

RS – SERBIA

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1. Requirements for Deposit

If an invention involves the use of or concerns biological material which is not available to the public and 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 description shall be deemed to fulfil the conditions laid down in paragraph 1 of this article if:

- 1) a sample of the biological material has been deposited, at the latest on the date of filing the patent application, in the competent depository institution;
- 2) the patent application contains all information on the characteristics of the deposited biological material that is available to the applicant until the date of filing the patent application;
- 3) the name and address of the competent depository institution, the accession number of the deposited biological material and the date on which that deposition was made are stated in the patent application.

The information on the completed deposit referred to in paragraph 2 point 3) of this article can be submitted subsequently until the end of the technical preparations for publication of the patent application or until the date of submission of the request for early publication.

The competent institution referred to in paragraph 2 of this Article shall be the institution designated on the basis of the Law on Ratification of the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (Official Gazette of the FRY - International Treaties, No. 3/93).

(Patent Law, Article 82, paragraphs 2 - 4) *

2. Time of Deposit

The biological material shall be deposited with a recognized depositary institution no later than the date on which the patent application is filed.

(Patent Law, Article 82, paragraph 2(1))

3. Duration of Storage

The deposit of the biological material shall be made according to the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure. Regulations under the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure shall be applied.

4. Conditions for the Furnishing of Samples

(i) Time of Availability of Samples

A sample of deposited biological material shall be issued:

- 1) until publication of the patent application, to the applicant of the patent application or a person entitled by the applicant;
- 2) in the period between the publication of the patent application and the granting of the patent, to any person filing the request. Exceptionally, the applicant of the patent application may request that the sample of the deposited biological material be issued only to an independent expert;
- 3) after the patent has been granted, regardless of revocation thereof, to any person filing a request.

(Rules of Patent Grant Procedure, Article 15, paragraph 1) **

(ii) Restrictions Concerning the Furnishing of Samples

A sample of deposited biological material shall be issued if the requestor submits a statement that during the validity of the patent, the requested sample of deposited biological material or any biological material derived from it will not:

- 1) be made available to third parties;
- 2) be used in a manner other than exclusively for experimental purposes, except with the consent of the applicant of the patent application or the patent holder.

At the request of the applicant of the patent application, when a patent application is rejected or the procedure suspended for some other reason, the deposited biological material shall be issued only to an independent expert within 20 years from the date of filing the patent application, in accordance with paragraph 3 of this article.

If the requestor uses a sample of deposited biological material issued on the basis of a compulsory license or a compulsory license in the public interest, the consent from paragraph 3, point 2) of this article shall not be required.

(Rules of Patent Grant Procedure, Article 15, paragraphs 2 – 5)

* THE PATENT LAW (“Official Gazette RS” No. 99/11, 113/17 – other laws, 95/18, 66/19 and 123/21)

** Regulations on the content of certificates, applications and requests in the procedure of the protection of inventions, as well as the manner of filing the application and publication of inventions (“Official Gazette RS” No. 78/2019)