filing and Examination of Trademark Applications of 8 July 2002 (J.L. 2002, no. 115, item 998);
 - Council of Ministers' Regulation on Fees related to Protection of Industrial Property of 29 August 2001 (J.L. 2001, no. 90, item 1000).

- ➔ **What can be a trademark?**
 - Any designation which can be depicted graphically provided it is suitable for distinguishing the goods/wares of one enterprise from the goods/wares of another enterprise.
 - In particular: a word, a drawing, an ornament, colour composition, spatial form (including form of a good or packaging), melody or other sound signal.

- ➔ **Where to file a trademark application?**

Polish Patent Office
Contact: Urząd Patentowy RP
Al. Niepodległości 188/192
00-950 Warszawa
Skr. pocztowa 203
Poland

- ➔ **Database of registered trademarks**

<http://uprp.pl/patentwebaccess/databasechoose.aspx?language=english>

Trademark and Design protection 2013/2014

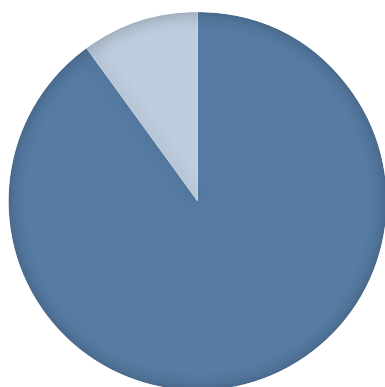
- **National legal basis**
 - Act. No. 506/2009 Coll. on trademarks
- **What can be a trademark?**
 - A trademark is a verbal, figurative, three-dimensional or combined sign which is capable of distinguishing goods and services on the market. It may consist of any sign capable of being represented graphically, particularly words, including personal names, designs, letters, numerals, the shape of goods or of their packaging, provided that such signs are capable of distinguishing the goods or services of one undertaking from those of other undertakings.
- **Where to file a trademark application?**

Industrial Property Office of the Slovak Republic
Contact: Švermova 43
974 04 Banská Bystrica 4
Slovak Republic
infocentrum@indprop.gov.sk
- **Database of registered trademarks**

<http://registre.indprop.gov.sk/registre/searchForm.do?lang=en®ister=oz>

Trademark and Design protection 2013/2014

Members of Community Trademark system



YES

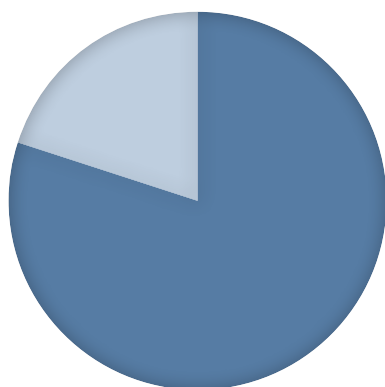
- Bulgaria
- Czech Republic
- Estonia
- Germany
- Hungary
- Latvia
- Lithuania
- Poland
- Slovakia



NO

- Belarus

Members of Madrid system



BOTH Members of Protocol and Agreement

- Belarus
- Bulgaria
- Czech Republic
- Germany
- Hungary
- Latvia
- Poland
- Slovakia

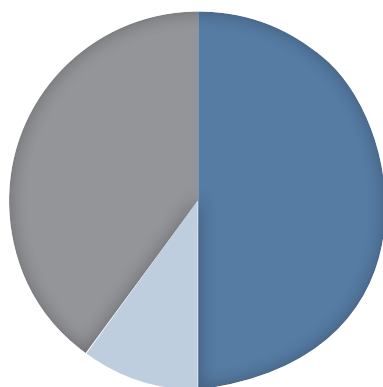


ONLY Member of Protocol

- Estonia
- Lithuania

Trademark and Design protection 2013/2014

Is it possible to register smell, colour, sound, 3D marks?



YES

- Bulgaria
- Germany
- Hungary
- Latvia
- Poland



NO

- Belarus



YES/NO

- Only 3D marks
 - Estonia
- Only 3D and colour marks
 - Czech Republic
 - Lithuania
- Only 3D, colour and sound marks
 - Slovakia

In all 8 countries non-residents can apply for registration only through a local agent.

It is possible to file a multiple class application in all 8 countries.

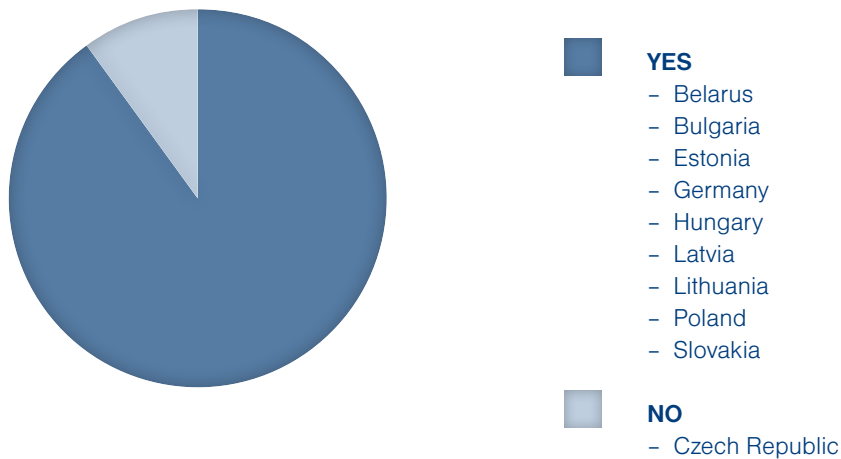
How long does it take from filing to registration?



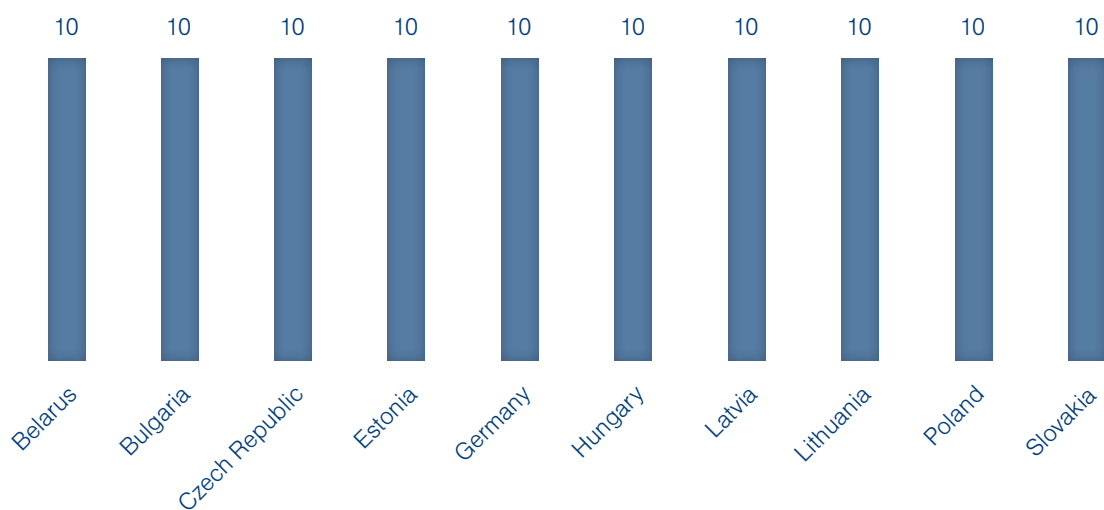
Months

Trademark and Design protection 2013/2014

During a pending opposition – can the applicant already assert rights from the trademark?



Term of protection

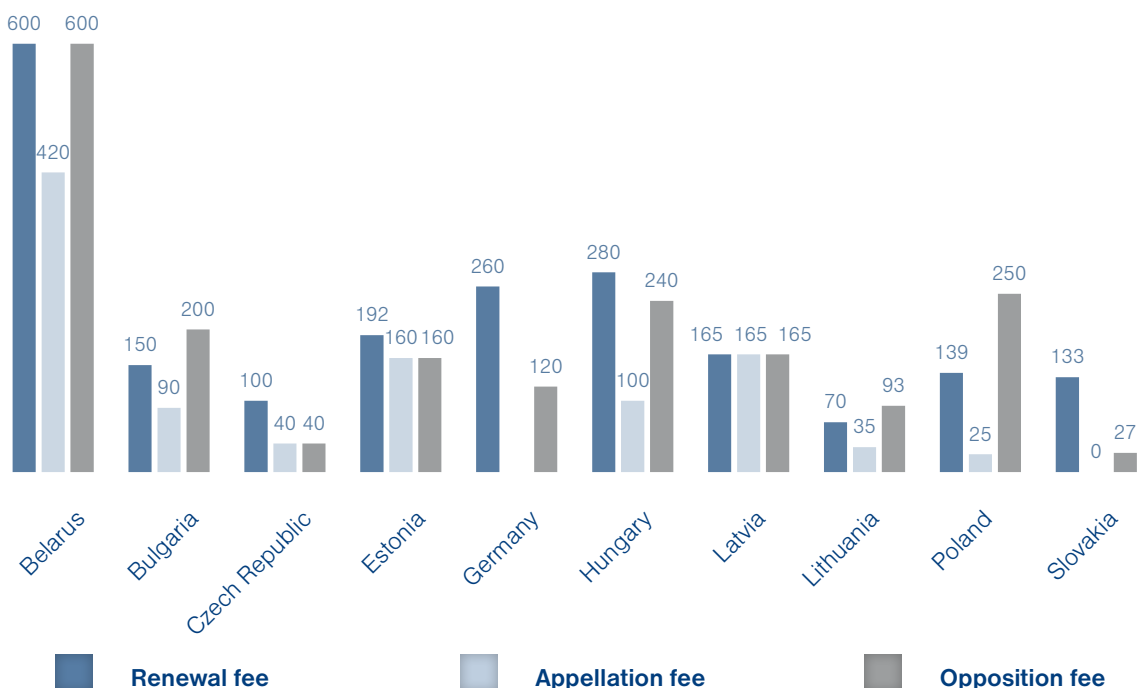


Years

In each country protection of a trademark can be prolonged for another 10-year period. An application for prolongation must be filled within the last year of protection.

Trademark and Design protection 2013/2014

Trademark fees (EUR)



Note: In Belarus different regimes apply to residents and non-residents of the country. The above charts provide the fees applicable to non-residents only.

Trademark and Design protection 2013/2014

Is there a possibility of opposition?

Belarus – Yes, there is.

Any person may oppose grant of protection to a trademark by submission to the Appellate Council. Depending on the grounds, opposition may follow either publication or registration.

Grounds and terms for submitting an opposition are the following:

1. Within the whole period of grant of legal protection (as from registration) to a trademark if protection was granted disregarding:
 - breach of the established national registration procedure or international procedure;
 - absolute grounds for refusal of registration;
 - similarity of the mark to trade names protected in Belarus;
 - similarity of the mark to a design of another person with earlier priority;
 - similarity of the mark to a piece of art or literature protected under copyright law and the mark was registered without prior consent of the owner;
 - similarity of the mark to the name of mass media registered in the Republic of Belarus and the mark was registered without prior consent of a mass media founder;
 - similarity of the mark to a name, a pseudonym, a portrait, a facsimile of a person well-known in the Republic of Belarus and the mark was registered without that person's prior consent.
2. Within the whole period of grant of legal protection to a trademark if the mark turns into a designation which has become a commonplace name as designating a certain kind of goods.
3. Within the whole period of grant of legal protection to a trademark (as from registration) if registration of that trademark was found by the antimonopoly body or by the court to be an act of unfair competition.
4. Within five years after publication of data on registration of a trademark in the official bulletin on the following grounds:
 - a trademark is identical or confusingly similar to:
 - another trademark applied to the same goods registered or registration is applied for in the name of another person with earlier priority without prior consent of the holder;
 - another trademark applied to the same goods of another person protected by international treaties of the Republic of Belarus without prior consent of the holder;
 - a trademark of another person recognized as well-known in Belarus under established procedure in respect of any goods without prior consent of the holder.
 - a trademark is identical or confusingly similar to a geographical indication protected in the Republic of Belarus, except when such geographical indication is included in a trademark of a person whom the geographical indication belongs to as a non-protected element, if a trademark is registered in respect of the same goods for which a geographical indication is registered.

Opposition will be considered by the Appellate Council within six months after the claim is filed. The decision of the Appellate Council may be reviewed by the IP Bench of the Supreme Court within six months after the decision is received.

Bulgaria – Yes, there is a possibility to file an opposition after the application for registration is published. Opposition is based on so called relative registration obstacles such as the existence of a colliding older and/or well-known mark. An opposition may thus only be filed by interested persons such as affected mark holders and/or holders of exclusive license rights. An opposition is not identical to a so called objection. The latter is based on absolute registration obstacles such as lack of distinguishability and/or possibility for graphic presentation. An objection may be submitted by any third person.

Czech Republic – Yes. Opposition proceedings follow publication of the application in the Office Journal of the Czech Industrial Property Office. Opposition may be based on several grounds listed in the Trademark Act, e.g. potential confusion with a registered trademark or with a generally known trademark.

Estonia – An interested party may challenge the applicant's right to the trademark with the Industrial Property Board of Appeal within 2 months from the decision to register the mark if there are circumstances excluding legal protection of the mark. After this period, civil proceedings are possible.

Trademark and Design protection 2013/2014

Is there a possibility of opposition?

Germany – Yes, there is a possibility to file an opposition after the application for registration is published. Opposition is based on so called relative registration obstacles such as the existence of a colliding older and/or well-known mark. An opposition may only be filed by interested persons such as affected mark holders.

Hungary – Yes, the basis for opposition can be any relevant ground for refusal. Usually the owner of a prior trademark in case of a collision files opposition within 3 months after publication of the application.

Latvia – Within three months from the date of publication of a trademark registration, interested persons may, upon payment of the applicable fee, file an opposition to registration of a trademark. Opposition is filed with the Board of Appeals in writing, substantiated by appropriate arguments and citations to legal provisions. After expiration of the three-month deadline, the opponent may not change (expand) the initial legal basis of opposition, but may, until the decision of the Board of Appeals, file additional documents and materials that confirm (detail) the facts on which opposition is based. Oppositions will be examined within three months from the date of receipt of a reply from the owner of the contested trademark, or, if no reply is received, within three months after the date of expiration of the term specified for submission of replies.

Lithuania – Interested persons may file with the Appeals Division a justified written opposition to registration of a trademark on the ground that it may not be registered under Articles 6 and (or) 7 of Law on Trademarks (Art 18(1) of Law on Trademarks). Objections may be grounded upon reasoning that statutory grounds for non-registration of trademark or recognition of registration as invalid exist.

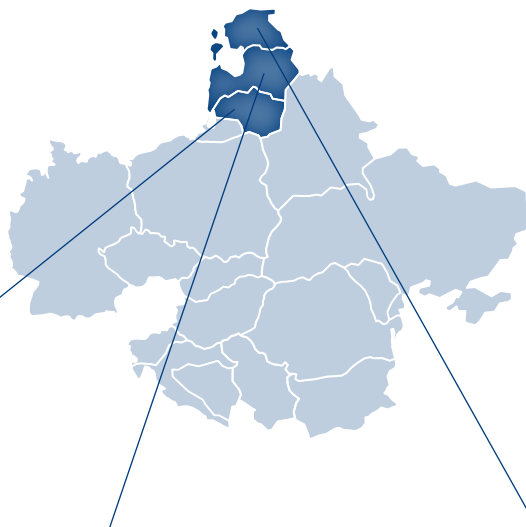
Poland – Yes (basis: art. 143 and art. 246 of Polish Industrial Property Law). Any third party may file objections to the Polish Patent Office, indicating reasons why protection should not be granted. Anyone may file a justified opposition against a final and valid Polish Patent Office decision on registration; no legal interest is required. Grounds: grounds which support invalidation of a protection right, i.e. non-fulfilment of all the statutory requirements for grant of protection. Please note: entities with a legal interest may file a motion for invalidation of a trademark (basis: art. 164 of Polish Industrial Property Law). Grounds: non-fulfilment of all statutory prerequisites for registration. However, the given grounds are insufficient if the mark has for example been used consecutively for 5 years; this exception does not apply to cases where a trademark is obtained in bad faith.

Slovakia – Within three (3) months after publication of the application in the Official Gazette a person may file opposition with the Office under article 7 of the Trademark Act. The opposition must be justified and evidence-based.

Period for opposition



Is it possible to appeal refusal of registration?



→ **Lithuania:**

Yes. First the applicant must file with the State Patent Bureau a written request for reassessment of a trademark within three months as of the day of sending the decision to refuse registration. If re-assessment is negative, the applicant may appeal the decision to the Appeals Division of the State Patent Bureau within 3 months as of sending the decision to the applicant.

An applicant who disagrees with the decision of the Appeals Division may appeal to the Vilnius District Court within six months as of adoption of the decision by the Appeals Division.

→ **Latvia:**

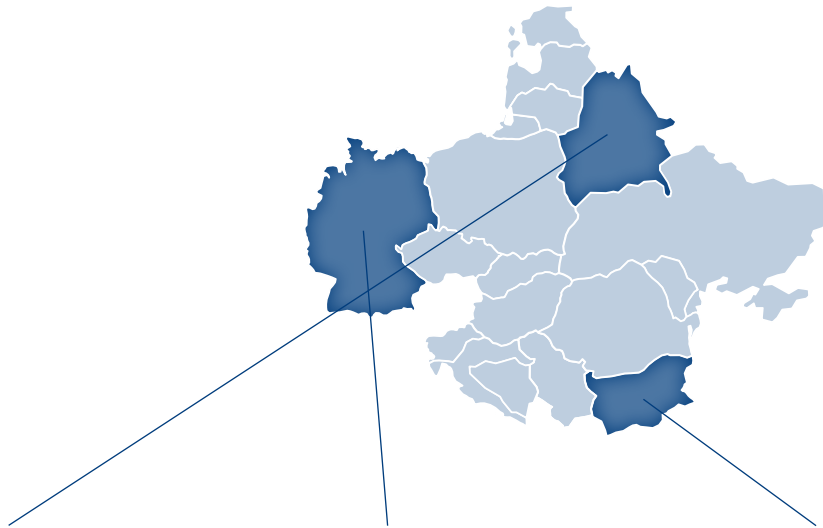
Yes. An applicant who does not agree with the decision of the Patent Office on the results of the examination may within three months from the date of receipt of the decision and upon payment of the required fee file a substantiated appeal with the Board of Appeals of the Patent Office.

Appeals will be reviewed within three months from filing for appeal.

→ **Estonia:**

Yes. Refusal of registration can be appealed to the Industrial Property Board of Appeal within 2 months from refusal. The process might take 12 to 30 months or more depending on the case.

Is it possible to appeal refusal of registration?



→ Belarus:

Yes. An applicant who does not agree with the decision upon completion of expertise may file a claim for a second (repeated) expertise with the Patent Authority within three months after the decision is received. The applicant may also appeal to prolong the three-month deadline up to another eighteen months.

An applicant who is not in agreement with the decision of the preliminary or second expertise may file an appeal with (i) the Appellate Council at the Patent Authority and (or) (ii) the IP Bench of the Supreme Court of the Republic of Belarus (IP Bench). The applicant must file a claim within one year after the decision is received.

The Appellate Council's decision may be reviewed by the IP Bench. The IP Bench decision may not be appealed.

→ Germany:

Yes. The possibility is open for one month after service of the act of refusal on the applicant.

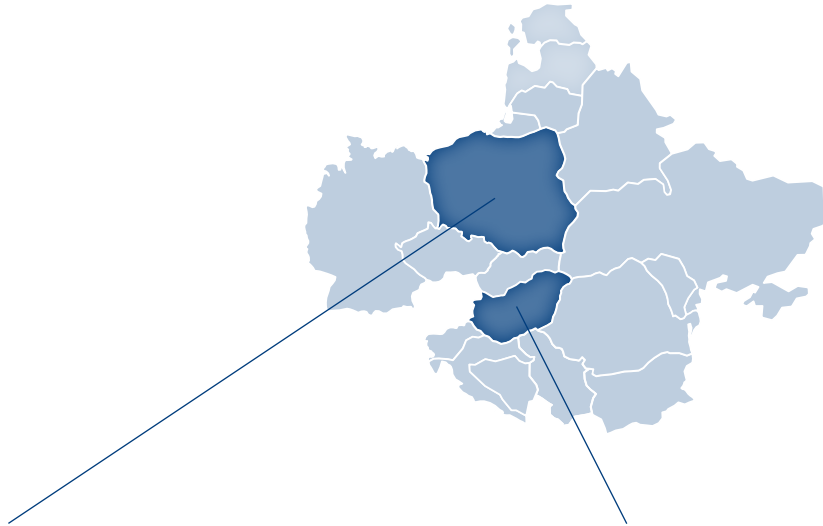
The appellate body is the Patent Court. In a limited number of cases the decision by the Patent Court can be subject to revision by the Federal Patent Court. Here, too, the possibility is open for one month after service of the act on the applicant by the Patent Court.

→ Bulgaria:

Yes. The possibility is open for three months after service of the act of refusal on the applicant. The appellate body of the Bulgarian Patent Office is competent to decide on an appeal. Their decision is due within three months from the date of appeal.

An applicant who disagrees with the decision may further appeal to the Sofia Administrative Court. This opportunity is open for three months after service of the decision appealed against.

Is it possible to appeal refusal of registration?



→ **Poland:**

Yes. The first step is a justified appeal to the same authority – Polish Patent Office – for reassessment of the case, filed within 2 months as of receipt of refusal (1 month if the case ended with a ruling, e.g. for formal reasons). Polish Patent Office assigns an expert to perform the reassessment.

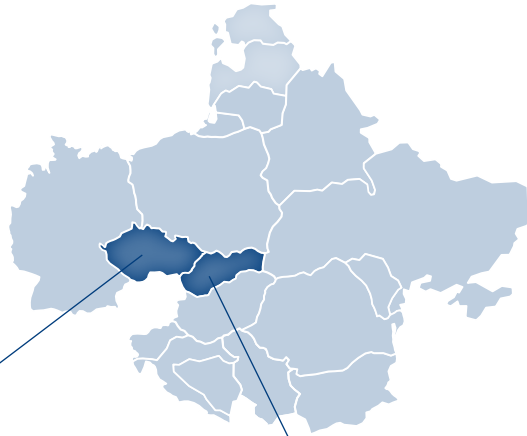
The appeal should be assessed within 1 month, but this is only an instructional deadline and authorities might not observe it (possible: e.g. grievances on protraction of proceedings, disciplinary liability).

In the event of a second refusal, a complaint to the relevant voivodship (district) administrative court may be filed, within 30 days as of receipt of the final refusal. Ultimately, a cassation complaint may be filed with the Supreme Administrative Court. It should be filed within 30 days as of receipt of the administrative court judgment with justification, via the intermediation of that court.

→ **Hungary:**

Yes. Although there is no “regular appeal”, final decisions of the Office may be reviewed by the court. A “petition for reversal” should be filed with the Hungarian Intellectual Property Office within 30 days. The Office forwards the petition and the documents in the case within 15 days (in difficult cases 30 days) to the Metropolitan Court. In some cases the Office is entitled to modify its own decision in compliance with the petition for reversal before forwarding it to the Court. The duration of the proceedings before the Court depends on the case: intervals of 3 months between two hearings are usual.

Is it possible to appeal refusal of registration?



→ **Czech Republic:**

Yes. A refusal may be appealed within one month following receipt of the decision subject to payment of an administrative fee. The appeal has a suspensive effect.

→ **Slovakia:**

Yes. It is possible to appeal refusal of registration (rozklad); the appeal must be filed with the Industrial Property Office of the Slovak Republic within 30 days as of delivery of the refusal. There are no extra costs for the appeal process.

Trademark and Design protection 2013/2014

Trademark use requirements

Belarus – The use obligation is not explicitly stated by law but is implied by the following rule.

Trademark protection may be terminated with regard to all or part of goods for which the trademark was registered on the basis that for no good reason it has not been used within any subsequent three years after registration. A claim for termination of trademark registration may be filed by any person with the Supreme Court at the end of the three-year period on condition that the trademark was not used up to the date of the claim. Any type of use of the trademark will revive the three years' grace period. "Use" is understood as an application of a trademark to goods it was registered for, or their packaging, in the Internet (including in the domain name) by its holder or by another person whose right originates from a license agreement with the holder. Trademark use in, e.g., advertising, on letters and blanks may be regarded as use if the holder provides substantive proof of good reason for non-use of the trademark on goods and their packaging.

The court should check whether any obstacles prevented the holder from using a trademark which the holder was not responsible for. If it is proved that a trademark was used for some goods only, the registration will be terminated for the rest of the goods.

A person claiming termination of a trademark registration must provide proof of a legal interest in termination (for example, by relying on refusal to register their trademark as confusingly similar to the trademark in question).

Bulgaria – Upon request by any party, the Bulgarian Patent Office revokes registration of a mark when the mark holder has not started genuine use in Bulgaria of the mark in question within five years from the day of registration or has stopped using it for any period of five years. The Bulgarian Patent Office does not revoke registration if lack of use is justified by legitimate reasons. The mark is considered used by its proprietor if used by another person with the proprietor's consent. Use of deviations from the registered mark is sufficient when these do not differ substantially. Use of the mark by applying it in Bulgaria to goods that are only meant for export is sufficient.

Czech Republic – If the owner does not start using a trademark within 5 years or has suspended use continuously for at least five years the trademark may be revoked in proceedings initiated by a third person.

Estonia – The proprietor of a trademark is required to actually use a registered trademark to designate goods and services in respect of which it is registered.

An interested person may file an action against the proprietor of a trademark for the exclusive right of the proprietor of the trademark to be declared extinguished if the registered trademark has not been used during five consecutive years after the making of the registration, without good reason. An action cannot be filed on the above basis if the registered trademark is used after five years of non-use commences prior to filing of the action.

Germany – Upon request by any party, the German Patent Office revokes registration of a mark when the mark holder has not started genuine use in Germany of the mark in question within five years from the day of registration or has stopped using it for any period of five years. The mark is considered used by its proprietor if used by another person with the proprietor's consent. Use of deviations from the registered mark is sufficient when these do not differ substantially.

A mark holder who causes a registered mark to become or fails to prevent it from becoming a general indication for the product or service it is registered for, risks losing protection if the German Patent Office is approached with a request filed by any third person.

Hungary – If the holder fails to begin actual use of a trademark within 5 years after registration, many rights according trademark protection will be lost, and may be cancelled upon an application of any third person.

Trademark and Design protection 2013/2014

Trademark use requirements

Latvia – If a trademark has not been used within 5 years from registration or has later not been used continuously for 5 years, it may be subject to cancellation.

Use of a trademark is considered to be use of a trademark on goods and their packaging, on any documentation accompanying the goods, in the advertising of the goods or services, or in relation to other economic activities in connection with the relevant goods or services.

Lithuania – At the request of any interested party, the court may revoke registration of a trademark if within five years after issue of a registration certificate, genuine use of the trademark has not been started by the proprietor of the mark in Lithuania or the proprietor has not expressed serious intentions to use the mark in respect of the goods and/or services for which it is registered, or if the mark has not been put to genuine use for a period of five continuous years, except where use of the mark was prevented by serious reasons, such as restrictions on imports or other circumstances beyond the proprietor's control.

A mark is deemed to be used by its proprietor if it is used by another person with the proprietor's consent.

In case No. 3K-3-36/2011 the Supreme Court of Lithuania explained that a trademark is used genuinely if it is used in accordance with its main function: to ensure the identity of origin of goods and services for which it is registered, aiming at creating and sustaining the market, without prejudice to symbolic use of the trademark merely to retain the rights granted by it. In establishing whether a trademark is used genuinely, it is necessary to consider all facts and circumstances relevant to determining the reality of its commercial use in business. In particular, it is essential to consider the circumstances of the specific economic sector, evaluating the character of goods and services, the particularities of the market, and the extent and frequency of the TM's use. A TM must be used to such an extent that a certain part of the market would be created or sustained, in other words, that there would be sufficient evidence of reliable intentions of the proprietor to obtain (or sustain) a commercial position in the respective market. Use of a TM in e.g. advertising or consignments also constitutes "use" but is not necessarily of itself to be held as "genuine use".

Poland – Trademark protection expires, among other reasons, in the event of lack of genuine use of the trademark for a continuous period of 5 years after granting of protection. Justified reasons may serve as a release from the use obligation. Expiry does not occur automatically – it requires a motion from an entity with a legal interest.

Genuine use means using the trademark in an objectively factual manner, throughout a steady and continuous period (recurring and not once-only or sporadically), and in a stable form. Use should be aimed at differentiating goods (services) from other present on the given market. A trademark is present in commercial trade and used within the meaning of Polish Industrial Property Law (art. 154) only if there is actual contact of the trademark with customers. For instance, it should be used for marking goods (services) and not merely in correspondence (case: II GSK 70/06).

Justified reasons are factual or legal obstacles, e.g.: legal acts, authority orders/prohibitions, long registration procedures of certain goods – such as drugs – and their admission to trade. The period during which those grounds last is a grace period in terms of genuine use, depending on each case.

Notably: lack of genuine use during opposition proceedings does not provide justified grounds. On the contrary, the holder should use the trademark especially during such proceedings (case: II GSK 1088/09).

Slovakia – A trademark that is not used for 5 years can be cancelled on the basis of a proposal.

Trademark and Design protection 2013/2014

- **National legal basis**
- The Civil Code of the Republic of Belarus of 7 December 1998;
 - Law of the Republic of Belarus “On patents on inventions, utility models and industrial designs” of 16 December 2002, N 160-3;
 - Regulation of the Council of Ministers “On adoption of rules on composing an application for patent for an industrial design, its expertise and making decision on its results” of 2 February 2011, N 121;
 - Regulation of the Council of Ministers “On adoption of rules of procedure for patents on invention, utility model, industrial design term of validity prolongation” of 15 December 2010, N 1824;
 - Regulation of the State Committee on Science and Technology “On adopting rules on the procedure for registration of license, assignment, pledge agreements of intellectual property rights objects and of franchising agreements” of 15 April 2009, N 6;
 - Tax code of the Republic of Belarus (Special part) of 29 December 2009;
 - Code of civil procedure of the Republic of Belarus of 11 January 1999.
- **What can be a design?**
- An industrial design which may be protected by law is an artistic or artsy-constructional solution for a product which determines its external appearance and which is new and original.
- **What can be considered as a disclosure?**
- There is no legal definition of a “disclosure”. As it becomes clear from the definition of “novelty”, to become patentable an industrial design should not come out clearly from the information, which was made publicly available until its priority date.. A disclosure during which data on industrial design becomes known to the public may not influence patentability of a design if an application for a patent is filed with the Patent Authority within six months after the disclosure.
- **Where to file a design application?**
- National Intellectual Property Center**
Contact: 20 Kozlova str.
220034 Minsk
Belarus
ncip@belgopatent.by
- **Database of registered designs**
- http://www.belgopatent.org.by/eng/index.php?option=com_content&view=article&id=285&Itemid=88

Trademark and Design protection 2013/2014

- ➔ **National legal basis**
 - Industrial Design Law published in the Bulgarian State Gazette (DV) Nr. 81/14 September 1999;
 - Rules on Applications for Registration of Industrial Designs, their Submission and Examination published in the Bulgarian State Gazette (DV) Nr. 9/1 February 2000.
- ➔ **What can be a design?**
 - Under Art. 3 (1) Industrial Design Law a “design” is the appearance of the whole or part of a product resulting from features of the form, lines, contours, ornaments, colours or combinations of any such features.
 - Under Art. 3 (2) Industrial Design Law a “product” is any industrial or handicraft item including parts of such items intended to be assembled into a complex product, complex or a composition of products, package, graphic symbols and typographic typefaces, but excluding computer programs.
- ➔ **What can be considered as a disclosure?**
 - A design must be new and original. A design is new when as of the day of application or priority no other identical design has become accessible to the public by means of publication, usage, registration or disclosure in any other way and in any other place in the world. Designs are considered identical when they differ in unsubstantial elements. A design is considered original when the overall impression it leaves with an informed consumer differs from the overall impression of another design accessible to the public as of the day of application.
 - In the light of these absolute prerequisites for registration of a design, any form of factual usage and/or registration application is considered a disclosure and can be detrimental to a registration attempt. However, a design is not disqualified for registration when disclosure took place no sooner than 12 months before the day of application/priority and was carried out by the author, the author’s legal successor or a third person acting on behalf of the author or based on information by the author.
- ➔ **Where to file a design application?**

Bulgarian Patent Office
Contact: Dr. G.M.Dimitrov Blvd. 52 b
Sofia 1040
Bulgaria
bpo@bpo.bg

Online applications are possible under
<https://portal.bpo.bg/>
- ➔ **Database of registered designs**

http://www1.bpo.bg/index.php?option=com_content&task=view&id=20&Itemid=43&lang=en

Trademark and Design protection 2013/2014

- ➔ **National legal basis**
 - Act No. 207/2000 Coll., on the Protection of Industrial Designs, as amended.
- ➔ **What can be a design?**
 - An industrial design is the appearance of the whole or part of a product resulting from the features of, in particular, the lines, contours, colours, shape, texture and/or materials of the product itself and/or its ornamentation
- ➔ **What can be considered as a disclosure?**
 - An industrial design is deemed to have been made available to the public if it has been published following registration or exhibited, used in trade or otherwise disclosed, except for disclosure to third parties bound by a non-disclosure agreement
- ➔ **Where to file a design application?**
 - By electronic application on the webpage of the Industrial Property Office at:
<http://www.upv.cz/cs/sluzby-uradu/elektronicke-podavani-prihlasek.html>
 - By application in written form (offline application) at the following address:

Úřad průmyslového vlastnictví
Contact: Antonína Čermáka 2a
160 68 Praha 6 – Bubeneč
Czech Republic
Phone: +420 220 383 111
Fax: +420 224 324 718
posta@upv.cz
- ➔ **Database of registered designs**
 - <http://upv.cz/en/ip-rights/trade-marks.html>

Trademark and Design protection 2013/2014

- **National legal basis**
 - Industrial Design Protection Act,
 - Industrial Design Regulation.
- **What can be a design?**
 - An industrial design is the two-dimensional or three-dimensional design of a product.
 - Legal protection is granted to industrial designs which are new, have an individual character and may be used for manufacturing industrial or handicraft products.
- **What can be considered as a disclosure?**
 - An industrial design is regarded as having been disclosed if it is published in a public publication or otherwise made available to a large number of people.
- **Where to file a design application?**

Estonian Patent Office
Contact: Toompuiestee 7
Tallinn 15041
Estonia
Phone: +372 627 7900
Fax: +372 645 1342
patendiamet@epa.ee
- **Database of registered designs**

<http://www2.epa.ee/Patent/mark.nsf/SearchEngl?OpenForm>

Trademark and Design protection 2013/2014

- **National legal basis**
 - Law on Legal Protection of Design (Design Law) published in the German Federal Gazette BGBl. I S. 390.
- **What can be a design?**
 - A “design” is the two-dimensional or three-dimensional appearance of the whole or part of a product resulting from features such as lines, contours, colours, form, surface, structure and/or compounds of the product itself or of its ornaments;
 - A “product” is any industrial or handicraft item including package, configuration, graphic symbols and typographic signs as well as component parts to be assembled to a complex product. Computer programs cannot be objects of design.
- **What can be considered as a disclosure?**
 - A design must be new and original. A design is new when as of the day of application no other identical design is accessible to the public. Designs are considered identical when they differ in unsubstantial elements. A design is considered original when the overall impression it leaves with an informed consumer differs from the overall impression of another design that is accessible to the public as of the day of application.
 - A disclosure is any form of publication, exhibition, usage on the market and/or any other form of making a design accessible to the public. However, no disclosure is given if on the day of filing the application such accessibility under normal market circumstances cannot be known to experts in the respective sector within the European Community. A design is not disqualified from registration if made accessible to a third person under confidentiality.
- **Where to file a design application?**

Contact data of the German Patent Office:
Contact: DPMA (Deutsches Patent- und Markenamt)
80297 München
info@dpma.de

For online-applications:
http://www.dpma.de/service/e_dienstleistungen/dpmadirekt/index.html and
<https://direkt.dpma.de/marke/>
- **Database of registered designs**

<https://register.dpma.de/DPMAreister/marke/uebersicht?lang=en>

Trademark and Design protection 2013/2014

- ➔ **National legal basis**
 - Act XLVIII of 2001 on Legal Protection of Designs.
- ➔ **What can be a design?**
 - A design is protected to the extent that it is new and has an individual character.
 - Design means the appearance of the whole or part of a product resulting from the features of, in particular the lines, contours, colours, shape, texture and/or materials of the product itself and/or its ornamentation. Product means any industrial or handicraft item, including inter alia parts intended to be assembled into a complex product, packaging, get-up, graphic symbols and typographic typefaces, but excluding computer programs. Complex product means a product which is composed of multiple components which can be replaced permitting disassembly and re-assembly of the product.
- ➔ **What can be considered as a disclosure?**
 - A design is regarded as having been made available to the public if it has been published following registration or exhibited, used in trade or otherwise disclosed, except where these events could not reasonably have become known in the normal course of business to circles specialized in the sector concerned. A design is not regarded as having been made available to the public if it has been disclosed to a third person under explicit or implicit conditions of confidentiality.
- ➔ **Where to file a design application?**

Hungarian Intellectual Property Office
Contact: Garibaldi utca 2.
H-1054 Budapest
Hungary
sztnh@hipo.gov.hu
- ➔ **Database of registered designs**

<http://sztnh.gov.hu/English/vedjegy/>

Trademark and Design protection 2013/2014

- ➔ **National legal basis**
 - Law on Designs, in force since 18 November 2004.
- ➔ **What can be a design?**
 - Design — the appearance of the whole or part of a product resulting from the features of, in particular the lines, contours, colours, shape, texture or materials of the product or its decoration (ornamentation).
 - Protection is granted to a design (also a design applied to or incorporated in a complex product) if it is new and has an individual character.
- ➔ **What can be considered as a disclosure?**
 - A design is regarded as having been disclosed to the public if published in relation to registration, displayed at an exhibition, used in commercial activity or if it has otherwise become available to the public.
- ➔ **Where to file a design application?**

Patent Office of the Republic of Latvia
Contact: Citadeles iela 7/70
Rīga, LV-1010
Latvija
valde@lrpv.gov.lv
- ➔ **Database of registered designs**

<http://www.lrpv.gov.lv/en/trademarks/databases>

Trademark and Design protection 2013/2014

- ➔ **National legal basis**
 - Rules on Examination of Appeals and Oppositions of 18 August 2009 (Zin., 2009, No. 101-4238);
 - Rules on Registration of Designs of 25 September 2008 (Zin., 2008, Nr. 116-4436);
 - Law on Designs of the Republic of Lithuania of 7 November 2002;
 - Regulations on Register of Designs of the Republic of Lithuania of 23 March 2003 (Zin., 2003, Nr. 28-1137);
 - Inventory on the Procedure for Publication of Data of the Register of Designs of the Republic of Lithuania of 25 September 2008 (Zin., 2008, Nr. 116-4436);
 - Inventory on the Procedure for Granting a Permit for Use of Official or Traditional (Short) Name of State, Coat of Arms, Flag or Other State Objects of Heraldry or Mark Imitating them as well as Marks of Indemnity, Hallmarks, Stamps, Marks of Note and Award in the Trademarks and Designs of 10 April 2001 (Zin., 2008, Nr. 138-5466);
 - Law on Ratification of the Geneva Act of the Hague Agreement Concerning International Registration of Industrial Designs of 18 January 2008 (Zin, 2008-02-05, Nr. 15-514).

- ➔ **What can be a design?**
 - Art. 2(1) of Law on Designs defines design as the appearance of the whole or part of a product resulting from the features of, in particular, the lines, contours, colours, shape, texture and/or materials of the product itself and/or its ornamentation.
 - Only a new design having individual features may be registered and protected.

- ➔ **What can be considered as a disclosure?**
 - A design is regarded as having been disclosed if: 1) following registration it has been published in the official bulletin of the SPB or any other publication, or exhibited; 2) it has been used in the market or otherwise disclosed.

- ➔ **Where to file a design application?**

State Patent Bureau of the Republic of Lithuania (SPB)
Contact: Code 188708943
Kalvarijų str. 3
LT-09310, Vilnius
info@vpb.gov.lt

- ➔ **Database of registered designs**

<http://www.vpb.lt/index.php?l=en&n=271>

Trademark and Design protection 2013/2014

- ➔ **National legal basis**
 - Polish Industrial Property Law of 30 June 2000;
 - Prime Minister's Regulation on Filing and Examination of Industrial Design Applications of 30 January 2002;
 - Council of Ministers' Regulation on Fees related to Protection of Industrial Property of 29 August 2011.
- ➔ **What can be a design?**
 - Defined in art. 102 Polish Industrial Property Law:
An industrial design is: a new and individual form of a product or part of a product assigned to it particularly by the features of lines, contours, shapes, colours, structure or material or by its ornamentation, where product means every product created in an industrial or handicraft manner, comprising in particular the packaging, graphic symbols and tailoring of typographic script, excluding computer software.
- ➔ **What can be considered as a disclosure?**
 - Becoming known to persons dealing professionally within the field to which the design pertains. However, e.g. disclosing to a person bound by a confidentiality clause does not count as disclosure.
- ➔ **Where to file a design application?**

Polish Patent Office
Contact: Urząd Patentowy RP
Al. Niepodległości 188/192
00-950 Warszawa
Skr. pocztowa 203
Poland
- ➔ **Database of registered designs**

<http://uprp.pl/patentwebaccess/databasechoose.aspx?language=english>

Trademark and Design protection 2013/2014

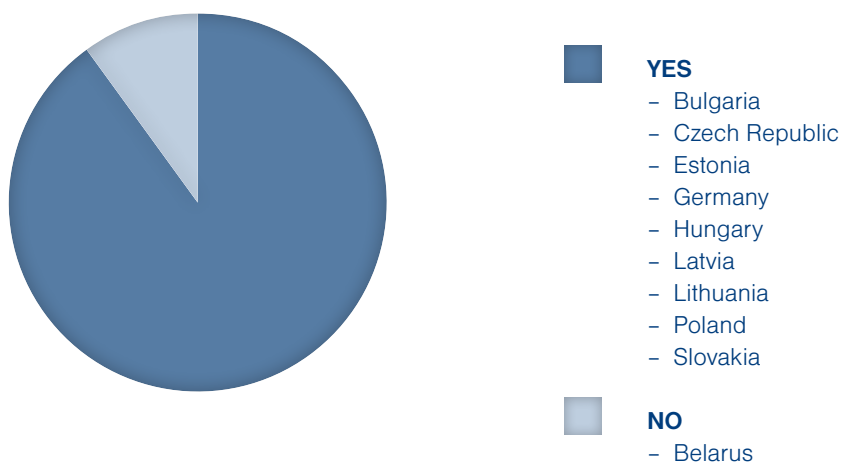
- **National legal basis**
 - Act. No. 444/2002 Coll.
- **What can be a design?**
 - Design is the appearance of the whole or a part of a product resulting from the features of, in particular, the lines, contours, colours, shape, texture or materials of the product itself or its ornamentation. A design protects the outward appearance of a product.
- **What can be considered as a disclosure?**
 - A design is regarded to have been made available to the public if published after its entry into the Register of Designs, or exhibited, used in trade or made available to the public in another way before the right of priority originates. This does not apply if the disclosure could not reasonably become known in normal commercial relations to experts in the industry sector concerned before the priority date.
- **Where to file a design application?**

Industrial Property Office of the Slovak Republic
Contact: Švermova 43
974 04 Banská Bystrica 4
Slovak Republic
infocentrum@indprop.gov.sk
- **Database of registered designs**

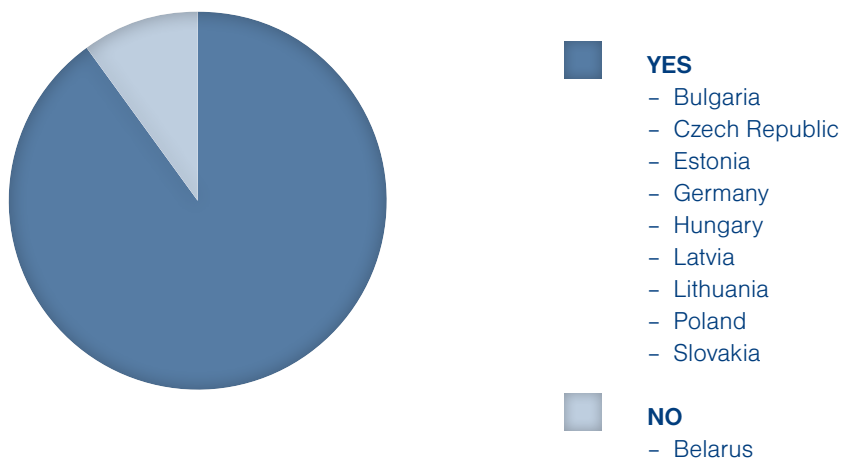
<http://registre.indprop.gov.sk/registre/searchForm.do?lang=en®ister=oz>

Trademark and Design protection 2013/2014

Members of Hague system

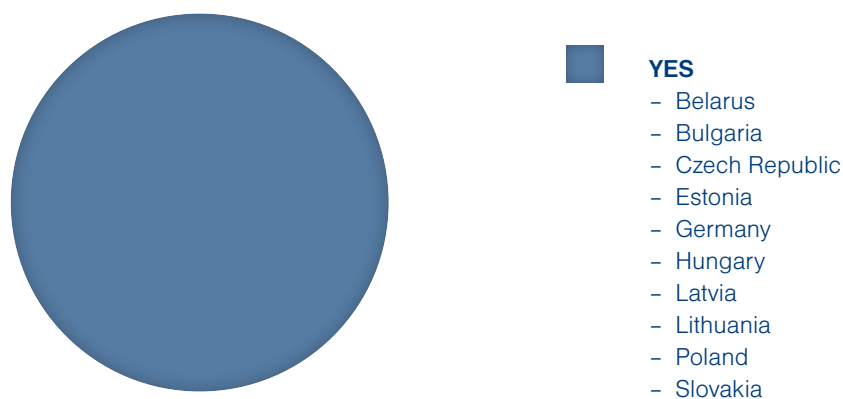


Members of Community Design system

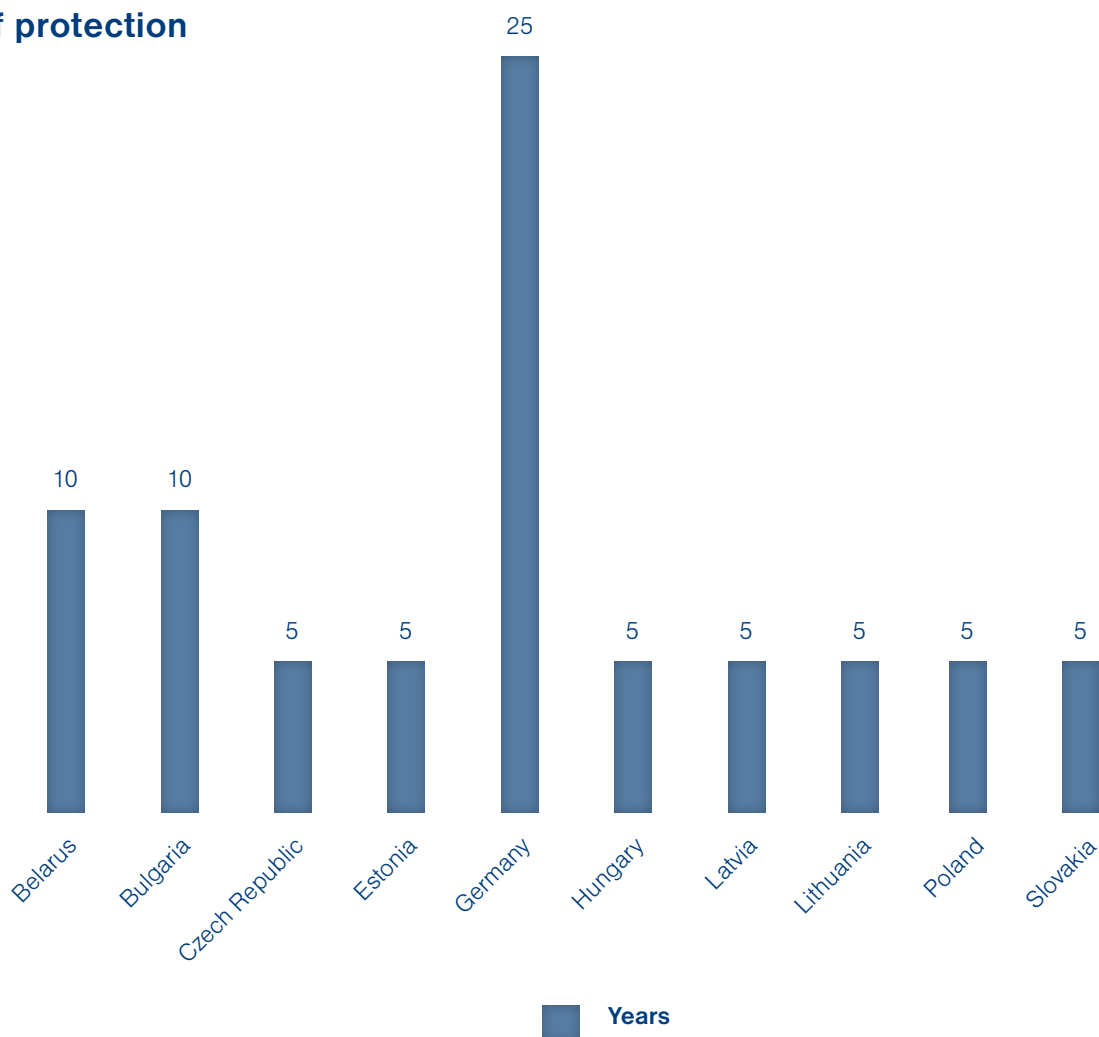


Trademark and Design protection 2013/2014

Is it possible to protect only part of the product?

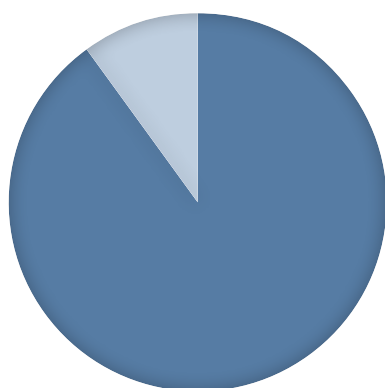


Term of protection



Trademark and Design protection 2013/2014

Does a non-resident need a local agent for filing the application?



YES

- Bulgaria
- Czech Republic
- Estonia
- Germany
- Hungary (but only if the applicant resides outside EC.)
- Latvia
- Lithuania (However, persons resident in the European Union or European Economic Area are treated as residents.)
- Poland
- Slovakia

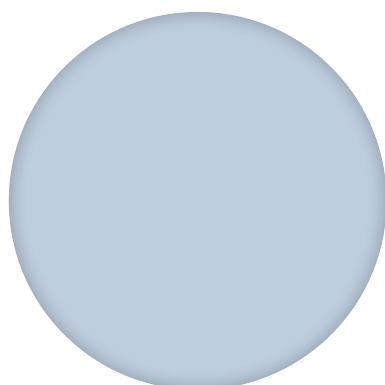


NO

- Belarus

In practice non-residents always use local agents to contact Belarus National Intellectual Property Center.

Is it necessary to file a sample of the product?

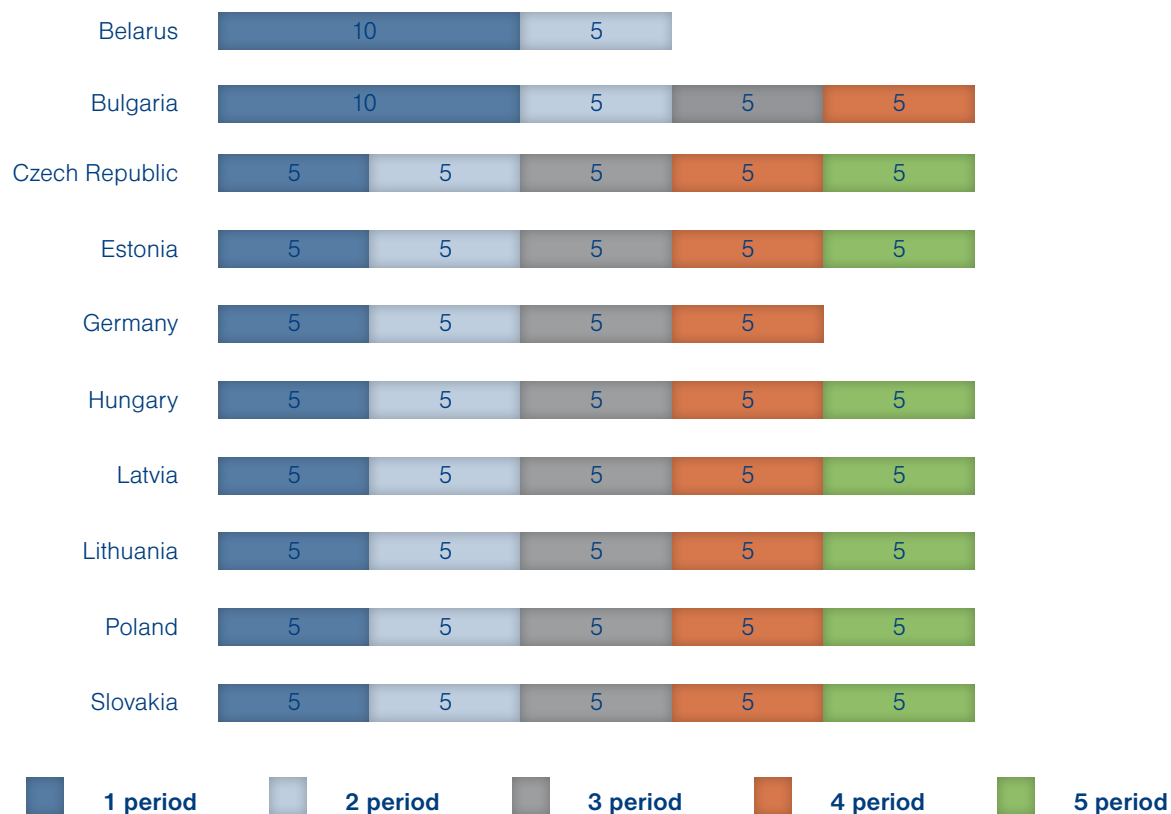


NO

- Belarus
- Bulgaria
- Czech Republic
- Estonia
- Germany
- Hungary
- Latvia
- Lithuania
- Poland
- Slovakia

Trademark and Design protection 2013/2014

Renewal of design protection, terms (years)



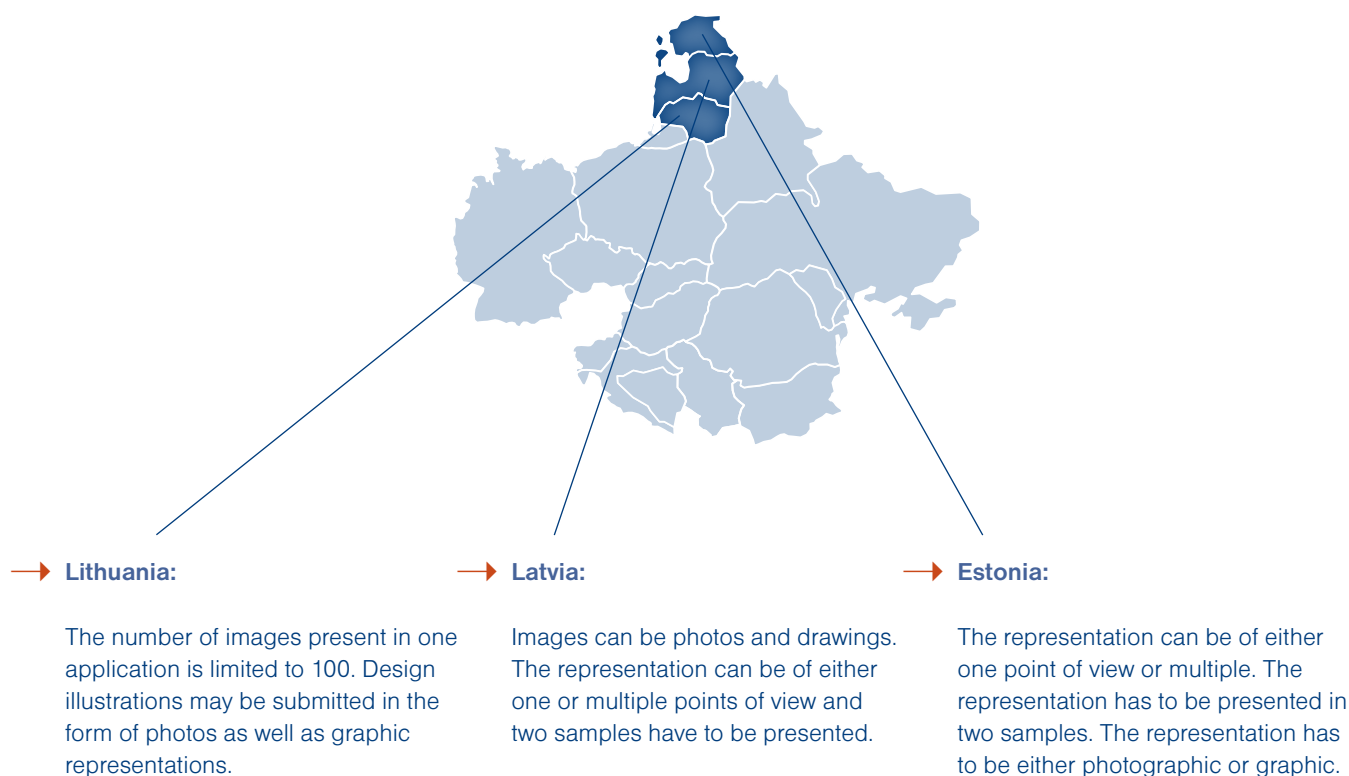
Upon expiration of the first period of protection, which varies according to country, registration may be renewed each time for a new five-year period until the maximum period for protection of a design is reached.

The maximum period for protection varies from country to country.

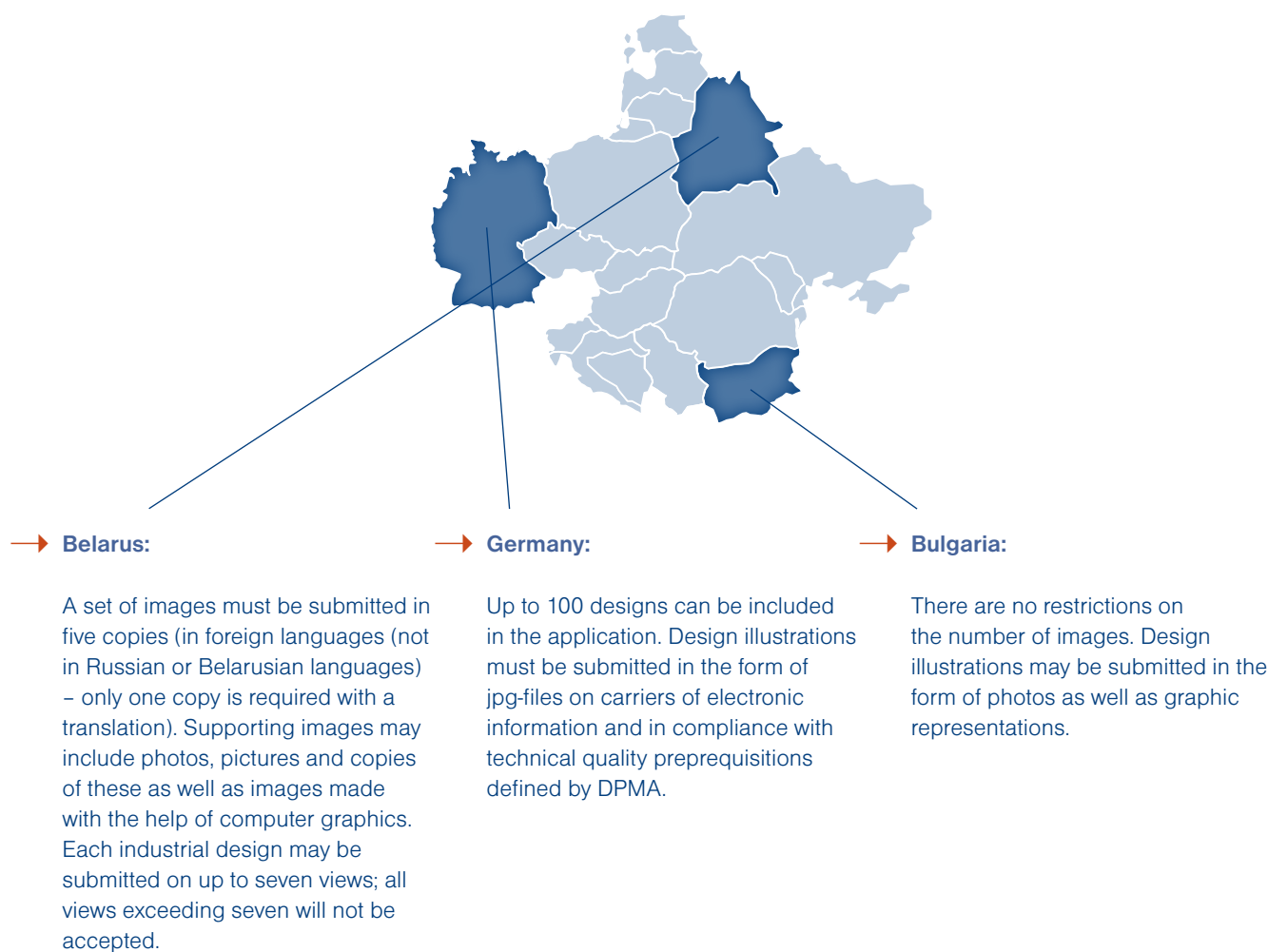
Please see above the comparison table of the period for the protection.

Trademark and Design protection 2013/2014

**How many images have to be included in the application?
Are there any minimum requirements or maximum restrictions?
Photos or drawings?**

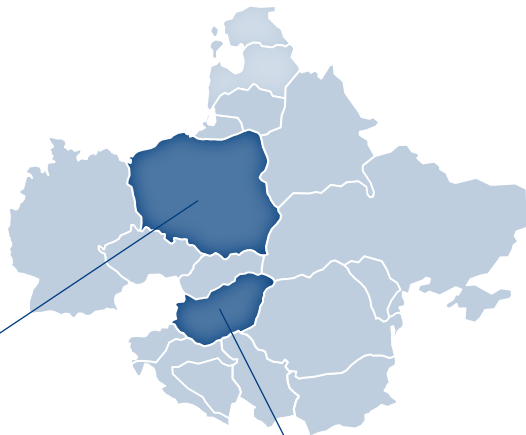


**How many images have to be included in the application?
Are there any minimum requirements or maximum restrictions?
Photos or drawings?**



Trademark and Design protection 2013/2014

**How many images have to be included in the application?
Are there any minimum requirements or maximum restrictions?
Photos or drawings?**



→ **Poland:**

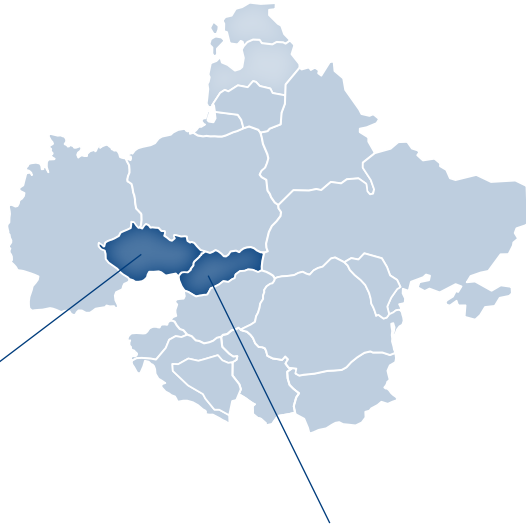
Not specified. However, illustration(s) should be filed in 3 (three) copies each; the same applies to the description. Polish Industrial Property Law sets out only as examples: drawings, pictures and samples of textiles – as possible design illustrations.

→ **Hungary:**

One or more images are allowed, without limitation in number. Photos and/or drawings are accepted. Photos and drawings have to be clear and obvious. No texts or signs are allowed, and there are some more requirements about graphical representation. Images must be filed in triplicate.

Trademark and Design protection 2013/2014

**How many images have to be included in the application?
Are there any minimum requirements or maximum restrictions?
Photos or drawings?**



→ **Czech Republic:**

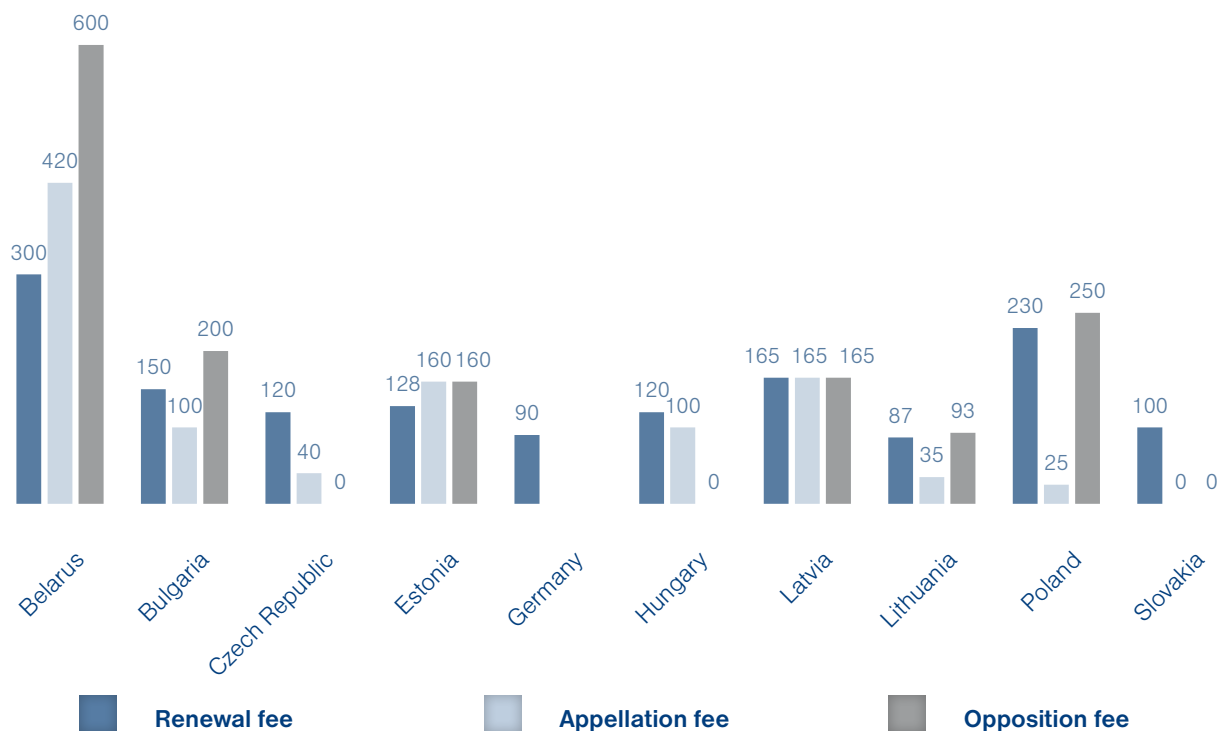
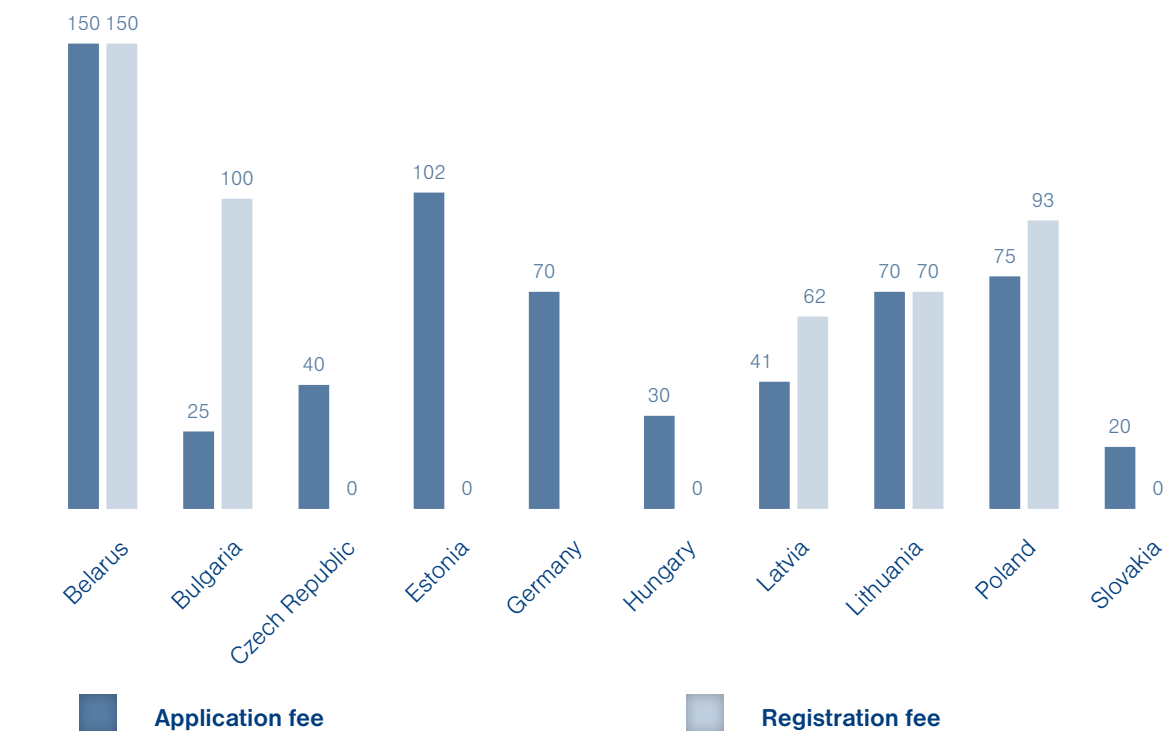
There is no restriction in this respect. The application has to include five copies of photos or other images of each design.

→ **Slovakia:**

No minimum number of images included in the application is set. The image of the design must give a clear idea of the appearance of the product or part of the product. The image may be a photo as well as a drawing. The application has to include three copies of images of each design.

Trademark and Design protection 2013/2014

Design fees (EUR)



Trademark and Design protection 2013/2014

Is there a possibility of opposition?

Belarus – Any person may oppose grant of a patent by applying to the Appellate Council within the whole period of patent validity if a protected industrial design does not conform to the patentability conditions specified by Law. Any person may also oppose grant of a patent by applying to the court within the whole period of patent validity in cases of unlawful indication in the patent of authors (co-authors) or the patent holder (patent holders). The opposition will be considered by the Appellate Council within six months after the claim is filed. The decision of the Appellate Council may be reviewed by the IP Bench of the Supreme Court within six months after the decision is received.

Bulgaria – A design can be deregistered upon demand by any person claiming that the absolute prerequisites for a registration are not met or that the design is identical to any older registered, priority or well-known design. A design can also be deregistered upon demand by a third party having a legitimate interest and claiming that the design collides with an earlier copyright or related rights or other earlier objects of industrial property protected by law.

Czech Republic – No as the examination is done solely by the Office.

Estonia – A person who finds that the rights of the owner of an industrial design belong to them may file an action in court against the owner of the industrial design for recognition of the right of ownership. A natural person can file an action against the owner of the industrial design for certification of the right of authorship if they consider they are the author of the industrial design.

Germany – No. However, there is a special procedure for proclaiming a design registration to be void. This procedure can be initiated by any person claiming that the absolute prerequisites for a registration are not met, the design is not new and/or original. A design can also be deregistered upon demand by a third party having a legitimate interest such as collision with earlier rights.

Hungary – Not any more. The application procedure has been fundamentally modified. Since 1 January 2011 an application is not published before registration of the design. Under the former Regulations the holder of a prior design could file a “remark” with the Office, which was handled like an opposition. Now, it works like the Community Design application, there is no opposition procedure, so that the only possibility for the holder of a prior design is to initiate invalidity proceedings, for which the fee is approx. 480,- €

Latvia – Within 3 months after publication of a design, upon payment of the relevant State fee, an opposition to registration of a design may be filed with the Patent Office. An opposition must be in writing, specifying the arguments of the person filing the opposition and references to legal provisions. After expiration of the 3-month deadline, the person filing an opposition may not alter (expand) the initial legal basis of the opposition but may, before the decision of the Board of Appeal, file additional documents and materials that confirm (clarify) the facts on which the opposition is based.

Registration of a design may be declared invalid in the following cases:

- 1) the object for which registration is applied for does not conform to the definition of a design;
- 2) the design does not conform to the requirements of novelty and individual character;
- 3) the person who filed an application for registration of a design (applicant for a design) or the owner of a registered design has no right to that design;
- 4) the design is in conflict with a design to which (under procedures for registration of designs specified by this Law or with procedures for international registration of designs) an earlier filing date or an earlier priority has been determined but which has been disclosed to the public only after the date of filing for registration or the date of priority of the disputed design;
- 5) a sign that ensures distinction has been used in the design (a trademark, trade name, commercial designation, also the name, portrait of a person or another similar sign) whose owner or the subject of the corresponding moral rights is entitled to prohibit such use in conformity with the requirements prescribed by regulatory enactments;
- 6) a work protected by copyright has been unlawfully used in the design;
- 7) any of the signs provided for by Article 6ter of the Paris Convention has been included or imitated in the design, also the

Trademark and Design protection 2013/2014

Is there a possibility of opposition?

coat of arms or flag of a Member State of the Paris Union, its official sign of hallmark, control or warranty, an emblem or flag of an international organisation, its name or an abbreviation of the name, and the use of such sign in the design may be declared as improper, inappropriate or not conforming with the provisions of Article 6ter of the Paris Convention; or 8) a sign to which Article 6ter of the Paris Convention does not apply has been included or imitated in the design, but which sign is of special social significance in Latvia or another state (heraldry, state award, official Service insignia, another sign or different mark with a high symbolic value, also a religious symbol).

Lithuania – Yes. Any person may file a justified written opposition to registration of a design with the Appeals Division of the State Patent Bureau on the ground that it may not be registered under Articles 9 and (or) 10 of Law on Designs (Art 23 of Law on Designs).

Objections may be grounded upon reasoning that statutory grounds for non-registration or recognition of the registration as invalid exist, e.g.:

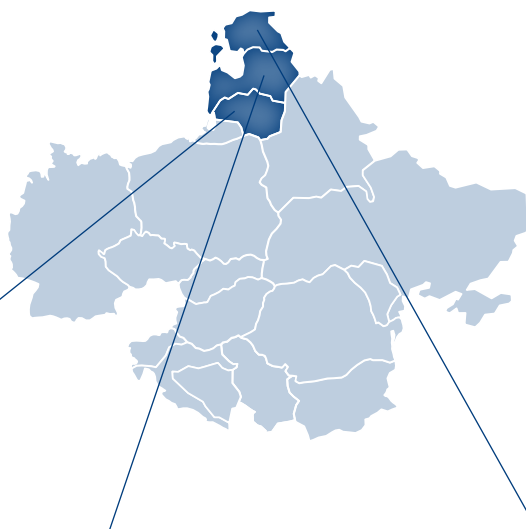
- the appearance of a product may not be regarded as a design;
- a design, its use or making it available to the public is contrary to public policy or to accepted principles of morality;
- a trademark, a name of a legal person, the proprietor of which is another person, is incorporated in the design without the consent of that person;
- the design is identical to a prior design which is registered or registration has been applied for and which has been made available to the public after the date of filing of the application or, if priority is claimed, the date of priority.

Poland – Yes. (basis: art. 246 of Polish Industrial Property Law). Anyone may file a justified opposition against a final and valid Polish Patent Office decision on registration; no legal interest required. Grounds: grounds which support the invalidation of a registration right, i.e. non-fulfilment of all the statutory requirements for granting of registration right.

Please note: entities having a legal interest may file a motion for invalidation of a design registration right (basis: art. 89 in connection with art. 117 of Polish Industrial Property Law). Grounds: 1) non-fulfilment of all statutory prerequisites for registration; 2) establishing that use of a certain design infringes personal and/or material rights of third parties.

Slovakia – No.

Is it possible to appeal refusal of registration?



→ Lithuania:

Yes. First the applicant must file with the State Patent Bureau a written request for reassessment within three months as of the day of sending the decision to refuse registration. If re-assessment is negative, the applicant may appeal the decision to the Appeals Division of the State Patent Bureau within 3 months as of sending the decision to the applicant. An applicant who disagrees with the decision of the Appeals Division may appeal to the Vilnius District Court within six months as of adoption of the decision by the Appeals Division.

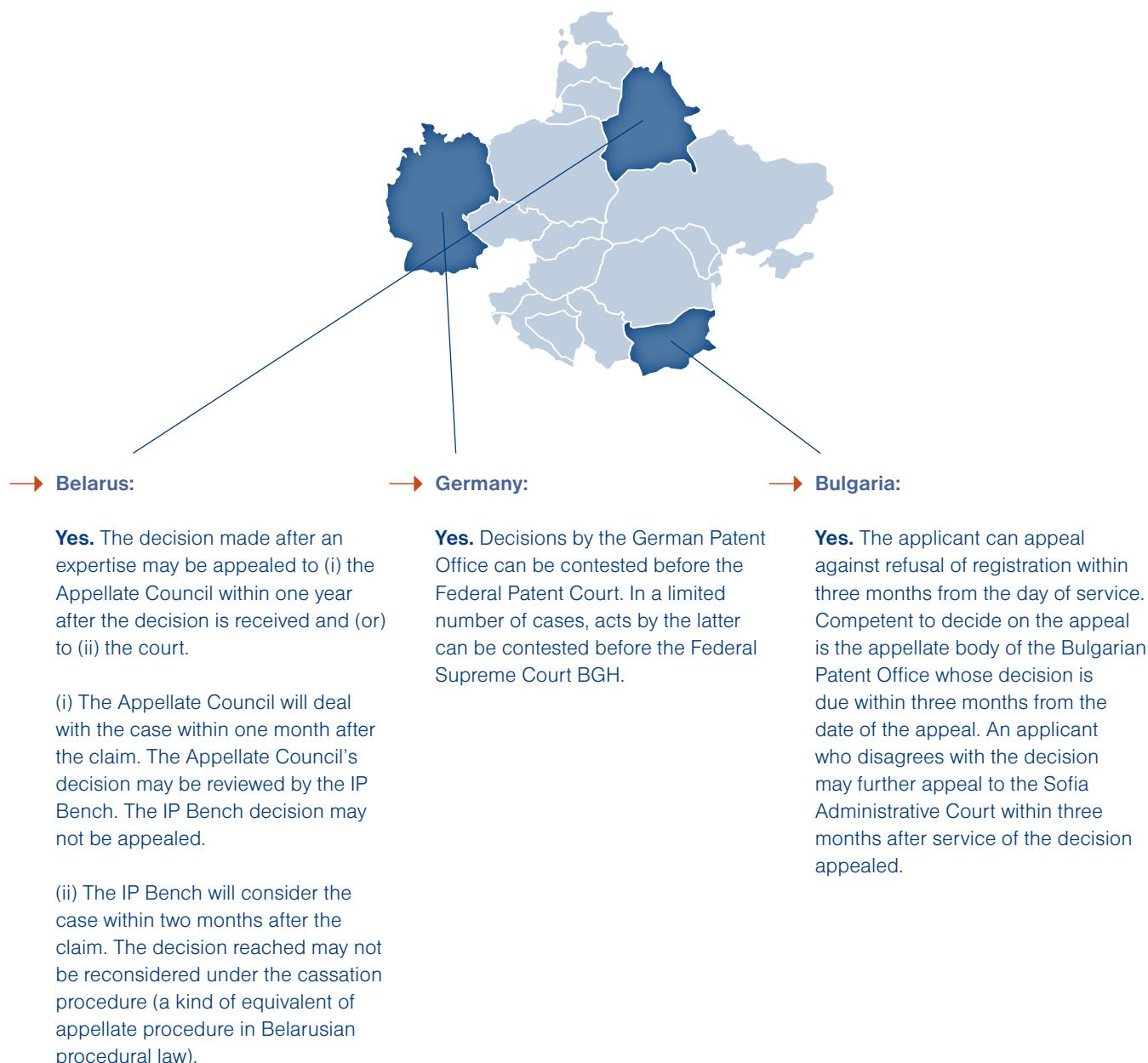
→ Latvia:

Yes. An applicant or other addressee of a decision of the Patent Office (the owner of a design, a former owner, a successor in title, a licensee) who disagrees in full or in part with the results of the examination of the application or with a decision of the Patent Office taken at another stage of the procedure related to registration of a design, is entitled within months from the day of receipt of the decision, on payment of the relevant State fee, to file a substantiated written appeal with the Patent Office. Filing an appeal suspends performance of the decision of the Patent Office.

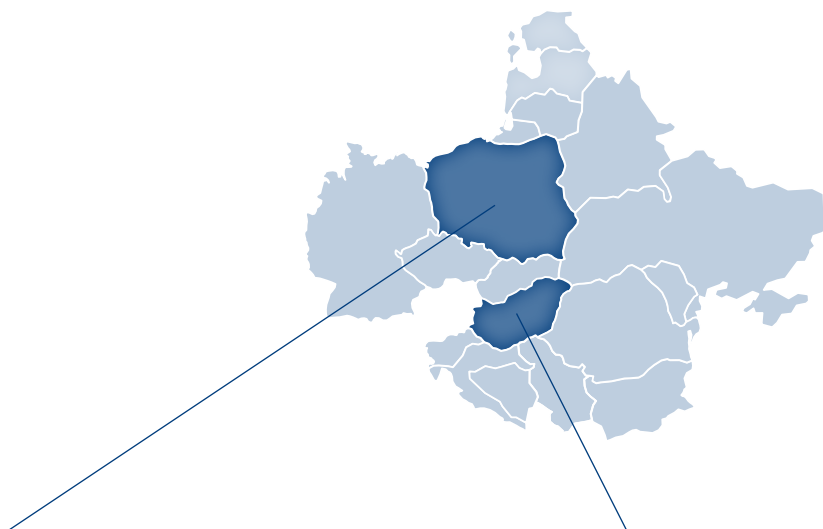
→ Estonia:

Yes. Refusal of registration can be appealed to the Industrial Property Board of Appeal within 2 months from refusal. The state fee is 159,77 EUR and the process might take approximately 20 months depending on the case.

Is it possible to appeal refusal of registration?



Is it possible to appeal refusal of registration?



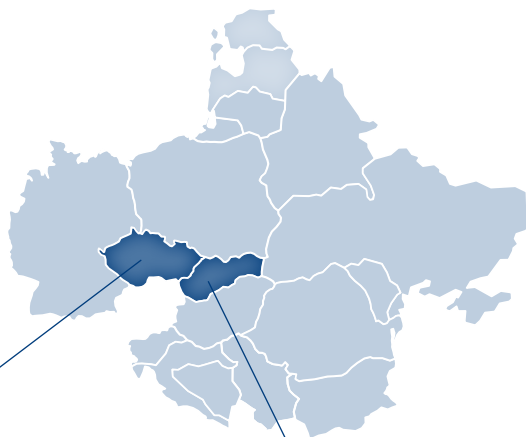
→ **Poland:**

Yes. The first step is a justified appeal to the same authority – Polish Patent Office – for reassessment of the case, filed within 2 months as of receipt of refusal decision (1 month if the case ended with a refusal ruling, e.g. for formal reasons). Polish Patent Office assigns an expert to perform it. Appeal should be assessed within 1 month, but this is only an instructional deadline and the authorities may not observe it (possible: grievances on protraction of proceedings, disciplinary liability). In the event of second refusal, a complaint to the relevant voivodship (district) administrative court may be filed, within 30 days as of receipt of the final refusal (fee: PLN 1,000). Ultimately, a cassation complaint may be filed with the Supreme Administrative Court. It should be filed within 30 days as of receipt of the administrative court judgment with justification, via the intermediation of that court (fee: PLN 500).

→ **Hungary:**

Yes, although there is no “regular appeal”, final decisions of the Office may be reviewed by the court. A “petition for reversal” should be filed with the Hungarian Intellectual Property Office within 30 days. The Office forwards the appeal and the documents in the case within 15 days (in difficult cases 30 days) to the Metropolitan Court. In some cases the Office is entitled to modify its own decision in compliance with a petition for reversal before forwarding it to the Court. The duration of the proceedings before the Court depends on the case, intervals of 3 months between two hearings are usual.

Is it possible to appeal refusal of registration?



→ **Czech Republic:**

Yes. Refusal may be appealed within one month following receipt of the decision subject to payment of an administrative fee of EUR 40/CZK 1000.

→ **Slovakia:**

Yes. It is possible to appeal refusal of registration (rozkład); an appeal must be filed with the Industrial Property Office of the Slovak Republic within 30 days as of the delivery of the refusal. There are no extra costs for the appeal.

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