

## ES – SPAIN

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### 1. Requirements for Deposit.

If an invention concerns biological material which is not available to the public, or to its use, and if the biological material cannot be described in the patent application in such a manner as to enable the invention to be carried out by a person skilled in the art, the invention shall only be regarded as disclosed as prescribed in Article 27(1) if the following requirements are met:

- a) A sample of the biological material has been deposited not later than the date of filing of the application with a recognised depositary institution on the same terms as those laid down in the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure of 28 April 1997. In any case, international depositary authorities which have acquired such status in accordance with Article 7 of the said Treaty shall be deemed to be recognised.

*(Spanish Patent Law 24/2015, Article 27(2)(a))*

### 2. Time of Deposit

The deposit must be made not later than the date of filing of patent application.

*(Spanish Patent Law 24/2015, Article 27(2)(a))*

### 3. Duration of Storage

No provision.

### 4. Conditions for the Furnishing of Samples

1. The deposited biological material in accordance with Article 27 shall be accessible:

- (a) Before the first publication of the patent application, only to any person having the right to inspect the files under Article 55.

- (b) Between the date of publication of the patent application and the date of granting, to any person upon request or only to a nominated independent expert if requested by the patent applicant.
  - (c) After the granting of the patent application, even if the patent expires or is declared invalid, to any person upon request.
2. Said access be provided only if the requester undertakes to comply with while the patent effect is valid:
    - a. To not supply the deposited biological material or any material obtained therefrom to any third party.
    - b. To use the deposited biological material for experimental purposes only, unless the patent applicant or proprietor expressly waives such an undertaking.
  3. In case of withdrawal or refusal of the patent application, the access to the deposited biological material shall be limited, upon request of the applicant and during twenty years from the date of filing, to a nominated independent expert. In this case, the conditions under point 2 above shall apply.
  4. The requests of the applicant referred to in the points 1 (b) and 3 above shall only be filed until the date on which the technical preparations for the publication of the patent application are deemed to be completed.

*(Spanish Patent Law 24/2015, Article 56)*