

ACT ON PATENTS AND REGISTRATION OF UTILITY MODELS (TITLE AMEND. - SG 64/06, IN FORCE FROM 09.11.2006)

*Prom. SG. 27/2 Apr 1993, suppl. SG. 83/1 Oct 1996, amend. SG. 11/29 Jan 1998, amend. SG. 81/14 Sep 1999, amend. SG. 45/30 Apr 2002, amend. SG. 66/9 Jul 2002, suppl. SG. 17/21 Feb 2003, amend. SG. 30/11 Apr 2006, amend. SG. 64/8 Aug 2006, amend. SG. 31/13 Apr 2007, amend. SG. 59/20 Jul 2007, amend. SG. 36/4 Apr 2008, amend. SG. 19/9 Mar 2010, amend. SG. 38/18 May 2012, amend. SG. 58/18 Jul 2017, **amend. and suppl. SG. 98/13 Dec 2019***

Chapter one. GENERAL PROVISIONS

Subject Matter

Art. 1. (1) (amend. - SG 64/06, in force from 09.11.2006) This Act shall govern the relationships arising in the creation, protection and use of the patentable inventions and of the utility models.

(2) The provisions of this Act shall also apply to foreign nationals and legal persons from states parties to treaties to which the Republic of Bulgaria is a party. This Act shall apply to foreign nationals and legal persons from other states on the principle of reciprocity as judged by the Patent Office. Whenever a bilateral treaty is in force, the provisions thereof shall apply.

(3) (new, SG 17/03) This Act shall not settle relations requiring, on creation and using inventions or utility models, related to the implementation of specific activities or the bodies of the Ministry of Interior.

Inventor (title amend. SG 66/02)

Art. 2. (1) (revoked SG 66/02).

(2) (amend. SG 66/02) The person, who has created an invention or utility model, shall be its inventor. When the invention or the utility model has been made by several persons, these shall be considered co-inventors.

(3) (revoked – SG 66/02).

(4) (revoked – SG 66/02).

Right of the inventor to be pointed out (new – SG 66/02)

Art. 2a. (amend. - SG 64/06, in force from 09.11.2006) (1) The inventor of an invention or of utility model shall have right to be pointed out in the application, in the granted patent for invention or in the certificate of registration of a utility model as well as in publications about the invention or the utility model. This right shall be personal and not transferable.

(2) The Patent Office shall officially control the pointing out of the inventor, respectively the co-inventors, in the application, in the granted patent or in the certificate of the utility model.

Representation

Art. 3. (1) (amend. - SG 64/06, in force from 09.11.2006, amend. - SG 98/19) The applicant, the holder of rights under this Act, referred further as "the holder", and any person who under this Act may undertake actions before the Patent Office, may do so in person or

through a industrial property rights representative. The Council of Ministers shall issue a regulation on the procedure for admitting such representatives and the requirements which they must meet.

(2) (amend. SG 66/02) Applicants, who do not have residence or headquarters in the Republic of Bulgaria shall act before the Patent Office through an industrial property representative under the preceding paragraph.

(3) Representation in court actions arising from this Act shall be carried out under the procedures of the Code of Civil Procedure.

Transfer of Rights

Art. 4. All rights governed by this Act, inasmuch as no other provisions are contained herein, shall be transferable.

Fees

Art. 5. (suppl. SG 66/02) (1) (amend. - SG 64/06, in force from 09.11.2006) Fees according to a tariff adopted by the Council of Ministers shall be payable for all laws related to filing an application for a patent or a supplementary protection certificate, proceedings at the Patent Office, the publication of the applications, the issue of the publications of the protection documents and the maintenance of their effect, as well as for entries in the State register of the patents and the State register of the supplementary protection certificates. The fees application, expertise and appealing of the decisions of the expertise department shall be paid in reduced amount according to the tariff, if the applicants are the inventors, micro – and medium size enterprises under the Small and Medium-Sized Enterprises Act, state or municipal schools, state universities or academic research and development organisations at budget maintenance.

(2) The fees according to the preceding paragraph shall be paid to the amount of 50 per cent of the total amount due for patent applications filed with a declaration for licensing readiness.

(3) (new - SG 64/06, in force from 09.11.2006) For all actions related to filing an application for registration of a utility model, the proceedings before the Patent Office, the registration, the granting of a certificate for registration, the publications and the extension of the term of effect of the registration, as well as for entries in the State register of the utility models fees shall be paid according to the tariff referred to in Para 1.

(4) (new – SG 66/02; prev. text of para 03, amend. - SG 64/06, in force from 09.11.2006) When the fees of the previous paras are not paid in full extent, it shall be considered, that the payment has not been made. The Patent Office can concede to the applicant, respectively the holder, an opportunity to pay the remainder of the due fee only in the cases, when the payment can take place within the term, determined in the law. After the expiry of the term for payment the paid sum shall be restored upon request by the payer.

State Registers

Art. 5a. (new - SG 64/06, in force from 09.11.2006) (1) The Patent Office shall maintain a State register of the patents, a State register of the utility models and a State register of the supplementary protection certificates.

(2) Into the registers referred to in Para 1 shall be entered respectively all applications for granting legal protection under this Act and the order of their maintenance shall be determined by an instruction of the President of the Patent Office.

(3) The State registers shall be public. The Patent Office shall provide excerpts from

them upon application and payment of a fee according to the tariff referred to in Art. 5, Para 1.

File

Art. 5b. (new - SG 98/19) (1) The Patent Office keeps, for each invention, a utility model and a certificate for supplementary protection a file on paper and electronically which includes all documentation for the issuance of the protection document and subsequent entries. In the cases of Art. 67, Art. 72a, Art. 72b, para. 2 and Art. 72c the file shall include all documentation regarding the actions provided for in this Act.

(2) The right of access to the file of the invention, the utility model and the supplementary protection certificate have the applicant, the holder, the industrial property representative, legal adviser from the administration of the applicant or holder, as well as a lawyer authorized in writing by the applicant or holder. Access to the file is also available to a person who is expressly authorized by a notarized power of attorney from the applicant or holder.

(3) Right of access to the administrative file in proceedings in disputes have the parties involved therein, industrial property representatives, legal adviser from the administration of the applicant, the holder or the claimant, the lawyer authorized in writing by the applicant, the holder or the claimant, as well as a person expressly authorized by a notarized power of attorney from them.

(4) Everyone has the right to information about the data contained in the file of the invention, the utility model and the supplementary protection certificate, which are subject to entering.

(5) After the publication referred to in Art. 51 any person shall have the right to be granted access to the application for granted patent as it was filed.

(6) After the publication under Art. 77, para. 1, each person has the right to access the application for registration of the utility model, as submitted, and to the report under Art. 75f, para. 3.

(7) Third parties, in respect of whom circumstances admissible by law have been entered, have the right of access only to the documentation on the basis of which the entry was made.

(8) The right of access to a file includes the right of persons authorized under this Act to familiarize themselves with and to obtain copies of all material and documents entered in the relevant file with the exception of internal documents within the meaning of § 1, item 1 of the additional provisions of the Trademarks and Geographical Indications Act.

(9) The procedure for granting access to files and for obtaining references or extracts from registers shall be determined by an instruction of the President of the Patent Office.

Chapter two.

PATENTABILITY OF INVENTIONS

Patentable Inventions

Art. 6. (amend. SG 66/02) (1) (amend. - SG 64/06, in force from 09.11.2006) Patentable shall be the inventions in all technical fields, which are new, which involve an inventive step and which are susceptible to industrial application.

(2) As inventions shall not be regarded:

1. discoveries, scientific theories and mathematical methods;
2. products of artistic endeavour;
3. schemes, rules and methods for intellectual activity, for playing games or doing business and computer software;
4. presentation of information.

(3) Para 2 shall apply to the above objects to the extent that legal protection is sought for them as such.

(4) (new - SG 64/06, in force from 09.11.2006) The human body, at the various stages of its formation and development, as well as the simple discovery of one of its elements, including the sequence or the partial sequence of a gene, may not constitute a patentable invention. Any element isolated from the human body or otherwise produced by means of a technical process, including the sequence or the partial sequence of a gene, may constitute a patentable invention, even if the structure of this element is identical to that of a natural element.

Exceptions to Patentability

Art. 7. (amend. - SG 64/06, in force from 09.11.2006) (1) Patents shall not be granted in respect of:

1. (amend. SG 66/02) inventions, which commercial use would violate "order public" or morality, including those related to:

a) methods of cloning human beings;

b) methods for modifying the germ line genetic identity of human beings;

c) uses of human embryos for industrial or commercial purposes;

d) methods for modifying the genetic identity of animals which are likely to cause them suffering without any substantial medical benefit to man or animal, and also animals resulting from such methods;

2. methods for treatment of people or animals through therapy or in surgical way, as well as methods for diagnostic, applied for people or animals, this not referring to products, in particular to substances or compounds, used in this methods;

3. plant and animal varieties;

4. essentially biological processes for production of plants and animals.

(2) The violation referred to in Para 1, Item 1 shall not be deemed so merely because the use of the invention is prohibited by law.

Patentability of the Biotechnological Inventions

Art. 7a. (new - SG 64/06, in force from 09.11.2006) (1) Patentable shall be the inventions related to a product consisting of or containing biological material or to a method by which biological material is produced, processed or used on the condition that they comply with the requirements referred to in Art. 6, Para 1.

(2) Biological material which is isolated from its natural environment or produced by means of a technical process may be the subject of an invention even if it previously occurred in nature.

(3) Inventions related to plants or animals shall be patentable if the technical realization of the invention is not restricted simply to a certain plant or animal variety.

(4) The prohibition referred to in Art. 7, Para 1, Item 4 shall not cover the patentability of inventions related to microbiological or other technical method or product, produced from such method, if they comply with the requirements referred to in Art. 6, Para 1.

Novelty

Art. 8. (1) An invention shall be considered to be new if it does not form part of the state of the art.

(2) The state of the art shall be held to comprise everything made available to the public by means of a written or oral description, by use or by disclosure in any other way anywhere in

the world before the date of filing or, respectively, the priority date of the patent application.

(3) (amend. SG 66/02) The state of the art shall also include the contents of the national applications for patent, the European and the international applications for patent, for which the Republic of Bulgaria has been pointed out as party and which have date of submitting, respectively priority date, earlier than the date of para 2, if later they are published in the official bulletin of the Patent Office.

(4) (new - SG 64/06, in force from 09.11.2006) The state of the art shall include also the contents of the national applications for registration of utility models with a date of filing, respectively priority date, earlier than the date referred to in Para 2, if in consequence a publication of their registration is made.

(5) (new – SG 66/02; prev. text of para 04, amend. - SG 64/06, in force from 09.11.2006) Substances or compounds, included in the state of the art of para 2 and 3, which are used in the methods of art. 7, Para 1, Item 2, shall be considered new, if their use is not included in the state of the art.

Inventive Step (title amend. SG 66/02)

Art. 9. (amend. SG 66/02) An invention shall be considered as involving an inventive step if, having regard to the state of the art as referred to in Art. 8, para 2, it is not obvious to a person skilled in the art as of the date of filing or, respectively, the priority date.

Industrial Application

Art. 10. An invention shall be considered susceptible to industrial application if it can be made or repeatedly used in any industry, including agriculture.

Non-Prejudicial Disclosures

Art. 11. (1) The disclosure of the invention shall not influence the novelty, when this disclosure is made in six months term before the date of submitting of the application for the invention, respectively before the priority date, and it is consequence of:

1. obvious misuse with regard to the applicant or the previous owner of the right to application;
2. exhibiting of the invention at an official or officially recognised exhibition by the applicant or the previous owner of the right to application.

(2) The disclosure of para 1, item 2 shall not influence the novelty, if the applicant declares the exhibiting of the invention at submitting the application and in three months after the date of submitting the application presents proofs for this.

Chapter three. PATENT

Legal Protection

Art. 12. (1) (amend. - SG 64/06, in force from 09.11.2006) The legal protection of the patentable invention shall be granted with a patent.

(2) (amend. SG 66/02; amend. - SG 64/06, in force from 09.11.2006) The patent shall certify the exclusive right of the holder of the patent on the invention.

(3) (new – SG 66/02) The patent shall have effect for third persons from the publication about its issuing in the official bulletin of the Patent Office.

Entitlement to File an Application

Art. 13. (1) The right to file an application shall belong to the inventor or his legal successor. Whenever such a right belongs to several persons it shall be exercised by them jointly. Refusal by one or more of these persons to participate in the filing of an application or in the proceeding for granting a patent shall not prevent the others from performing laws pursuant to this Act.

(2) The applicant shall be deemed to be entitled to file an application until a court decides otherwise.

(3) The right to patent an invention created under the terms described in Art. 15 shall belong to the employer if he files an application within three months of receiving the notification of the invention from the inventor. If he fails to do so the right to apply for a patent shall be transferred to the inventor. The right to apply for a patent may belong jointly to the employer and the inventor if such an agreement has been made in a contract.

(4) Whenever an invention has been made pursuant to a contract, the right to apply for a patent shall belong to the client unless the contract provides otherwise.

(5) (revoked – SG 64/06, in force from 09.11.2006)

Right to a Patent

Art. 14. (1) The right to a patent shall belong to the person who shall have the right to apply under Art. 13.

(2) In the event that several persons have applied for a patent for one and the same invention at different times, the right to a patent shall belong to the person who has filed the earliest application.

(3) (new – SG 66/02) If several persons have submitted independently from one another application for patent for one and the same invention, with one and the same date of submitting, respectively one and the same priority, right to patent shall have each one of them.

Official Invention

Art. 15. (1) An invention shall be official if it is made while fulfilling one's official obligations stemming from a labour or other contract of the inventor, except where the contract provides otherwise.

(2) An invention shall be considered official under the preceding paragraph when:

1. the inventor was fulfilling the official obligations intrinsic to his position;

2. the inventor was fulfilling obligations outside those named in item 1, but such obligations were specifically assigned to him with the expectation of their resulting in an invention;

3. the inventor has used material or financial means provided by the employer or client, or knowledge and experience attained as a result of his work.

(3) Where an invention is official only in respect to one or more of the inventors or, respectively, contracts the provisions of the preceding paragraphs and of Art. 13 shall apply only in respect to those inventors and their employers and clients.

(4) The inventor or, respectively, contractor within the meaning of this Art., shall notify his employer or client in writing of the invention within three months of making it.

(5) (amend. SG 66/02) An inventor who has made an official invention shall be entitled to right to be pointed out and the right to a fair remuneration if such was not provided for in the contract. In establishing the amount of the remuneration, the following shall be taken into consideration:

1. the profit obtained from all uses of the invention during the term of the patent;
2. value of the invention;
3. the contribution of the employer as expressed in invested funds for making the invention, the provision of equipment, materials, knowledge, expertise, staff and other assistance. Remuneration shall be due from the employer, or, when he is not the proprietor of the patent, jointly from him and the proprietor of the patent.

(6) Whenever the remuneration under the preceding paragraph, regardless of whether agreed upon in a contract or determined under the preceding rules, is unfair in view of the profit actually obtained and the value of the invention, it may be increased upon the request of the inventor.

(7) The employer, the client, the inventor and the contractor shall refrain from any actions that may be detrimental to the rights conferred by this Art. or Art. 13.

Term of the Patent

Art. 16. The term of the patent shall be twenty years as from the date of filing of the application.

Extent of Legal Protection

Art. 17. (1) The extent of the legal protection shall be determined by the claims. The description and drawings shall be used to interpret the claims.

(2) The claims shall cover not only features as expressed but also their equivalents. A feature shall be considered equivalent to a feature as expressed in the claims, when:

1. it has essentially one and the same function and attains essentially the same result;
2. it is obvious for a person skilled in the art that as of the priority date the result attained by the feature described in the claims may be achieved by the equivalent feature.

(3) In determining the extent of the legal protection due consideration shall be given to limitations of claims made by the applicant or proprietor of the patent in the process of the investigation for granting the patent, or in response to actions brought for its nullification.

(4) The interpretation of claims shall not be limited by the examples of actual implementation included in the description.

(5) The abstract shall not be taken into consideration in determining the extent of the legal protection provided by the patent.

Provisional Protection

Art. 18. (1) (amend. SG 66/02) Provisional protection whose extent shall be determined by the claims as formulated in the application shall be provided during the period from the publication of the application to the publication about granting of the patent.

(2) (amend. SG 66/02) The protection of para 1 shall be conceded with retroactive effect from the publication about issuing of the patent, as far as the patent does not broaden it.

(3) The applicant shall be entitled to fair compensation from any person who has undertaken any of the laws mentioned in Art. 19, para 3 without his permission during the period of provisional protection, but only if a patent has been granted for the invention.

Content of the Exclusive Right over the Invention

Art. 19. (1) The exclusive right over the invention includes the right to use the invention, the prohibition for third parties to use the invention without the consent of the

proprietor of the patent and the right to dispose with the patent.

(2) (amend. - SG 64/06, in force from 09.11.2006) Where a patent is co-ownership of more than one person and unless otherwise agreed between them, each of the co-owners may use the invention in full, but the consent of all proprietors of the patent shall be required for exercising the rest of the rights under This Act. Inasmuch as no other provision has been made in This Act regarding the co-ownership in a patent, the provisions on co-ownership contained in the Ownership Act shall be applicable.

(3) (suppl. SG 66/02; amend. - SG 64/06, in force from 09.11.2006) The right to use a patent shall include the production, offering for sale, trade with the object of the invention, including import, utilisation of the object of the invention, as well as the application of the patented method.

(4) Where the object of the patent is a product (Art., device, machine, equipment, substance, etc.) the proprietor of the patent shall have the right to prohibit third parties to undertake the following laws:

1. manufacturing the product;
2. (amend. SG 66/02; amend. - SG 64/06, in force from 09.11.2006) offering for selling, trade with the product, including import, using the product or preservation of the product in a store for offering, sale or use.

(5) Where the object of the patent is a method, the proprietor of the patent shall be free to prohibit third parties to undertake the following laws:

1. applying the method;
2. all laws mentioned in para 4, item 2 regarding the product which has been produced as a direct result of the use of the method.

(6) (new - SG 64/06, in force from 09.11.2006) The protection conferred by a patent on a biological material possessing specific characteristics as a result of the invention shall extend to any biological material derived from that biological material through propagation or multiplication in an identical or divergent form and possessing those same characteristics.

(7) (new - SG 64/06, in force from 09.11.2006) The protection conferred by a patent on a method that enables a biological material to be produced possessing specific characteristics as a result of the invention shall extend to biological material directly obtained through that method and to any other biological material derived from the directly obtained biological material through propagation or multiplication in an identical or divergent form and possessing those same characteristics.

(8) (new - SG 64/06, in force from 09.11.2006) The protection conferred by a patent on a product containing or consisting of genetic information shall extend to all material, save as provided in Art. 6, Para 4, first sentence, in which the product is incorporated and in which the genetic information is contained and performs its function.

Limitations on the Effect of the Patent

Art. 20. The effect of the patent shall not cover:

1. the use of the patented invention for non-commercial purposes with a view to satisfying personal needs, as long as this does not result in significant financial losses for the patent holder;
2. use of the invention for experimental and research purposes related to the object of the patented invention;
3. single and direct preparation of a medicine at a pharmacy upon prescription;
4. (revoked – SG 66/02);
5. (revoked – SG 66/02);
6. use of the patented invention in foreign land, maritime and air vehicles which cross

the country's land, sea or air borders temporarily or accidentally, provided that the patented invention is used exclusively for the needs of the said vehicles;

7. (new - SG 64/06, in force from 09.11.2006; revoked – SG 31/07, in force from 13.04.2007)

Exhaustion of rights (new – SG 66/02)

Art. 20a. (new – SG 66/02; amend. - SG 64/06, in force from 09.11.2006) (1) (In force from the date of accession of the Republic of Bulgaria to the European Union) The exclusive right over the invention, conceded with patent, shall not cover activities with the product, protected with the patent, which has been released on the market on the territory of the European Economic Area by the patent holder or with his consent.

(2) The protection referred to in Art. 19, Para 6, 7 and 8 shall not extend to biological material obtained from the propagation or multiplication of biological material placed on the market by the holder of the patent or with his consent, where the multiplication or propagation necessarily results from the application for which the biological material was marketed, provided that the material obtained is not subsequently used for other propagation or multiplication.

(3) The protection referred to in Art. 19, Para 6, 7 and 8 shall not extent to the sale or other form of commercialisation of plant propagating material to a farmer by the holder of the patent or with his consent for agricultural use. The sale or other form of commercialisation implies authorisation for the farmer to use the product of his harvest for propagation or multiplication by him on his own farm.

(4) (amend. – SG 36/08, amend. – SG 58/17, in force from 18.07.2017) The order of application of Para 3 shall be determined by an ordinance by the Minister of Agriculture, Foods and Forestry.

(5) The protection referred to in Art. 19, Para 6, 7 and 8 shall not extent to the sale or any other form of commercialisation of breeding stock or other animal reproductive material to a farmer by the holder of the patent or with his consent, which sale implies authorisation for the farmer to use the livestock or other animal reproductive material for the purposes of pursuing his agricultural activity but not sale within the framework or for the purpose of a commercial reproduction activity.

(6) (amend. – SG 36/08, amend. – SG 58/17, in force from 18.07.2017) The order of application of Para 5 shall be determined by an ordinance by the Minister of Agriculture, Foods and Forestry.

Right to Previous Use

Art. 21. A person who has used in good faith an invention or has made the necessary preparations for its use prior to the date of filing of the patent application may continue to use the invention after the said date within the same volume.

Right to Subsequent Use

Art. 22. A person who has used a patented invention or has made the necessary preparations for its use after the end of the patent's term may continue to use the invention after the said date within the same volume after the renewal of the patent's term as provided for in Art. 26, para 2.

Transfer of Rights to Previous Use and Subsequent Use

Art. 23. The rights to previous use and subsequent use may be transferred only with the enterprise, or a part thereof, in which they have arisen and may be exercised without broadening the volume of the use outside that enterprise.

Classified Patents

Art. 24. (Amend., SG 45/02; amend. - SG 64/06, in force from 09.11.2006) (1) Secret patents shall be issued for secret inventions applied for by Bulgarian nationals with permanent address in the Republic of Bulgaria or legal persons with their seat in the Republic of Bulgaria.

(2) Secret inventions shall be inventions containing classified information representing state secret in the context of art. 25 of the Protection of Classified Information Act.

(3) The competent bodies for determining the level of classification of the security of information and for removal of the level of classification of the secret patents shall be the Ministry of Interior and the Ministry of Defence.

(4) Applications for secret patents shall be submitted to the Patent Office, where as a date of submission shall be considered the date of receiving the documents referred to in Art. 34, Para 2.

(5) For the actions related to the application for a secret patent, to the granting and maintenance of the secret patent, fees shall not be payable.

(6) A check as referred to in Art. 46, Para 1 shall be performed for each application for a secret patent. When the requirements are fulfilled, a secret patent shall be granted, on which the Patent Office shall place the respective secrecy grading.

(7) Appeals against decisions for termination of the procedure on application for a secret patent, made according to Art. 46, Para 1, as well as requests for pronouncing the invalidity of a secret patent shall be viewed by the Sofia city court according to the order of the Administrative Procedure Code behind closed doors. The appeals shall be filed within a term of three months from receiving the decision and the requests – during the full term of effect of the secret patent.

(8) The person that shall have the right to use and dispose of a secret patent shall be determined by a decision of the Council of Ministers.

(9) When the level of classification is removed the competent body shall notify the Patent Office thereof. The Office shall notify its holder and shall provide a three month term for payment of the fees referred to in Art. 53 as well as of the fee for maintaining the effect of the patent as referred to in Art. 33, Para 4. Upon payment of the fees the patent shall be entered into the register of patents and the publications referred to in Art. 51 shall be made.

(10) The holder of a secret patent may file an application for search and expertise after removal of the level of classification of the security of information. Document for paid fee for search and expertise as referred to in Art. 46b, Para 2 shall be attached to the application.

(11) The order for determining the level of classification of the security of information and for its removal regarding applications and secret patents shall be determined by an Ordinance on the Secret Patents adopted by the Council of Ministers.

Patenting Abroad

Art. 25. (amend. - SG 64/06, in force from 09.11.2006) (1) Bulgarian nationals with permanent address in the Republic of Bulgaria or legal persons with their seat in the Republic of Bulgaria shall have the right to claim for patent abroad their own invention after performance of the check referred to in Art. 45a.

(2) Secret inventions shall not be patented abroad.

Terminating the Patent

Art. 26. (1) A patent shall be terminated in the event of:

1. expiration of the term for which it was granted;
2. renunciation by the proprietor of the patent, as from the date of receipt of the proprietor's written notice by the Patent Office. The renunciation of the patent by one of its co-proprietors shall not terminate the patent which shall remain the property of the remaining proprietors;

3. (amend. SG 66/02) failure to pay the fees for maintaining the patent in force, as from the date of expiration of the term under Art. 33, para 3.

- (2) (amend. SG 66/02; amend. - SG 64/06, in force from 09.11.2006) A patent which has ceased to be in force due to failure to pay the annual patent fee may be re-established within 6 months of the expiration of the term under Art. 33, para 3 upon payment of a fee for renewal of the patent, as well as of double the amount of the due fee.

- (3) A patent shall be declared null and void when:

1. the invention is not patentable;
2. the essence of the invention has not been expounded in sufficient clarity and exhaustiveness;

3. the proprietor of the patent was not entitled to a patent as evidenced by a court ruling which has come into force;

4. the object of the patent goes beyond the content of the application as it was filed or when the patent was granted on the grounds of a divided application, when the said object is beyond the content of the earlier application as it was filed.

- (4) A patent shall be granted in the name of the person who is entitled to receive such a patent at his own request without termination of that patent.

- (5) If the grounds for nullity of a patent concern only part of the claims, the nullification shall be partial. A patent shall remain in force only with respect to the rest of the claims inasmuch as they can be the object of a patent.

- (6) Upon declaration of its nullity a patent shall lose its force as from the date of filing of the application.

- (7) The mala fide proprietor of a patent which has been declared null and void shall be liable for compensation for suffered damages.

- (8) The nullification of a patent shall not affect:

1. decisions on patent infringements which have come into force inasmuch as they have been implemented;

2. licensing contracts concluded and executed prior to the declaration of the nullity, unless agreed upon otherwise.

Infringement of Patent Rights

Art. 27. (1) Every use of an invention which is within the extent of the patent protection and has been made without the consent of the proprietor of the patent shall be considered an infringement of the patent.

- (2) (amend. - SG 64/06, in force from 09.11.2006) Any person who is offering for sale articles which are the object of a patent and are manufactured by other persons in infringement of a patent, or trades in, stores for the purpose of using, or uses such articles, shall be liable for the infringement only if his actions are found to be intentional.

- (3) The proprietor of the patent and the licensee of an exclusive license may bring an action for infringed patent rights, if not agreed upon otherwise. In the event that a patent is the

property of more than one person, every co-owner shall be free to bring an action on his own accord for infringement of patent rights.

(4) The licensee by operation of Act under Art. 30, or of a compulsory license under Art. 32, may bring an action for infringement of patent rights if the proprietor of the patent does not exercise his right to an action within six months of receiving a written invitation to do so from the licensee.

(5) Every licensee may take part in a suit for patent rights infringement when the action was brought by the proprietor of the patent. The same shall apply to the proprietor of the patent, whenever the claim is filed by the licensee under para 3 and 4.

(6) The action for infringed patent rights may be brought by the applicant prior to the granting of a patent after the application has been published.

Actions for Infringement of Patent Rights

Art. 28. (1) The actions for infringement of patent rights may be in the form of:

1. an action to establish the flaw of the infringement;
2. an action for compensation for damages and loss of profit;
3. an action for a prohibited injunction against the offender of patent rights.

(2) Where the court has passed a judgement under the previous paragraph ordering the payment of compensation it may order upon request from the plaintiff:

1. the publication in two daily newspapers of the judgement at the expense of the offender;
2. reprocessing or destruction of the object of the infringement, and where intent is established, of the means with which the infringement was committed.

Right of Information

Art. 28a. (new - SG 64/06, in force from 09.11.2006) (1) In case of infringement of patent rights upon request of the claimant the court may order that information on the origin and distribution networks of the goods or services which infringe the rights be provided by the defendant and/or any other third person who:

1. was found in possession of these goods on a commercial scale;
2. was indicated by the person referred to in Item 1 as being involved in the production, manufacture or distribution of these goods.

(2) The information referred to in Para 1 shall comprise the names and addresses of the producers, distributors, suppliers and other previous holders of the goods, the intended wholesalers and retailers, as well as information on the quantities produced, manufactured, delivered, received or ordered, as well as the price of the goods in question.

(3) The information referred to in Para 1 and 2 may be used for the purposes of criminal procedures.

(4) Para 1 shall not apply when its application is disproportionate to the seriousness of the infringement.

(5) Any person placing marking on goods or on their packing of such nature to make the impression that the goods are protected by a patent or are subject of a patent application, or any person that uses marking of such nature in materials of advertisement or information character shall be obliged upon request to provide immediately information on the patent or patent application to any other person having legal interests thereof.

Burden of Proof

Art. 29. Where the rights of the proprietor of a patent pursuant to Art. 19, para 5 have been infringed the burden of proving that the product was not obtained through the patented method lies with the patent offender if the product is a new one.

License Readiness (License by Operation of Law)

Art. 30. (1) (suppl. SG 66/01) Upon request from the applicant or the proprietor of the patent and provided that he has not as yet granted an exclusive license for the invention, it may be one time offered publicly for use.

(2) The petition of the applicant or the proprietor of the patent must contain a statement that he permits any person to use the invention under a non-exclusive license in exchange for the obligation to be paid a fair fee.

(3) The statement provided for in the preceding paragraph shall be published in the official bulletin of the Patent Office.

(4) The licensee may at any moment renounce the license in writing by informing the proprietor of the patent.

(5) The placing of the patentable invention under a regime of license readiness (license by operation of law) leads to a reduction of the annual patent fees by 50 per cent, except those which have already been paid.

(6) The proprietor of the patent may at any time request in writing the termination of the license readiness (license by operation of law). The withdrawal of the statement for license readiness shall be published in the official bulletin of the Patent Office and shall lead to a loss of the rights provided for in the preceding paragraph.

(7) The withdrawal of the licence readiness shall not have an effect with regard to already granted or requested licenses.

Contractual License

Art. 31. (1) The applied for or patented invention may be the subject of a license contract.

(2) An exclusive, non-exclusive or limited license may be granted through a license contract.

(3) (Amended SG No. 83/1996) The exclusive licence shall be expressly provided for. The licensor under a contract for an exclusive license may not grant licenses for the same object to other parties. He shall retain the right to use himself the licensed invention unless otherwise agreed in the contract.

(4) The licensing contract shall be enforceable against third parties from the date of registration in the register of the Patent Office.

(5) (Amend., SG 45/02; revoked – SG 64/06, in force from 09.11.2006)

The Patent as Subject to Provision

Art. 31a. (new - SG 64/06, in force from 09.11.2006) (1) The patent may be subject to provision in relation to a civil action.

(2) The provision shall be entered into the State register of the patents upon application by any of the parties of the action.

(3) The application shall contain data about the holder of the patent and about the person in the favour of whom the provision was ordered, data of the patent – number and name, and the type of the provisional measure. Document for institution of the provision shall be attached to the application.

(4) The provision shall have effect regarding third persons from the publication of its entry into the State register of the patents in the Official Gazette of the Patent Office.

The Patent as Subject to a Registered Pledge

Art. 31b. (new - SG 64/06, in force from 09.11.2006) (1) The patent may be subject to a registered pledge.

(2) For entering a registered pledge into the State register of the patents the provisions referred to in Art. 26 – 31 of the Registered Pledges Act shall apply. When the patent is subject of co-ownership the written consent of all co-owners shall be required for the entry of the registered pledge. A certificate shall be issued to the pledge creditor. Within two months from the entry a publication in the Official Gazette of the Patent Office shall be made.

(3) The pledge shall have effect regarding third persons from the publication of its entry into the State register of the patents in the Official Gazette of the Patent Office.

The Patent in the Bankruptcy Proceedings

Art. 31c. (new - SG 64/06, in force from 09.11.2006) (1) The patent shall be included into the bankruptcy estate upon initiated bankruptcy proceedings against its holder.

(2) When the patent is subject to co-ownership, Para 1 shall apply in accordance with the part of the co-owner.

(3) When the patent was included into the bankruptcy estate, this fact shall be entered into the State register of the patents by the order of the court and shall be published in the Official Gazette of the Patent Office within two months from the entry.

Compulsory License

Art. 32. (1) (amend. - SG 64/06, in force from 09.11.2006) When an interested person has made unsuccessful attempts to be granted a contractual license by the holder under fair terms, the person may request from the Patent Office to be granted a compulsory license for the use of an invention protected with a patent if at least one of the following circumstances is present:

1. the invention has not been used for 4 years after the filing of the patent application or for three years after the granting of the patent, whichever is later;

2. within the time periods mentioned in the previous item 1 the invention has not been used in a sufficient degree for satisfying the national market except where the proprietor of the patent shows good reasons for that flaw;

(2) The petitioner under the preceding paragraph must prove that he is able to use the invention within the framework of the requested compulsory license.

(3) (new - SG 64/06, in force from 09.11.2006) Apart from the cases referred to in Para 1, compulsory license may be granted, when the public interest demands that, with no negotiations conducted with the holder of rights in the patent protected invention.

(4) (prev. text of para 03, amend. - SG 64/06, in force from 09.11.2006) The compulsory license may be granted to a holder whose invention is subject of a later patent or is within the extent of another earlier patent, if the holder of the earlier patent refuses to grant a license under fair terms, when the invention - subject of the later patent, represents an important technical progress of substantial economical significance in comparison with the invention – subject of the earlier patent. The holder of the earlier patent shall have the right of a cross-license on reasonable terms to use the invention claimed in the later patent.

(5) (prev. text of para 04 - SG 64/06, in force from 09.11.2006) The compulsory license

may be only non-exclusive. It may be transferred only together with the enterprise in which the invention which is the object of such a license is used.

(6) (prev. text of para 05 - SG 64/06, in force from 09.11.2006) The compulsory license may be terminated if the licensee, within one year of its granting, has not commenced preparation for the use of the invention. The compulsory license shall be terminated under all circumstances if within two years of its granting the licensee has not begun to use the invention.

(7) (new - SG 64/06, in force from 09.11.2006) The extent of the compulsory license shall be determined by the purpose of its granting.

(8) (prev. text of para 06 - SG 64/06, in force from 09.11.2006) A compulsory license shall not be granted to patent offenders.

(9) (prev. text of para 07 - SG 64/06, in force from 09.11.2006) Bilateral and multilateral treaties to which the Republic of Bulgaria is a party may provide other terms for granting a compulsory license for proprietors of patents from the states parties to such treaties.

(10) (new - SG 64/06, in force from 09.11.2006) The licensee of compulsory license shall pay the patent holder compensation.

(11) (new - SG 64/06, in force from 09.11.2006) The compulsory license shall be terminated when the grounds thereof cease to exist.

(12) (new - SG 64/06, in force from 09.11.2006) The order of granting and termination of compulsory license shall be determined by the ordinance referred to in Art. 55, Para 3.

Compulsory Cross-License

Art. 32a. (new - SG 64/06, in force from 09.11.2006) (1) When a selectionist cannot acquire or use right in a plant variety without infringement of an earlier patent, he shall be able to request a compulsory license for non-exclusive use of the invention protected by the patent, as far as the license is necessary for the use of the plant variety for the purpose of its legal protection, on the condition that respective compensation is paid. When such license is granted, the holder of the patent shall be entitled to be granted cross-license for use of the protected variety on fair terms.

(2) When a holder of a patent for a biotechnological invention cannot use it without infringing earlier right in a plant variety, he may request a compulsory license for non-exclusive use of the protected plant variety, on the condition that respective compensation is paid. When such license is granted, the holder of the protected variety shall be entitled to be granted cross-license for use of the invention on fair terms.

(3) The person that has requested granting of compulsory license under Para 1 or 2 shall prove that:

1. he has made unsuccessful attempt to be granted a contractual license by the holder of the patent or the plant variety;

2. the plant variety or the invention represent significant technical progress of substantial economical interest in comparison with the invention – subject of the patent, or the protected plant variety.

Fees for Maintaining a Patent

Art. 33. (1) (amend. SG 66/02) For maintaining the effect of the patent annual patent fees shall be paid, as beginning of each patent year being considered the date of submitting of the application for patent, and the first patent year shall start on this date.

(2) (amend. SG 66/02) The annual patent fee for each following patent year shall be paid in advance at latest on the last day of the month in which expires the previous patent year. The payment cannot be made for more than one patent year.

(3) (amend. SG 66/02) The patent shall retain its effect in case of non observing of the term of para 2, if up to six months after the expiry of this term the patent owner pays the due fee in double extent.

(4) (new – SG 66/02; suppl. - SG 64/06, in force from 09.11.2006) The annual patent fees till the taking of decision for issuing of a patent and the fee for the current patent year shall be paid simultaneously with the fees for issuing of a patent and for publication about the issuing of the patent in compliance with and under the conditions of art. 53. When the current patent year ends in the three month term referred to in Art. 53, the fee for the next patent year shall be paid as well.

Chapter four. PATENT OFFICE PROCEDURE

Filing of Patent Applications

Art. 34. (1) (amend. - SG 64/06, in force from 09.11.2006) Patent applications shall be filed at the Patent Office and shall be entered into the State register of the patents. The form of the applications and the order of filing and expertise at the Patent Office shall be determined by an ordinance of the Council of Ministers.

(2) The date on which the Patent Office receives the following documents shall be considered as the date of filing of the application:

1. request for the granting of a patent containing the name of the invention for which the patent is requested, as well as identity information about the applicant in Bulgarian;
2. description of the invention describing at least its essence;
3. (revoked – SG 66/02).

Contents of the Application

Art. 35. (1) In addition to the mandatory documents mentioned in Art. 34, para 2 the patent application shall contain the following:

1. one or more claims;
2. drawings, if needed for explaining the invention;
3. abstract;
4. declaration and priority certificate whenever priority is claimed;
5. (revoked SG 66/02).

(2) (new – SG 66/02; amend. - SG 64/06, in force from 09.11.2006) To the application shall be attached a document for paid fees for application, for inspection of the formal requirements, for preliminary expertise for admissibility, for claims and for the claimed priorities.

(3) (prev. (2), amend. SG 66/02; amend. - SG 64/06, in force from 09.11.2006) The application documents shall be filed in Bulgarian, and the description, claims, drawings and the abstract shall be filed in three copies. Whenever the documents under Para 1, items 1, 2, and 3 and Art. 34, para 2, item 2 have been filed in another language, the date of application shall be maintained if they are filed in Bulgarian within three months of that date. This term may not be extended.

(4) (prev. (3) – SG 66/02) Where the applicant files the application through an industrial property representative, a power of attorney shall be attached to the application.

Patent application

Art. 36. The application for granting a patent shall include: name and address of the

applicant and the industrial property representative, if any; name and address of the inventor; declaration on the actual inventor; name of the invention and data on the claimed priority: number, date and country of the priority document, as well as a declaration on licensing readiness if so desired by the applicant.

Description of the Invention

Art. 37. (1) (amend. - SG 64/06, in force from 09.11.2006) The description shall contain the name and relevant field of technology; the preceding state of the art inasmuch as it is known to the applicant with citing of documents describing it; clear and comprehensive explanation of the technological essence of the invention and its advantages so that it may be actually applied by a person skilled in the art; brief explanations of the drawings, at least one method of realisation of the claimed invention by using examples, where necessary, and referring to the drawings, when available, as well as the method of application of the invention in the industry, when this is not obvious from the description or the nature of the invention.

(2) (amend. SG 66/02; amend. - SG 64/06, in force from 09.11.2006) Where the invention includes the use of biological material or concerns such material which is not publicly accessible, cannot be described in the patent application in such a manner as to permit a person skilled in the art to reproduce the invention, the description shall contain indication of the data of deposition of the biological material: number and date of the deposit, as well as the name and address of the international body of deposition according to Art. 7 of the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, where the deposit shall be made not later than the date of the priority application. The description of the application shall contain the full information on the characteristics of the deposited biological material available to the applicant.

(3) (new - SG 64/06, in force from 09.11.2006) If the biological material is deposited outside the Republic of Bulgaria, within a term of three months from the publication of the patent application the applicant shall make a deposit of this material also in the National bank for industrial microorganisms and cell cultures, so that any person that has right of access to be able to receive a sample of the biological material in the Republic of Bulgaria according to order determined by an ordinance on depositing and access for the purposes of the patent procedure of the Council of Ministers.

(4) (new - SG 64/06, in force from 09.11.2006) If a biological material, deposited according to Para 3, ceases to be accessible in the National bank for industrial microorganisms and cell cultures because it is not viable or because of another reason, the applicant has to make a new deposit of the material in a term and way determined by the ordinance referred to in Para 3.

(5) (new - SG 64/06, in force from 09.11.2006) When the invention is related to a sequence or to a partial sequence of a gene, the industrial applicability of this sequence shall be revealed in the patent application.

Claims

Art. 38. The claim (claims) shall define the matter for which protection is sought, shall be clear and precise and shall be based on the description.

Abstract

Art. 39. The abstract shall consist of a brief statement of the essence of the invention and shall serve for information purposes only.

Unity

Art. 40. (1) The application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept.

(2) Where the application relates to a group of inventions, the requirement for unity shall be met if a technical link exists between these inventions, related to one or more of the identical or similar specific technical characteristics.

(3) The specific technical characteristics are those technical characteristics which determine the contribution to the state of the art of each of the inventions which are considered as a single entity.

(4) Where a patent is granted pursuant to an application which does not conform to the requirement in para 1, this shall not be considered as grounds for declaring the patent null and void.

Dividing the Application

Art. 41. (1) (amend. SG 66/02) Where the requirements under Art. 40 are not complied with, the expert department shall propose to the applicant to divide the application within three months. If within that period of time the applicant files separate applications for the individual elements, as date of submitting, respectively priority of these applications, shall be considered the date of submitting, respectively of the initial application if the requirements under Art. 34, para 2 have been met.

(2) (amend. SG 66/02; amend. - SG 64/06, in force from 09.11.2006) The applicant may on his own accord divide the application at any time until receiving a notification as referred to in Art. 47, Para 5 or until obtaining a decision as referred to in Art. 46, Para 1, Art. 46a, Para 1 and 2 and Art. 47, Para 3 on it. If within three months of the applicant's request for division the individual components are filed in separate applications, as date of submitting, respectively priority of these applications, shall be considered the date of submitting, respectively of the initial application if the requirements under Art. 34, para 2 have been met.

Amendments to the Application

Art. 42. (amend. SG 66/02) (1) Changes in the application or in the patent can be made respectively in the procedure for the application till taking of decision or in procedure for claim for announcing the patent invalid.

(2) (amend. - SG 64/06, in force from 09.11.2006) The applicant can on his own initiative make changes in the application till the publication of art. 46c or till receiving a notification as referred to in Art. 47, Para 5 or until obtaining a decision as referred to in Art. 46, Para 1, Art. 46a, Para 1 and 2 and Art. 47, Para 3, if the publication has not been made, by paying the respective fee.

(3) The changes of para 1 and 2 cannot go out of the initial disclosure in the application. In the procedure for announcing of invalidity in the claims of the patent cannot be introduced changes, which will lead to expanding of the scope of protection.

Withdrawal of an Application

Art. 43. (amend. SG 66/02) The patent application may be withdrawn by a petition in writing by the applicant if no patent has already been granted. In this case the application shall not be included in the state of art of art. 8, para 3.

Right to Priority

Art. 44. (1) The applicant's right to priority shall be recognised as from the date of filing the application pursuant to Art. 34.

(2) (amend. - SG 64/06; amend. and suppl. - SG 64/06, in force from 09.11.2006) The right of priority pursuant to treaties to which the Republic of Bulgaria is a party shall be recognised if within two months of filing the application at the Patent Office the applicant provides the corresponding declaration by indicating the number, date and country of the initial application. The right of priority shall be proved within three months of the date of filing of the application at the Patent Office. The applicant shall pay a fee for the claimed priority within the same term. Failure to observe the said time limits and to pay the fee for the claimed priority shall result in loss of the right of priority. Priority data may be amended within this period of time.

(3) Upon the request of the applicant each patent application may enjoy priorities from earlier applications filed by the same applicant. Each of those applications has to be filed at the Patent Office in compliance with this Act, to have a filing date not earlier than twelve months prior to the date of filing of the patent application, and no national or international priorities should have been sought for such applications. The time limits which run from the date of priority shall run from the earliest date of priority.

(4) A priority from applications filed earlier at the Patent Office may be sought within two months of applying for a patent and the applicant shall enter the number and date of the earlier applications in his declaration.

Confidentiality of the Application

Art. 45. (1) The Patent Office shall not permit access to materials related to a patent application prior to publication, except where the applicant has given his consent in writing.

(2) (revoked – SG 64/06, in force from 09.11.2006)

(3) (Amend., SG 45/02; revoked – SG 64/06, in force from 09.11.2006)

(4) The provision by the Patent Office of bibliographic data on unpublished applications shall not be considered a violation of confidentiality.

Check for Presence of Classified Information

Art. 45a. (new - SG 64/06, in force from 09.11.2006) (1) Within one month term from the date of filing the application, when the applicant is a Bulgarian national with a permanent address in the Republic of Bulgaria or a legal person with a seat in the Republic of Bulgaria, the competent bodies referred to in Art. 24, Para 3 shall check if the application contains classified information in the sense of Art. 25 of the Protection of Classified Information Act.

(2) When it is found that the application contains classified information, it shall be sent according to the respective order to the competent bodies, which, within a three month term from receiving it, shall determine the level of classification for security.

(3) If, after expiration of the term referred to in Art. 2, the Patent Office has not received an opinion on the level of classification for security, it shall be considered that the application is not an application for a secret patent.

(4) When the application was filed as application for a secret patent and upon the check referred to in Para 1 – 3 the competent bodies have not determined a level of classification for security, the Patent Office shall notify the applicant that the application does not contain a secret invention and shall request his explicit consent to consider it by the general order. The

application shall be considered withdrawn, in case such consent was not received.

Check of the Formal Requirements (title amend. - SG 64/06, in force from 09.11.2006)

Art. 46. (1) (amend. SG 66/02; amend. - SG 64/06, in force from 09.11.2006) Within one month term from the check referred to in Art. 45a, Para 1 or 3 or from filing the application by a foreign applicant, a check for fulfilment of the obligations referred to in Art. 35, para 1, 3 and 4 and Art. 36 shall be performed for each application with determined date of filing. When deficiencies are found, the applicant shall be notified thereof and shall be provided a three month period for their remedy. In the event that the applicant does not respond within this period, or does not remedy the deficiencies, a decision for termination of the procedure shall be made.

(2) (new – SG 66/02) When to an application for patent a document for paid fees under art. 35, para 2, to the applicant shall be given three months term for the payment of these fees. If the fees are not paid, the application shall be considered withdrawn.

(3) (prev. (2), amend. SG 66/02; amend. - SG 64/06, in force from 09.11.2006) If, upon expiration of the three month period referred to in Art. 35, Para 3, it is found that a translation in Bulgarian was not presented, the application shall be considered withdrawn and the applicant shall be notified.

(4) (new - SG 64/06, in force from 09.11.2006) When priority was claimed according to Art. 44, Para 2 and 3, a check on fulfilment of the requirements referred to in Art. 44, Art. 35, Para 1, Item 4 and Para 2 shall be made after expiration of the three month period referred to in Art. 44, Para 2. Upon finding incompatibilities, the applicant shall be notified thereof and shall be provided one month period for reply. If the applicant does not reply or his objection is ungrounded, the priority claim shall not be granted and the applicant shall be notified.

Preliminary Expertise and Expertise on Admissibility of the Legal Protection

Art. 46a. (new - SG 64/06, in force from 09.11.2006) (1) Within a three month term from the check referred to in Art. 46, an expert of the expertise department shall perform preliminary expertise according to Art. 37, 38, and 40. When deficiencies are found, the applicant shall be notified thereof and shall be provided a three month term for their remedy. If the applicant does not reply within this term or does not remedy the deficiencies, a decision for termination of the procedure shall be made.

(2) Within the term referred to in Para 1 an expertise for compliance with the requirements referred to in Art. 6, Para 2 and 4 and Art. 7 shall be also performed. When deficiencies are found, the expert of the expertise department shall notify the applicant thereof and shall provide him a three month term for their remedy. If the applicant does not reply or his objection is ungrounded, a decision for refusal to grant a patent shall be made.

Request for Search and Expertise

Art. 46b. (new - SG 64/06, in force from 09.11.2006) (1) Before the expiration of 13 months from the date of filing the application, respectively from the priority date, the applicant may file a request for search and expertise.

(2) Simultaneously with the request referred to in Para 1 the applicant shall pay a fee for search and expertise and fee for publication of the application. If the fees were not paid with the filing of the request, they may be paid double the amount within one month term from filing the request referred to in Para 1.

(3) When for the application no request as referred to in Para 1 was filed and/or fees as referred to in Para 2 were paid, it may be transformed to an application for registration of a utility model upon request of the applicant, filed before expiration of 15 months from its priority date, according to order determined with the ordinance referred to in Art. 34, Para 1. If such a request is not filed, the application shall be considered withdrawn and the applicant shall be sent a notification.

(4) An application for a patent, referring to the subjects under Art. 73, Para 5, may not be transformed into an application for registration of a utility model according to Para 3. When for such an application a request for transformation is submitted, an expert of the expertise department shall notify the applicant for the inadmissibility of the transformation and shall provide him one month period for reply and corrections. If the applicant does not reply or his objection is ungrounded, his request for transformation shall not be granted and the patent application shall be considered withdrawn.

Publication of the Application

Art. 46c. (new - SG 64/06, in force from 09.11.2006) (1) For the application, of which a request was filed and the fees referred to in Art. 46b were paid, a publication shall be made in the Official Gazette of the Patent Office immediately upon the expiration of the 18th month from the date of filing, respectively from the priority date, except in the cases when:

1. the application was withdrawn according to Art. 43, it is considered withdrawn according to Art. 45a, Para 4 and Art. 46, Para 2, the procedure on it was terminated according to Art. 46, Para 1, Art. 46a, Para 1 or Art. 47, Para 4 or a decision for refusal according to Art. 46a, Para 2 or Art. 47, Para 3 was made;

2. upon request by the applicant, accompanied with a document for paid fee, the publication regarding the application was made before expiration of this term.

(2) Simultaneously with the publication regarding the application the Patent Office shall provide access to the description, the claims and the drawings.

Objections by Third Persons

Art. 46d. (new - SG 64/06, in force from 09.11.2006) Within a three month term from the publication regarding the application as referred to in Art. 46c any person may file written objections regarding the patentability of the claimed invention, supported by evidence. The persons that have filed an objection do not become participants in the procedure on the application.

Search and Expertise (title amend. - SG 64/06, in force from 09.11.2006)

Art. 47. (amend. SG 66/02; amend. - SG 64/06, in force from 09.11.2006) (1) On each application for which a request was filed and the fees referred to in Art. 46b were paid, an expert of the expertise department shall search the state of the art according to Art. 8 and prepare a report on the search, as well as written opinion on the patentability of the invention in compliance with Art. 6, Para 1 and Art. 7a in relation to Art. 8, 9 and 10.

(2) The report, the opinion referred to in Para 1 and the written objections referred to in Art. 46d, if submitted, shall be sent to the applicant not later than 6 months from expiration of the term referred to in Art. 46d, except in the cases where during the search a conflicting application as referred to in Art. 8, Para 3 or 4 was found, when the report and the opinion are sent after its publication. Within a three month term from receiving them the applicant may enter changes into the application and to comment the opinion and the submitted objections.

(3) When in the opinion referred to in Para 1 it is found that the invention is not patentable in the sense of Art. 6, Para 1 and Art. 7a because it does not meet the requirements of Art. 8, 9 or 10, and the applicant does not reply within the term referred to in Para 2, does not remedy the deficiencies or makes an ungrounded objection, a decision shall be made for refusal to grant a patent.

(4) When the expert of the expert department finds, that the applied for invention is patentable, but the description and/or the patent claims are not in compliance with art. 37, para 1 and/or art. 38, he shall invite the applicant to correct them in a three month term. If in the provided term the applicant does not make the necessary corrections, does not reply or makes an ungrounded objection, the expert shall make a decision for termination of the procedure on the application.

(5) When, upon the performed expertise and correspondence with the applicant, it is found that the invention is patentable and the requirements of Art. 37, Para 1 and Art. 38 are met, the expert of the expertise department shall send a written notification for payment of fees of art. 33, para 4 and art. 53.

(6) The expert of the expertise department shall make a decision for granting a patent, when the fees of para 5 were paid. If the fees are not paid, the application shall be considered withdrawn.

Transformation

Art. 47a. (new - SG 64/06, in force from 09.11.2006) (1) The applicant may file a request for transformation of the patent application into an application for registration of a utility model before expiration of the term for payment of the fees referred to in Art. 53 or of the term referred to in Art. 56, Para 1. The transformed application shall keep the date of filing and the priority date of the initially filed patent application which shall be considered withdrawn.

(2) The transformation referred to in Para 1 shall be performed in compliance with the requirements of Art. 73, Para 5 according to order determined by the ordinance referred to in Art. 34, Para 1. If those requirements are not met, an expert of the expertise department shall notify the applicant and shall provide him a three month term for reply and corrections. If the applicant does not reply or his reply is ungrounded, the request for transformation shall not be granted and the patent application shall be considered withdrawn.

Extension of Time Limits

Art. 48. (amend. SG 66/02; amend. - SG 64/06, in force from 09.11.2006) Upon a petition from the applicant filed prior to their expiration the time limits under Art. 46, para 1, Art. 46a, Art. 47, Para 2 and 4 and Art. 47a, Para 2 and Art. 58, para 2 may be extended for up to three months. Only two such extensions may be granted upon payment of the respective fees.

Restitutio in Integrum

Art. 49. Time limits which have not been observed due to unforeseen circumstances may be re-established upon a petition from the applicant. The petition must be filed within three months of the removal of the cause for the failure to comply with the time limit, but not later than one year after the expiration of the unobserved time limit. The decision to re-establish the time limit shall be made by the Chairman of the Patent Office.

Publication of the Application

Art. 50. (revoked – SG 64/06, in force from 09.11.2006)

Publication of a Granted Patent

Art. 51. (amend. SG 66/02; amend. - SG 64/06, in force from 09.11.2006) Publications shall be made for granted patent in the official bulletin of the Patent Office immediately after the expiry of three months after the decision is taken. In one term after the publication shall be granted a patent and the description, the claims and the drawings of the patent shall be published.

Access to the Application

Art. 51a. (new - SG 64/06, in force from 09.11.2006, revoked - SG 98/19)

Other Publications

Art. 52. Data on the legal status of the applications and granted patents, on tariffs, instructions, etc., shall be published in the official bulletin of the Patent Office.

Fees for Granting and Publishing a Patent

Art. 53. (amend. SG 66/02; amend. - SG 64/06, in force from 09.11.2006) For the publications under Art. 51 and for issuing of patent fees shall be paid within three months after the receiving of the announcement of art. 47, para 5. If the applicant does not pay the fees in time, he may do so within the next one month by paying the double amount.

Chapter five. DISPUTES

Procedure for Examining Disputes

Art. 54. Disputes related to the creation, protection and use of inventions and utility models shall be resolved by administrative proceedings, in court or through arbitration.

Administrative Proceedings

Art. 55. (amend. - SG 64/06, in force from 09.11.2006) (1) The following decisions may be appealed before the disputes department:

1. refusal to grant a patent pursuant to Art. 46a, para 2, and under Art. 47, para 3;
2. termination of the proceedings on patent applications pursuant to Art. 46, para 1, Art. 46a, Para 1 and Art. 47, para 4;
3. termination of the proceedings of registration of a utility model pursuant to Art. 75d, Para 3 and Art. 75e, Para 3;
4. refusal to register a utility model pursuant to Art. 75e, Para 4.

(2) The disputes department shall also examine requests for:

1. declaring null and void granted patents;
2. deletion of the registration of a utility model;
3. granting and termination of a compulsory license.

(3) The order of considering of the disputes shall be determined by an ordinance of the Council of Ministers.

Time limits for Opposition

Art. 56. (1) (amend. - SG 64/06, in force from 09.11.2006) Appeals under Art. 55, para 1 shall be filed at the disputes department by interested parties within three months of receiving the decision, and a document on paid fees shall be attached thereto.

(2) (amend. - SG 64/06, in force from 09.11.2006) Petitions under Art. 55, para 2 shall be admissible during the entire effective period of the patent, respectively of the registration of the utility model, and a document on paid fees shall be annexed thereto.

(3) (revoked – SG 64/06, in force from 09.11.2006)

(4) Appeals and petitions shall be left unanswered if the above time limits are not complied with or if fees are not duly paid.

Bodies for Reviewing Disputes

Art. 57. (1) Disputes shall be reviewed by specialised panels of the disputes department appointed ad hoc by the Chairman of the Patent Office.

(2) Decisions on disputes under Art. 55, para 1, shall be passed by panels consisting of three experts, one of whom is a jurist, and decisions on disputes under Art. 55, para 2 shall be passed by panels consisting of five experts, two of whom shall be jurists.

Disputes Department Proceedings

Art. 58. (amend. - SG 64/06, in force from 09.11.2006) (1) The disputes department shall initiate proceedings within one month of receiving the appeals or petitions referred to in Art. 55.

(2) The proceedings shall be with the participation of the interested parties. Written and oral evidence shall be admitted. In the cases under Art. 55, para 2, the disputes department shall forward a copy of the petition to the holder, and, respectively, to the interested persons, and shall provide a three month time limit for responses.

(3) In respect of the appeals referred to in Art. 55, Para 1 the appointed panel under Art. 57 within 9-month term from filing the appeal shall:

1. uphold the decision of the expert department;

2. reverse in whole or in part the decision of the expert department and return the application for reconsideration.

(4) The decision of the expert department passed after a reconsideration of the application under para 3, item 2, may be appealed before the disputes department within the term referred to in Art. 56, Para 1 which shall rule on the substance of the dispute.

(5) In reviewing petitions under Art. 55, para 2, the appointed panel referred to in Art. 57 within 9-month term from collection of all the evidence on the dispute shall make a decision for:

1. rejection the petition as groundless;

2. declaring full or partial nullity of a granted patent;

3. granting or termination of a compulsory license;

4. full or partial deletion of the registration of a utility model.

(6) The decisions of the appointed panel referred to in Art. 57 shall be approved by the President of the Patent Office.

(7) The decisions referred to in Para 3 – 6 shall be sent to the parties of the dispute within 7-day term.

(8) In the cases of declaring partial nullity of the granted patent under Para 5, Item 2,

or partial deletion of the registration of a utility model under Para 5, Item 4 the granted patent, respectively the registration certificate, shall be replaced by new ones.

Judicial Control

Art. 59. (amend. SG 66/02; amend. - SG 30/06, in force from 12.07.2006 and for the replacement of the words "Sofia city court" by "Administrative court – city of Sofia" in force from 01.03.2007; prev. text of art. 59 - SG 64/06, in force from 09.11.2006) The party which is not satisfied with the decision of the disputes department under Art. 58, para 3, item 1 and Art. 58, para 5, can submit an appeal to the Administrative court – city of Sofia within three months of receipt of the decision by the order of the Administrative procedure code.

(2) (new - SG 64/06, in force from 09.11.2006) The decisions of the expertise departments referred to in Art. 46, Para 1, Art. 46a, Para 1 and 2, Art. 47, Para 3 and 4, Art. 75d, Para 3 and Art. 75e, Para 3 and 4 may not be appealed before the court if not appealed according to the administrative order.

Disputes for establishing the actual inventor (title amend. SG 66/02)

Art. 60. (1) (amend. SG 66/02) The disputes for establishing the actual inventor shall be settled by the Sofia City Court.

(2) (amend. SG 66/02; revoked – SG 64/06, in force from 09.11.2006)

(3) (suppl. - SG 64/06, in force from 09.11.2006) The Patent Office shall enter the name of the inventor or inventors in the granted patent or in the registration certificate on the basis of the court ruling which has come into force.

Disputes on the Official Character of Inventions and Utility Models and on Remuneration for Such Inventions

Art. 61. (1) Disputes whether an invention or utility model is official under Art. 15 of this Act shall be settled by the Sofia City Court.

(2) (suppl. - SG 64/06, in force from 09.11.2006) On the basis of a court ruling which has come into force the entitled party may request the granting of a patent or of a registration certificate of a utility model in its name.

(3) (suppl. - SG 64/06, in force from 09.11.2006) Actions pursuant to para 1 may be brought within one year of learning of the granting of the patent or the registration certificate.

(4) Disputes on determining remuneration under Art. 15, para 5 and 6, shall be settled under the procedure established in para 1.

Disputes on Entitlement to File an Application

Art. 62. (1) Disputes on the entitlement to file an application under Art. 13 shall be settled in court or through arbitration.

(2) The Sofia City Court shall be the competent institution whenever disputes are settled in court.

Disputes on the Right to Previous Use and the Right to Subsequent Use

Art. 63. (1) Disputes on the right to previous use under Art. 21 and subsequent use under Art. 22 shall be settled in court or through arbitration.

(2) The Sofia City Court shall be the competent institution whenever disputes are

settled in court.

Disputes on Infringement of Exclusive Rights

Art. 64. (1) (amend. - SG 64/06, in force from 09.11.2006) Disputes on infringement of exclusive rights shall be settled by the Sofia City Court.

(2) (new - SG 64/06, in force from 09.11.2006) Where a defendant to an infringement action has submitted to the Patent Office a request for declaring the patent is void or for deletion of the registration of a utility model, the Court shall suspend the action until the final decision on the request is ruled.

(3) (prev. text of para 02, suppl. - SG 64/06, in force from 09.11.2006) Where the action has been brought by the applicant prior to the granting of a patent or a registration certificate, the Court proceedings shall be suspended until a decision is reached by the Patent Office.

(4) (prev. text of para 03, - SG 64/06, in force from 09.11.2006) In the cases under the preceding paragraph the Patent Office shall render a decision within one year of the date of notification of the suspension of court proceedings.

Disputes on Determining the Flaw of Industrial Application

Art. 65. Disputes on determining the flaw of industrial application of a patented invention or utility model shall be settled in court following the general procedure.

Disputes on Remuneration in Cases of Compulsory License

Art. 66. Disputes on the amount of remuneration for granting a compulsory license shall be settled by the Sofia City Court.

Chapter six.

INTERNATIONAL APPLICATIONS UNDER THE PATENT COOPERATION TREATY

Receiving Office

Art. 67. (1) (amend. SG 66/02) The Patent Office shall serve as a receiving office within the meaning of Art. 2 (xv) of the Patent Cooperation Treaty, referred to hereinafter as the "Treaty", for international applications filed by citizens of the Republic of Bulgaria or by applicants who are with permanent address or have their principal place of business in the country.

(2) (amend. SG 66/02) An international application shall be filed in English or Russian in three identical copies. The application may also be submitted in Bulgaria, presenting in one month term a translation. Document for paid fees and priority document shall be filed in single copy.

(3) (amend. SG 66/02) Fees other than those provided for the international application under the Treaty shall be paid to cover the international correspondence expenses of the Patent Office. Such fees shall be paid within one month of the date of filing. In adverse case the procedure for the application shall be terminated.

(4) (amend. – SG 59/07, in force from 01.03.2008) Whenever fewer than three copies have been filed, the Patent Office shall prepare such missing copies for a fee. Non-payment of this fee may not serve as reasons to suspend procedures, but the receiving office may require issuing of an order of immediate execution pursuant to Art. 418 of the Code of Civil Procedure

on the grounds of an excerpt of its accounting records books.

(5) (amend. - SG 64/06, in force from 09.11.2006) In the cases under Art. 8, para 2 (b) of the Treaty, proceedings on earlier national applications for the same invention shall be suspended. If a national procedure is opened for the said international application, proceedings on the earlier national application shall be terminated. In such cases, if a patent has been granted on the earlier national application, it shall be terminated as of the effective date of the patent granted on the international application inasmuch as it coincides with it.

(6) (Amend., SG 45/02; amend. - SG 64/06, in force from 09.11.2006) When an international application was filed to the Patent Office of the Republic of Bulgaria in its capacity of a receiving Office and no previous national application for the same invention was filed, the international application shall be checked according to the order referred to in Art. 45a. The procedure shall continue, if the competent body finds that the invention is not secret. If the invention is secret, the application shall be considered international.

International Searching Authorities and International Preliminary Examining Authorities

Art. 68. (1) The Patent Office of the Republic of Bulgaria shall specify the international searching authorities and international preliminary examining authorities.

(2) Every applicant, as well as the Patent Office, may request a search on a national application by an international searching authority. In such cases the description and claims of the application shall be filed in the languages specified by the international searching authority and the necessary fees for the search shall be paid.

Designated Office

Art. 69. (1) The Patent Office of the Republic of Bulgaria shall be the designated office within the meaning of Art. 2 (xiii) of the Treaty whenever the Republic of Bulgaria has been designated in an international application.

(2) (amend. SG 66/02) For the purposes of opening a national phase, the applicant shall file the international application to the Patent Office within 31 months of the priority date, observing the requirements of art. 35. For applications where the Patent Office is the receiving office, application fees shall not be collected.

(3) Applications on which a national procedure has been opened shall be put together in accordance with articles 35, 36, 37, 38 and 39 and within the time limits under Art. 46, para 1.

(4) The Patent Office shall conduct an additional search of the international application whenever the search by the International Searching Authority has covered only a part of that invention. Fees shall be paid for the additional search within the time limits set in Art. 46, para 1.

Elected Office

Art. 70. (1) The Patent Office shall be the elected office under Art. 2 (xiv) of the Treaty whenever the Republic of Bulgaria has been elected by the applicant as the country in which he intends to use the results of the international preliminary examination.

(2) (amend. - SG 64/06, in force from 09.11.2006) In case of election of the Republic of Bulgaria the applicant shall file the documents provided for in Art. 69, para 2 on the opening of a national phase within 31 months of that date.

(3) (revoked - SG 64/06, in force from 09.11.2006)

(4) The international preliminary examination report shall be translated in English in accordance with Art. 36, para 2 of the Treaty if it is not presented in the languages under Art. 67, para 2.

Transforming International Applications into National Applications

Art. 71. (amend. SG 66/02; amend. and suppl. - SG 64/06, in force from 09.11.2006)
Where a foreign receiving office has refused to establish a date of filing of an international application or has declared that the international application is considered withdrawn, or that the designation of the Republic of Bulgaria is considered withdrawn, and the applicant files an application in Bulgarian at the Patent Office and pays the fees of art. 35, para 2, respectively Art. 75, Para 1, Item 6 the international application shall be considered a national patent application or application for registration of a utility model under this Act. The same procedure shall be applied in respect of international applications which have been erroneously declared withdrawn by the International Bureau of the World Intellectual Property Organisation.

Publications

Art. 72. (1) The publications of international applications in which the Republic of Bulgaria is a designated state, performed by the International Bureau of the World Intellectual Property Organisation, shall be included in the state of the art as from their date of publication if national procedure has not already commenced on these applications.

(2) (amend. - SG 64/06, in force from 09.11.2006) The publication of an international application in Bulgaria has legal effects identical with the effects of publications of national applications under articles 46c and 52.

Chapter six "a".

APPLICATIONS FOR EUROPEAN PATENT AND EUROPEAN PATENTS ACCORDING TO THE EUROPEAN PATENT CONVENTION (NEW – SG 66/02)

Submitting of applications for European patent

Art. 72a. (new – SG 66/02) (1) The applications for European patent can be submitted at the Patent Office of the Republic of Bulgaria or at the European Patent Office in Munich or its branch in the Hague in one of the languages according to art. 14 of the European Patent Convention, called hereinafter "the convention". The divided applications shall be submitted only at the European Patent Office.

(2) Applicants with permanent address or headquarters in the Republic of Bulgaria shall submit applications for European patent at the Patent Office unless the application benefits priority from a previous application, submitted at the office.

(3) The Patent Office shall re-send the application for European patent to the European Patent Office.

Equivalence of European and national application

Art. 72b. (new – SG 66/02) (1) Application for European patent with established date of submitting and priority, when such is claimed, in which the Republic of Bulgaria is a pointed out country, shall be equivalent to regularly submitted at the Patent Office national application.

(2) When the application for European patent is published by the European Patent Office and the applicant presents translation of the patent claims in Bulgarian language in three copies with the bibliographic data of the application and pays fee for publication, the Patent

Office shall ensure access to the translation and publish announcement in the official bulletin about the received translation.

(3) The applicant shall exercise the rights of art. 18 from the date of the announcement about the received translation of para 2 under the conditions of art. 72c.

Effect of the European patent

Art. 72c. (new – SG 66/02) (1) A European patent, in which the Republic of Bulgaria is pointed out, shall concede to the holder of the patent from the date of the announcement about its issuing in the European patent bulletin the rights under this Act, if in three months term after this date a translation of the description and the claims in Bulgarian is presented in three copies and a fee for publication is paid.

(2) The translation of para 1 must contain the name of the invention, the description, including drawings, when necessary, and the patent claims.

(3) The translation shall be submitted together with data about the patent holder, the number of the application for European patent, the number of the publication of the European patent, the number and the date of the European patent bulletin, in which the announcement about issuing of the patent is made.

(4) The Patent Office shall make announcement in the official bulletin about the received translation and publish the translation of the European patent in Bulgarian.

(5) The provisions of this Art. shall be applied also when the description and the patent claims of the European patent are changed in procedure for objection according to art. 102, para 3 of the convention.

(6) The European patent shall not have effect on the territory of the Republic of Bulgaria from the date of submitting of the application, if within the term of para 1 the translation according to para 1 and 5 is not presented and/or the fee for publication is not paid, or the requirements of para 2 and 3 are not fulfilled and the defects are not removed in two months term after the notification of the Patent Office.

Authentic text of the application for European patent and of the European patent. Entering of corrections in the translation

Art. 72d. (new – SG 66/02) (1) When the translation in Bulgarian of art. 72b and 72c concede scope of protection, which is narrower from the scope of protection, conceded with the application for European patent in the language of procedure of the European patent office, as authentic shall be considered the text of this translation.

(2) The provision of para 1 shall not be applied in the procedure for announcing the European patent invalid.

(3) The applicant or the holder of European patent can submit at any time corrected translation by paying the respective fee for publication. The translation shall be presented in three copies. The Patent Office shall publish an announcement about the received corrected translation in the official bulletin. When the corrections refer to the patent claims in the application for the European patent, simultaneously with the announcement in the bulletin shall be ensured access to the corrected translation, and when the corrections refer to the translation of the European patent, the patent shall be published again with the entered corrections.

(4) The corrected translation shall have effect with regard to third persons from the day of publication of the announcement.

(5) A person, who in good faith uses or has made the necessary preparation for use of the invention, which use would not constitute a breach of the application or the patent according to the initial translation, can, after the corrected translation enters into force, continue the use

of the invention in his activity or for the purposes of this activity without payment.

Fees for maintaining the effect of the European patent

Art. 72e. (new – SG 66/02) Annual patent fee for European patents shall be paid at the Patent Office of the Republic of Bulgaria by the order of art. 33 for each patent year after the year, during which the European Patent Office publishes the announcement about issuing of European patent.

Transformation in national application for patent

Art. 72f. (new – SG 66/02) (1) (suppl. - SG 64/06, in force from 09.11.2006) Application for European patent, in which the Republic of Bulgaria is pointed out, may upon application of the applicant to be transformed in national application for patent for invention or for registration of a utility model, when:

1. the application is considered withdrawn according to art. 77, para 5 of the convention;

2. the application is considered withdrawn according to art. 90, para 3 of the convention, because translation of the application has not been presented in the language of the procedure according to art. 14, para 2 of the convention.

(2) The application for the transformation shall be submitted within the terms of art. 135, para 2 of the convention.

(3) In three months term after the date of receiving of the application at the Patent Office the applicant must:

1. (suppl. - SG 64/06, in force from 09.11.2006) pay the fees of art. 35, para 2, respectively Art. 75, Para 1, Item 6, and

2. submit translation in Bulgarian of the application for European patent as it has been submitted, and translation of the application with changes, when it has been changed in the procedure before the European Patent Office.

Prohibition of simultaneous protection

Art. 72g. (new – SG 66/02) (1) When a national patent for invention is issued, for which also a European patent is issued, in which the Republic of Bulgaria is pointed out with one and the same date of application, respectively one and the same priority date, to one and the same person or his legal successor, the national patent shall terminate its effect.

(2) Under the conditions of para 1 the national patent shall terminate its effect within the scope, which is identical with the European patent, from the date on which the term for submitting of objections against the European patent has elapsed without an objection being submitted or from the date, on which enters into force the decision for preservation of the European patent in the procedure for objection.

Announcement of invalidity of the European patent

Art. 72h. (new – SG 66/02) The decisions of the European Patent Office in procedure for announcing invalid of a European patent, in which the Republic of Bulgaria is pointed out, shall have effect on the territory of the Republic of Bulgaria.

Register of the applications for European patent and the European patents

Art. 72i. (new – SG 66/02) The Patent Office shall enter the applications for European patents as well as the European patents with effect in the Republic of Bulgaria in a separate register, all the changes in their legal status being entered by the general order.

Chapter six "b".

Certificates for supplementary protection (new - SG 64/06, in force from the date of accession of the Republic of Bulgaria to the European Union)

Granting Supplementary Protection

Art. 72j. (new - SG 64/06, in force from the date of accession of the Republic of Bulgaria to the European Union) (1) Certificates for supplementary protection of products and methods, protected by a patent, shall be granted according to the conditions and the order referred to in Regulation 1768/92/EEC of the Council and Regulation 1610/96/EC of the European Parliament and the Council.

(2) The application for certificate shall be filed to the Patent Office of the Republic of Bulgaria. For the filing of the application, granting, maintenance of the effect of the certificate and for publications, fees determined by the Tariff referred to in Art. 5, Para 1 shall be paid.

(3) The procedure on granting a certificate for supplementary protection shall be determined by an ordinance of the Council of Ministers.

(4) The provisions regarding the representation referred to in Art. 3, the right of application referred to in Art. 13, the extent of legal protection referred to in Art. 17, the contents of the exclusive right referred to in Art. 19, the restriction on the patent effect referred to in Art. 20, the exhaustion of rights referred to in Art. 20a, the right of previous use referred to in Art. 21, the expiry of the effect of the patent referred to in Art. 26, Para 1, 2 and 4, the infringement of the patent rights and the infringement actions referred to in Art. 27 and 28, the right of information referred to in Art. 28a, the license readiness referred to in Art. 30, the contractual and compulsory license referred to in Art. 31 and 32, fees for maintenance of the effect of the patent referred to in Art. 33, the restoration of the terms referred to in Art. 49, disputes referred to in Art. 54, Art. 55, Para 1, Art. 56, Para 1 and 4 and Art. 57 – 59 shall apply also to the certificates for supplementary protection unless otherwise provided by the regulations referred to in Para 1.

Chapter seven.

UTILITY MODELS

Patentable Utility models

Art. 73. (amend. - SG 64/06, in force from 09.11.2006) (1) Legal protection of a utility model shall be granted by registration in the Patent Office. The registration shall have effect in respect of third persons from the date of the publication in the Official Gazette of the Patent Office.

(2) The right of registration shall belong to the person that has right of application as referred to in Art. 13.

(3) Subject to registration shall be utility models which are new, industrially applicable and involve inventive step.

(4) The objects referred to in Art. 6, Para 2 and 4 shall not be considered to be utility models as much as legal protection is sought for them as such.

(5) Biotechnological inventions in the sense of Art. 7a, methods, chemical compounds or their usage, as well as the objects referred to in Art. 7.

Novelty

Art. 73a. (new - SG 64/06, in force from 09.11.2006) (1) The utility model shall be considered to be new if it does not form part of the state of the art.

(2) The state of the art shall be held to comprise:

1. everything made available to the public by its use in the Republic of Bulgaria, by means of a written or oral description or in any other way anywhere in the world before the date of filing of the application for the utility model, respectively the priority date;

2. the contents of the national, the European and the international applications according to Art. 8, Para 3 and 4.

Disclosure not Influencing the Novelty

Art. 73b. (new - SG 64/06, in force from 09.11.2006) (1) The disclosure of the utility model shall not influence the novelty, when this disclosure is made in 12-month term before the date of filing the application for registration, respectively before the priority date, by:

1. the applicant or his right granter;

2. a third person upon obvious misuse with regard to the applicant or his right granter.

(2) The privilege referred to in Para 1 may be claimed any time.

Inventive Step

Art. 73c. (new - SG 64/06, in force from 09.11.2006) It shall be considered that the utility model involves an inventive step, if a person with common knowledge and capabilities in the field is not able to easily produce it on the basis of the state of the art according to Art. 73a, Para 2, Item 1.

Industrial Applicability

Art. 73d. (new - SG 64/06, in force from 09.11.2006) The industrial applicability of the utility models shall be determined according to Art. 10.

Exceptions

Art. 74. (amend. - SG 64/06, in force from 09.11.2006) The term of the effect of the registration of the utility model shall be 4 years from the date of filing the application. It may be extended for two consecutive terms of three years. The total term of protection may not exceed 10 years from the date of filing the application.

Cessation of the Effect of the Registration

Art. 74a. (new - SG 64/06, in force from 09.11.2006) The registration shall cease to have effect upon:

1. expiration of the respective term under Art. 74;

2. waiver by the holder – from the date of receiving the written statement of waiver.

Deletion of the Registration

Art. 74b. (new - SG 64/06, in force from 09.11.2006) (1) The registration shall be deleted on request by any person when:

1. the utility model does not meet the requirements referred to in Art.73, Para 3 in relation to Art. 73a, 73c and 73d;
2. the utility model falls in the cases referred to in Art. 73, Para 4 and 5;
3. the essentially of the utility model was not revealed enough clearly and fully so that a person with common knowledge and capabilities in the field may not produce it;
4. the registered utility model extends beyond the contents of:
 - a) the application as it is filed;
 - b) the initial application of which the application for registration of the utility model is separated according to Art. 41;
 - c) the initial patent application to which the application for utility model refers according to Art. 75b;
 - d) the initial patent application from which the application for registration of a utility model is transformed according to Art. 47a and 72f.

(2) When the grounds for deletion refer to only part of the claims, the deletion shall be partial. The extent of protection shall be restricted by making respective changes to the claims, the description and the drawings.

(3) The deletion of the registration of the utility model shall have effect from the date of filing the application.

(4) The registration of the utility model shall be deleted also when the holder did not have right of application, which is ruled by a court decision in force. Upon request of the person that has a right of application, the utility model may be registered on his behalf without termination of the effect of the registration.

(5) The registration of a utility model may be deleted also after termination of its effect as referred to in Art. 74a upon request of a person that is defendant to a claim of infringement.

(6) The deletion of the registration shall not affect:

1. the decisions in force on infringement of the right in a utility model as much as they have been enforced;
2. the license agreements, concluded and performed before the deletion unless otherwise provided by them.

Compulsory License

Art. 74c. (new - SG 64/06, in force from 09.11.2006) (1) Compulsory license shall be granted in favour of a holder of a utility model, when the utility model may not be used without infringement of the right in another utility model, the holder of which refuses to grant license in fair conditions.

(2) Compulsory license shall be granted in favour of a patent holder, when the invention according to the patent may not be used without infringement of the right in a utility model, the holder of which refuses to grant a license in fair conditions.

(3) The rules regarding the compulsory license referred to in Art. 32 shall apply also to the registered utility models.

Disposal in Case of Parallel Protection

Art. 74d. (new - SG 64/06, in force from 09.11.2006) (1) When a patent is granted and a utility model is registered under the conditions of Art. 75b, the disposal of any of the both rights shall be considered also a disposal of the other one.

(2) When one of the rights referred to in Para 1 has occurred before the other one, the disposal of it shall have effect also to the one that has occurred later.

Infringement of the Right in a Utility Model

Art. 74e. (new - SG 64/06, in force from 09.11.2006) For infringements of the right in a utility model shall apply respectively Art. 27, 28 and 28a.

Filing an Application for Utility Model (title amend. - SG 64/06, in force from 09.11.2006)

Art. 75. (amend. - SG 64/06, in force from 09.11.2006) (1) Application for registration of a utility model shall be filed to the Patent Office and shall contain:

1. request for registration;
2. description of the utility model;
3. drawings, where necessary;
4. claims;
5. an abstract;
6. a document for paid fees for application and examination.

(2) To the application shall be also attached the following documents:

1. authorisation, when the application is filed through industrial property representative;
2. statement of priority and priority certificate, when priority is claimed, and document for paid fee for priority;
3. statement of the actual inventor and for determining the right of application, when the applicant is not an inventor.

(3) The documents shall be filed in Bulgarian except the priority certificate referred to in Art. 44, Para 2, and the description, the drawings, the claims and the abstract shall be presented in two copies. When they are presented in other language, the date of filing shall be preserved, if within three-month term from that date they are presented in Bulgarian. This term may not be extended.

Date of Filing

Art. 75a. (new - SG 64/06, in force from 09.11.2006) Date of filing the application shall be taken to be the date of receiving by the Patent Office of:

1. a request for registration containing a name and address of the applicant and name of the utility model of which registration is requested;
2. a description of the utility model;
3. drawings, where necessary;
4. one or more claims.

Parallel Applications

Art. 75b. (new - SG 64/06, in force from 09.11.2006) For the same invention, for which a patent application was filed, the applicant may also file an application for registration of a utility model in compliance with the requirements referred to in Art. 73, Para 5, referring to the date of filing and the claimed priority of the patent application. This right may be claimed before the expiration of two months from the date of receiving the decision on the patent application as referred to in Art. 46, Para 1, Art. 46a, Para 1 and 2, Art. 47, Para 3, 4 and 6 or the decision referred to in Art. 58, Para 3, Item 2 and Para 4 of the expertise department or the disputes department on the patent application, but not later than 10 years from the date of filing the patent application.

Requirements for the Application

Art. 75c. (new - SG 64/06, in force from 09.11.2006) (1) Apart from the data referred to in Art. 75a, Item 1, the request shall contain also:

1. name and address of the inventor;
2. statement of the actual inventor;
3. name and address of the industrial property representative, if authorized;
4. data on the claimed priority – number, date and state of the priority document;
5. statement containing data of the patent application, when the application for registration of a utility model is filed according to Art. 75b.

(2) The description shall contain a name of the utility model, its application and one or more examples of realisation revealing its technical essence. The preceding state of the art known to the applicant and the advantages of the utility model may be also indicated in it.

(3) Regarding the claims and the abstract shall apply also Art. 38 and 39.

Check of the Formal Requirements

Art. 75d. (new - SG 64/06, in force from 09.11.2006) (1) Within one month term from the date of filing the application by a Bulgarian national having his permanent address in the Republic of Bulgaria or by a legal person having its seat in the Republic of Bulgaria, the check referred to in Art. 45a shall be performed.

(2) Within one month term from the check referred to in Para 1 or from filing an application by a foreign applicant for each application with determined date of filing shall be checked if the requirements referred to in Art. 75, 75b and 75c, Para 1 are fulfilled. Upon finding deficiencies, the applicant shall be notified and one month term shall be provided to him in order to remedy them, except for the documents referred to in Art. 75, Para 2, Item 2.

(3) When the applicant does not respond, does not remedy the deficiencies and/or objects groundlessly within the term referred to in Para 2, a decision for termination of the procedure shall be made.

(4) When, within the term referred to in Para 2, the applicant does not present the document of paid fees referred to in Art. 75, Para, Item 6, the application shall be considered withdrawn.

(5) Art. 44 shall apply regarding the presentation of the documents referred to in Art. 75, Para 2, Item 2.

Registration Procedure

Art. 75e. (new - SG 64/06, in force from 09.11.2006) (1) For each application which meets the formal requirements an expert of the expertise department within a three month term shall check if:

1. the application meets the requirements referred to in Art. 75c, Para 2 and 3 and Art. 40;
2. the utility model subject of the application does fall in the cases referred to in Art. 73, Para 4 and 5;
3. the utility model, revealed in the application, obviously contradicts to Art. 10.

(2) Upon finding incompliance the applicant shall be notified and shall be provided a three month term for opinion and/or for making changes in the application.

(3) When, within the term provided, the applicant does not respond, objects groundlessly and/or does not remedy the deficiencies referred to in Para 1, Item 1, a decision

on termination of the procedure shall be made.

(4) When, within the term provided, the applicant does not respond, objects groundlessly and/or does not make changes in the application in order to remedy the incompliance referred to in Para 1, Item 2 and 3, a decision on rejection shall be made.

(5) When, as a result of the check, incompliance is not found or the incompliance is remedied, the applicant shall be invited to pay within a month a fee for registration, a fee for issuing a certificate for registration, a fee for publication of the description, the drawings, the claims and the abstract and a fee for publication in the Official Gazette of the Patent Office. If the fees are not paid, the application shall be considered withdrawn.

(6) When the fees are paid, a decision for registration of the utility model shall be made and entry into the State register of the utility models shall be done within a 14-day term.

(7) When the application for registration of a utility model is filed according to Art. 75b, a decision on registration shall be made upon payment of the fees referred to in Para 5 and of a fee for extension of the term of effect of the registration for the period in question, in which the applicant was invited to pay them.

Search of the State of the Art

Art. 75f. (new - SG 64/06, in force from 09.11.2006) (1) The applicant may file a request for searching the state of the art by paying a search fee.

(2) Within the term of effect of the registration of the utility model any person may file a request for searching the state of the art by paying a search fee.

(3) Within a three month term from receiving the request referred to in Para 1 or 2 a report shall be prepared, which shall be sent to the requesting person together with the materials that were found.

(4) The persons referred to in Para 1 or 2 may file a request for expertise of a utility model by paying a fee and presenting a search report as referred to in Para 3 or in Art. 47, Para 1.

Postponing the Application

Art. 75g. (new - SG 64/06, in force from 09.11.2006) Within a three month term from filing the application the applicant may file a request for postponing the registration of the utility model for a term of up to 15 months from the date of filing, respectively from the priority date.

Extension of Terms

Art. 75h. (new - SG 64/06, in force from 09.11.2006) Upon request by the applicant filed before the expiration of the term referred to in Art. 75d, Para 2 or Art. 75e, Para 2, it may be extended once by three months upon payment of a fee.

Extension of the Term of Effect of the Registration (title amend. - SG 64/06, in force from 09.11.2006)

Art. 76. (amend. - SG 64/06, in force from 09.11.2006) (1) The term of effect of the registration of the utility model shall be extended upon request of the holder, accompanied by a document for paid fee.

(2) The request for each extension shall be filed in the last year of the previous period of effect of the registration.

(3) The utility model shall preserve its effect in case of missing the term referred to in

Para 2, if within 6 months after its expiration the holder files a request and pays double the amount of the fee.

Publication (title amend. - SG 64/06, in force from 09.11.2006)

Art. 77. (amend. - SG 64/06, in force from 09.11.2006) (1) A publication shall be made into the Official Gazette of the Patent Office within one month term from the entry of the utility models into the State register.

(2) A certificate for registration of the utility model shall be issued and the description, the drawings, the claims and the abstract shall be published within one month term of the publication referred to in Para 1.

(3) Announcements on the prepared reports for search and all changes of the legal status of the utility models shall be published in the Official Gazette.

Access to the Publication

Art. 77a. (new - SG 64/06, in force from 09.11.2006, revoked - SG 98/19)

Regimen of the Utility Models (title amend. - SG 64/06, in force from 09.11.2006)

Art. 78. (amend. - SG 64/06, in force from 09.11.2006) The rules for the inventions shall apply respectively to the utility models unless otherwise provided by this chapter, with the exception of Art. 18, 22 and 30.

Chapter eight. PATENT OFFICE

Status

Art. 79. (1) The Patent Office of the Republic of Bulgaria shall be a national state authority providing legal protection to industrial property and shall have its seat in Sofia.

(2) (new - SG 64/06, in force from 09.11.2006) The Patent Office shall be supported by the budget. The income in the budget of the Patent Office shall be formed from fees, collected for the activities carried out by the Office, from rent, donations and other revenues.

(3) (new - SG 64/06, in force from 09.11.2006; revoked – SG 38/12, in force from 01.07.2012) (4) (prev. text of para 02 - SG 64/06, in force from 09.11.2006) The Patent Office shall be independent in its activities; its final decisions with respect to the protection of industrial property may be appealed in court under the relevant procedures.

(5) (prev. text of para 03 - SG 64/06, in force from 09.11.2006) The Patent Office shall consist of a Chairman, at least one vice-chairman, state experts and employees.

(6) (prev. text of para 04 - SG 64/06, in force from 09.11.2006) The chairman and the vice-chairpersons shall conform to the following requirements: they shall have been employed in the field of industrial property for at least ten years and shall hold university degrees in technology or law; the first vice-chairman shall be competent and experienced in patent examinations and shall have patenting qualifications.

(7) (prev. text of para 05 - SG 64/06, in force from 09.11.2006) The Chairman of the Patent Office shall be appointed by the Prime Minister.

Main Activities

Art. 80. The Patent Office shall perform the following main activities:

1. examinations and decision-making with respect to the protection of industrial property;
2. (amend., SG 81/99; suppl. - SG 64/06, in force from 09.11.2006) granting patents for inventions and certificates for registration of utility models; certificates for industrial designs, trade marks, service marks, appellations of origin and other documents protecting industrial property;
3. reviewing disputes on examination decisions, requests for declaring null and void documents granting protection and on granting and terminating compulsory licenses;
4. declaring nullity, granting and revoking compulsory licenses and dependency of documents protecting industrial property;
5. (new - SG 64/06, in force from 09.11.2006) protection of the biotechnological inventions and utility models in coordination with the National bank for industrial microorganisms and cell cultures;
6. (prev. text of item 05, suppl. - SG 64/06, in force from 09.11.2006) representing the country in certain governmental industrial property organisations, ensuring the implementation of the country's obligations pursuant to the status of the patent offices as regulated in international instruments, and carrying on international cooperation in this field, in this number for performing searches and expertise of objects of the industrial property;
7. (prev. text of item 06, amend. - SG 64/06, in force from 09.11.2006) making the publications and publishing the bulletin provided for in this Act and in international instruments; performing international exchange of patent documents, creates and maintains information systems of the objects of industrial property and provide information services for these objects;
8. (prev. text of item 07 - SG 64/06, in force from 09.11.2006) issuing regulations and instructions within the competence of the Patent Office, and establishing fee schedules for the activities and services provided by the Office;
9. (prev. text of item 08 - SG 64/06, in force from 09.11.2006) maintaining state registers of protected industrial property objects;
10. (prev. text of item 09 - SG 64/06, in force from 09.11.2006) establishing the Industrial Property Fund from donations, means of its own and other revenues;
11. (prev. text of item 10, amend. - SG 64/06, in force from 09.11.2006) performs training of personnel and education in the field of industrial property;
12. (new - SG 64/06, in force from 09.11.2006) informs the public in the field of the industrial property and popularize the legal protection of the industrial property and the innovative activity.

Chairman

Art. 81. (1) (amend. – SG 19/10, in force from 10.06.2010) The Chairperson shall manage the Patent Office and shall be responsible for the performance of its activities; he shall approve the structural regulations of the Office and shall promulgate it in the State Gazette, appoint and monitor the staff; represent the Patent Office in international organisations and unions; conclude bilateral and regional agreements with foreign patent offices.

(2) (new - SG 64/06, in force from 09.11.2006) The Chairperson may delegate his competences by a written order to a Deputy Chairperson.

(3) (prev. text of item 02, amend. - SG 64/06, in force from 09.11.2006) The Chairperson of the Patent Office shall maintain cooperation with non-profit organisations operating in the area of industrial property.

Structure

Art. 82. (1) In view of its responsibilities as set herein, the following mandatory departments shall be established with the Patent Office:

1. examination of industrial property;
2. disputes;
3. legal activities;
4. patent information and publishing.

(2) The Patent Office shall establish and maintain a central patent fund, the Central Patent Library, for performing examinations, providing services to the public and for the purposes of the international exchange of patent documentation.

(3) The Chairman of the Patent Office shall determine the structure and number and type of staff of the Office.

Employees

Art. 83. (1) Only persons holding Bulgarian citizenship shall be eligible for employment with the Patent Office.

(2) (amend. - SG 64/06, in force from 09.11.2006) The state experts who make decisions on the applications for objects of industrial property or final decisions on disputes shall conform to the following requirements: university degree and post-graduate specialisation in patent law; at least 3 years practice in the expertise and a passed examination at the Patent Office. The conditions and the order of performing the examination shall be determined by an act of the President of the Patent Office.

(3) (revoked – SG 64/06, in force from 09.11.2006)

(4) (new - SG 64/06, in force from 09.11.2006) The employees of the Patent Office shall not have the right to file applications for protection of objects of industrial property or to be mentioned as inventors or co-inventors while they are in official or employment relationship and one year after its termination.

Chapter eight "a".

PROTECTION MEASURES BY THE CUSTOMS AUTHORITIES (NEW – SG 64/06, IN FORCE FROM 09.11.2006, TITLE AMENDED - SG 98/19)

Grounds and Scope of Application

Art. 83a. (new - SG 64/06, in force from 09.11.2006, amend. - SG 98/19) (1) The customs authorities shall apply measures to goods under customs supervision or customs control suspected of infringing a patent, supplementary protection certificate or registered utility model, under the terms and procedures of Regulation (EU) No 608/2013 of the European Parliament and of the Council of 12 June 2013 concerning customs enforcement of intellectual property rights and repealing Council Regulation (EC) No 1383/2003 (OB, L 181/15 of 29 June 2013).

(2) Paragraph 1 shall also apply to goods, whether or not they are the subject of a customs regime, which were found as a result of the check carried out by the customs authorities in the exercise of their powers within the territory of the Republic of Bulgaria.

(3) When implementing the measures, the customs authorities shall collect fees to cover the costs of storage of the goods to the extent determined by the Council of Ministers in accordance with Art. 12 of the Customs Act.

Conditions for Application of the Measures for Border Control

Art. 83b. (new - SG 64/06, in force from 09.11.2006, revoked - SG 98/19))

Chapter nine.

PENAL ADMINISTRATIVE PROVISIONS

Sanctions

Art. 84. (1) (Amended, SG No. 11/1998; amend., SG 45/02; amend. - SG 64/06, in force from 09.11.2006) A person who publishes the essence of an application for classified patent under Art. 24, who files an application abroad in violation of Art. 25 shall be fined from 1000 to 20,000 BGN.

(2) (new - SG 64/06, in force from 09.11.2006) Any person who does not fulfil his obligation referred to in Art. 28a, Para 5 shall be fined from 300 to 500 BGN or shall be imposed a property sanction from 600 to 1000 BGN.

(3) (prev. text of para 02 - SG 64/06, in force from 09.11.2006) Violations shall be evidenced with an Act by a body of the Patent Office. Sanctions shall be issued by the Chairman of the Patent Office and may be appealed pursuant to the Administrative Violations and Penalties Act.

Additional provisions

§ 1. (new - SG 64/06, in force from 09.11.2006) In the sense of this Act:

1. "Essentially biological process" means any process for production of plants or animals if it consists entirely of natural phenomena such as crossing or selection.

2. "Microbiological process" means any process involving, performed upon or resulting in biological material.

3. "Biological material" means any material containing genetic information and capable of reproducing itself or being reproduced in a biological system.

4. "Paris Convention" means the Paris Convention for the Protection of Industrial Property signed on 20 March 1883 in Paris together with its amendments and supplementations according to the Decision of the Council of Ministers for accession of the Republic of Bulgaria to the Lisbon revision of the Convention approved by Decree No. 663 of the Presidium of the National Assembly from 1965 (SG 75/65).

5. "Budapest Treaty" means the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure signed on 28 April 1977 in Budapest, ratified by Decree No. 903 of the State Council from 1978 (SG 38/78).

6. "Patent Cooperation Treaty" means the Patent Cooperation Treaty concluded on 19 June 1970 in Washington, ratified by Decree No. 2933 of the State Council from 1983 (SG 77/83).

7. "European Patent Convention" means the Convention on the Grant of European Patents (European Patent Convention) of 5 October 1973 ratified by an Act of the National Assembly (SG 15/02).

8. "Genetic medicinal product: means any medicinal product having the same quality and quantity composition regarding the active substances and the same medicinal form as the reference medicinal product and its bioequivalence with the reference medicinal product is proven by suitable testing for bio-analyticity. The various peroral immediate-release medicinal forms shall be treated as one and the same medicinal form. The various salts, esters, ethers, isomers, mixtures of isomers, complexes or derivatives of an active substance shall be treated

to be the same active substance, unless they differ considerably in their form and/or efficiency.

Transitional and concluding provisions

§ 2. (prev. text of § 01 - SG 64/06, in force from 09.11.2006) (1) This Act shall apply to patent applications for inventions and utility models filed after its coming into force, as well as to patent applications filed at the Patent Office prior to its coming into force but on which no final decision has been passed.

(2) Requests for inventor's certificates filed at the Patent Office prior to the coming into force of this Act, on which no final decision has been passed, may be transformed into patent applications for inventions or utility models upon the request of the person who is entitled to apply under Art. 13 of this Act; they shall retain their priority date. The request shall be filed at the Patent Office within three months of notification of the applicant by the Patent Office, but not later than six months after the coming into force of this Act.

(3) Requests for inventor's certificates for which no transformation requests have been received under the terms of the preceding paragraph shall be considered withdrawn and all procedures on them shall be terminated.

§ 3. (prev. text of § 02 - SG 64/06, in force from 09.11.2006) (1) Inventors' certificates granted prior to the coming into force of this Act shall be valid for 15 years as from the date of filing. This shall also be the validity of unpublished inventors' certificates.

(2) Pursuant to Art. 7 and upon the request of the inventor inventors' certificates may be transformed into patents for inventions within the term specified in the preceding paragraph. Whenever an inventors' certificate has been granted for an official invention, transformation requests may be made by:

1. the user of the invention;
2. the author of the invention;
3. the organisation where that invention was made if it is not its user.

(3) Requests under the preceding paragraph shall be filed at the Patent Office within six months of the coming into force of this Act.

(4) The Patent Office shall grant a patent to one of the petitioners observing the successive order in which they are presented in para 2.

(5) If within the time limit under para 3 no transformation request has been received any interested party, with the exception of foreign persons, may request the granting of a patent in his name. The request must be filed no later than one year after the expiry of the time limit under para 3 and a patent shall be granted to the first petitioner.

(6) The rights arising from patents granted under para 4 and 5 shall commence as from the date of the transformation decision. Persons who have used the invention prior to the date of transformation of the inventors' certificate, but after the date of filing the application for that inventors' certificate shall not enjoy the rights of prior users under Art. 21.

(7) (revoked – SG 66/02).

(8) Inventors' certificates which have not been transformed into patents under the preceding paragraphs shall cease to be in force.

(9) Property and non-property rights of discoverers, inventors of recognised and applied inventions and innovations which have arisen prior to the coming into force of this Act shall be governed by the procedure existing prior to the entry into force of this Act.

(10) (amend. - SG 30/06, in force from 12.07.2006) The decisions of the Patent Office with respect to the transformation of patent applications and inventors' certificates may be

appealed under the Administrative procedure code.

§ 4. (prev. text of § 03 - SG 64/06, in force from 09.11.2006) Fees for granting patents and fees for transformation publications shall be paid for transforming inventors' certificates into patents. The annual fees for maintaining patents shall be calculated as from the date of granting.

§ 5. (prev. text of § 04 - SG 64/06, in force from 09.11.2006) (1) The Patent Office may grant patents upon the request of the proprietor of the patent or applicant for patents or applications filed abroad prior to the entry into force of this Act and concerning products obtained by chemical or microbiological methods, as well as medical, cosmetic and food products obtained by chemical or other methods, including genetic engineering products:

1. the product has not been sold in the Republic of Bulgaria prior to the date of filing of a patent application at the Patent Office;

2. no inventors' certificate has been granted in the Republic of Bulgaria for a product identical to that whose patenting is requested;

3. the applicant or proprietor of the patent are maintaining considerable commercial activity in the country of the invention.

(2) A patent application under the preceding paragraph shall be filed at the Patent Office within nine months of the coming into force of this Act and shall consist of:

1. petition as per approved form;

2. declaration as per approved form on the existence of the requirements under items 1 and 3 of the preceding paragraph;

3. a Bulgarian translation of the patent or application and of the abstract in two copies;

4. copy of the patent or certified copy of the application issued by the Patent office of the respective country;

5. document for paid fees;

6. power of attorney.

(3) The applicant or proprietor of the patent shall present the documents as described in the above paragraph within three months of filing the application.

(4) The patent granted in the Republic of Bulgaria shall have an effect:

1. as from the date of filing of the application under para 2, whenever a patent has already been granted abroad;

2. as from the date of notification on the granting of a patent on the application filed abroad.

(5) The effects of the patent granted under the terms specified in the preceding paragraphs shall be terminated upon the expiry of the term of the patent granted in the respective country, or as of the date of its nullification.

(6) Unobserved time limits under para 2 and 3 shall not be re-established.

(7) The annual patent fees shall be paid in amounts corresponding to the successive year of the patent granted in the respective country.

§ 6. (prev. text of § 05 - SG 64/06, in force from 09.11.2006) Patents for inventions as well as additional patents granted prior to the entry into force of this Act shall retain their term as specified by the law at the time of grant.

§ 7. (prev. text of § 06 - SG 64/06, in force from 09.11.2006) (1) In Art. 48 of the Trade Marks and Industrial Designs Law (promulgated, State Gazette, No. 95 of 1967, amended, No. 55 of 1975, No. 56 of 1986) the words "Bulgarian Chamber of Commerce" shall be replaced by "industrial property representative".

(2) The Bulgarian Chamber of Commerce and Industry shall continue to fulfil the functions of industrial property representative for six months after the entry into force of this Act. Within the same period of time foreign applicants shall empower a representative from the Register of Industrial Property Representatives. After the expiration of that period, the Bulgarian Chamber of Commerce and Industry shall transfer to the Patent Office all files on industrial property for which there is no empowered representative. The Chairman of the Patent Office shall distribute any such files among the authorised industrial property representatives.

§ 8. (prev. text of § 07 - SG 64/06, in force from 09.11.2006) The time limit for filing requests for nullification under Art. 55, paragraph 2 shall be applicable for inventors' certificates which have been granted prior to the entry into force of this Act.

§ 9. (prev. text of § 08 - SG 64/06, in force from 09.11.2006) The relationships involving the creation and use of proposals having a useful effect which do not enjoy special legal protection shall be governed by contracts between the interested parties.

§ 10. (prev. text of § 09 - SG 64/06, in force from 09.11.2006) The name of the Inventions and Innovations Institute shall be changed to Patent Office of the Republic of Bulgaria.

§ 11. (amend., SG 81/99; prev. text of § 10 - SG 64/06, in force from 09.11.2006) The Council of Ministers shall issue a regulation pursuant to Art. 3 of this Act, a Regulation on Classified Patents, utility models and industrial design and a Regulation on Official Patents.

§ 12. (prev. text of § 11 - SG 64/06, in force from 09.11.2006) This Act revokes:
1. The Inventions and Innovations Law (promulgated, State Gazette, No. 81 of 1968, amended, No. 92 of 1969, No. 28 of 1982 and No. 56 of 1986).
2. The Discoveries, Inventions and Innovative Proposals Law (promulgated, State Gazette, No. 10 of 1961, amended, State Gazette, No. 81 of 1968).

§ 13. (prev. text of § 12 - SG 64/06, in force from 09.11.2006) This Act shall come into force on June 1, 1993 with the exception of Art. 3.

§ 14. (prev. text of § 13 - SG 64/06, in force from 09.11.2006) The implementation of this Act is assigned to the Chairman of the Patent Office.

This Act was passed by the 36th National Assembly on March 18, 1993 and the state seal has been affixed to it.

§ 41. "Official or officially recognised exhibition" is an exhibition in the sense of the Convention for the international exhibitions, signed on November 22, 1928 in Paris and revised on November 30, 1972.

**Transitional and concluding provisions
OF THE ACT AMENDING AND SUPPLEMENTING THE PATENTS ACT– SG 66/02**

§ 42. (1) This Act shall be implemented for applications for inventions and utility models, which are submitted after it has been entered into force, as well as for applications, about which ultimate decision has not been taken.

(2) Requests for announcing invalidity of patents for inventions, which refer to methods for treatment of people or animals with therapies or by surgical methods, as well as methods for diagnostics, applied for people or animals, regardless of when they have been issued, shall be considered with regard to the provisions of the law, which has been in force by the time of considering of the application till the taking of the ultimate decision.

§ 43. The legal protection, conceded with patents for inventions, which refer to methods for treatment of people or animals with therapies or by surgical methods, as well as methods for diagnostics, applied for people or animals, shall be preserved till the elapse of the term of effect of the patents with the restriction under the law, according to which the decision for issuing them it has been taken.

§ 44. Applicants, submitted application for patent for invention or utility model before this Act enters into force, shall exercise the privilege of art. 11 in its previous wording.

§ 45. The procedure for submitted declarations for discoveries under the revoked para 7 of §2 of the transitional and concluding provisions shall be terminated. Upon request of the authors in the official bulletin of the Patent Office shall be published the bibliographical data of the declarations and access to the material in them shall be conceded.

§ 46. The law shall enter into force on the day of its promulgation in State Gazette except §19, item 1 (about para 1, 2 and 3 of art. 33), which shall enter into force six months after this Act enters into force.

**Transitional and concluding provisions
TO THE ADMINISTRATIVE PROCEDURE CODE**

(PROM. – SG 30/06, IN FORCE FROM 12.07.2006)

§ 101. The following amendments shall be done to the Patents Act (prom. - SG 27/93; amend. - SG 83/96; 11/98; 81/99; 45 and 66/02; 17/03):

.....

2. The words "Administrative Proceedings Act" shall be replaced by "Administrative procedure code".

.....

§ 142. The code shall enter into force three months after its promulgation in State Gazette, with the exception of:

1. division three, § 2, item 1 and § 2, item 2 – with regards to the repeal of chapter third, section II "Appeal by court order", § 9, item 1 and 2, § 15 and § 44, item 1 and 2, § 51, item 1, § 53, item 1, § 61, item 1, § 66, item 3, § 76, items 1 – 3, § 78, § 79, § 83, item 1, § 84, item 1 and 2, § 89, items 1 - 4 § 101, item 1, § 102, item 1, § 107, § 117, items 1 and 2, § 125, § 128, items 1 and 2, § 132, item 2 and § 136, item 1, as well as § 34, § 35, item 2, § 43, item 2, § 62, item 1, § 66, items 2 and 4, § 97, item 2 and § 125, item 1 – with regard to the replacement of the word "the regional" with the "administrative" and the replacement of the word "the Sofia City Court" with "the Administrative court - Sofia", which shall enter into force from the 1st of May 2007;

2. paragraph 120, which shall enter into force from the 1st of January 2007;

3. paragraph 3, which shall enter into force from the day of the promulgation of the code in State Gazette.

Transitional and concluding provisions TO THE ACT AMENDING AND SUPPLEMENTING THE PATENTS ACT

(PROM. – SG 64/06, IN FORCE FROM 09.11.2006)

§ 74. (1) This Act shall apply to applications for patents and to applications for registration of utility models filed after its entry into force, as well as to applications for patents for inventions and utility models on which no final decision has been made.

(2) In respect of applications for patents for inventions on which no final decision has been made before the entry into force of this Act, a request as referred to in Art. 46b shall not be filed and the 6-month term referred to in Art. 47, Para 2 shall not apply.

(3) The applications for patents for utility models, filed to the Patent Office before the entry into force of this Act, on which no final decision has been made, may be transformed into applications for registration of utility models upon request of the applicant. The request shall be filed to the Patent Office within three month term from notification of the applicant by the Office but not later than 6 months from entry into force of this Act.

(4) The fees for expertise of the applications for patent for utility model shall not be refunded to the applicant and the Patent Office shall perform a search on all applications for which a request for transformation was filed within the term referred to in Para 3. The report on the search accompanied by an opinion for compliance with Art. 73a, 73c and 73d shall be sent to the applicant within 6-month term from filing the request.

(5) The applications for patents for utility models of which no request for transformation was submitted shall be treated to be withdrawn.

§ 75. The maintenance of the effect of the granted patents for utility models shall be arranged according to the existing order.

§ 76. (1) Secret patents granted under the existing order shall be exempt from fees for maintenance of their effect.

(2) Revealing and pronouncing void granted secret patents shall be done according to Art. 24.

§ 77. (In force from the date of accession of the Republic of Bulgaria to the European Union) (1) The term of validity of patents granted according to the order of § 5 of the transitional and concluding provisions shall be 20 years from the date of filing the application for patent in the respective state of origin.

(2) Within a 6-month period from the date of accession of the Republic of Bulgaria to the European Union the holder of a patent granted according to § 5 of the transitional and concluding provisions, the effect of which was extended beyond the term referred to in Para 1, may file a request according to the order and the conditions of Regulation 1768/92/EEC and Regulation 1610/96/EC for granting a supplementary protection certificate for a product, subject of the patent, where the term of the granted certificate shall be determined according to Art. 22 of Regulation 1768/92/EEC.

(3) The patents granted under § 5 of the transitional and concluding provisions, the effect of which was extended beyond the term referred to in Para 1, and of which no request was filed for granting certificate for supplementary protection, shall cease to have effect with the expiration of the current patent year for which an annual patent fee was paid.

§ 78. (amend. – SG 36/08) The Council of Ministers shall adopt the ordinances referred to in Art. 24, Para 11, Art. 34, Para 1, Art. 37, Para 3, Art. 55, Para 3 and Art. 83b, Para 5, and the Minister of Agriculture and Food Supply shall issue the ordinance referred to in Art. 20a, Para 4 and 6 within 6-month term from entry into force of this Act.

§ 79. (1) For each medicinal product, protected by an effective basic patent and of which the first authorisation for placing it on the market as a medicine product was granted after 1 January 2000, a certificate for supplementary protection in the Republic of Bulgaria may be granted, on the condition that the application for certificate was filed within 6-month term from the date of accession of the Republic of Bulgaria to the European Union.

(2) For each plant protection product, protected by an effective basic patent and of which the first authorisation for placing it on the market as a plant protection product was granted after 1 January 2000, a certificate for supplementary protection in the Republic of Bulgaria may be granted, on the condition that the application for certificate was filed within 6-month term from the date of accession of the Republic of Bulgaria to the European Union.

(3) The certificates referred to in Para 1 and 2 shall be granted according to the order of Chapter six "b".

§ 80. (1) From the date of accession of the Republic of Bulgaria to the European Union the provision of Art. 20, Item 7 shall apply also to applications for authorization for placing on the market in every Member State of the European Union or of the European Economic Area.

§ 81. (1) From the date of accession of the Republic of Bulgaria to the European Union the holder or the user of a patent or of a certificate for supplementary protection of a pharmaceutical product, of which an application was filed in a Member State at a moment when such protection could not be granted for this product in the Republic of Bulgaria, may refer to the rights granted by this patent or certificate for supplementary protection, in order to prevent import or distribution of this product in the Member State or in the States in which this product

is subject of patent or supplementary protection, even if the product was placed for the first time on the market in the Republic of Bulgaria by him or with his consent.

(2) Any person that intends to import or distribute a pharmaceutical product, falling under the scope of Para 1, in a Member State, in which this product is subject of patent or supplementary protection, must prove before the competent authorities in the request for import that the one month preliminary notification was made to the holder or the user of this protection.

.....

§ 83. This Act shall enter into force three months from its promulgation in the State Gazette except:

1. Paragraph 15 – regarding Art. 20a, Para 1, § 55 – regarding Chapter six "b". § 70 – regarding Art. 83a, Para 3, and § 77, which shall enter into force from the date of accession of the Republic of Bulgaria to the European Union;

2. Paragraph 66, Item 2 – regarding Art. 79, Para 3, which shall enter into force from 1 January 2007.

**Transitional and concluding provisions
TO THE MEDICINAL PRODUCTS IN HUMAN MEDICINE ACT**

(PROM. – SG 31/07, IN FORCE FROM 13.04.2007)

§ 37. The Law shall enter into force from the day of its promulgation in the State Gazette, with the exception of §22, which shall enter into force one year after entering of this Act into force.

**Transitional and concluding provisions
TO THE CIVIL PROCEDURE CODE**

(PROM. – SG 59/07, IN FORCE FROM 01.03.2008)

§ 61. This code shall enter into force from 1 March 2008, except for:

1. Part Seven "Special rules related to proceedings on civil cases subject to application of European Union legislation";

2. paragraph 2, par. 4;

3. paragraph 3 related to revoking of Chapter Thirty Two "a" "Special rules for recognition and admission of fulfillment of decisions of foreign courts and of other foreign bodies" with Art. 307a – 307e and Part Seven "Proceedings for returning a child or exercising the right of personal relations" with Art. 502 – 507;

4. paragraph 4, par. 2;

5. paragraph 24;

6. paragraph 60,

which shall enter into force three days after the promulgation of the Code in the State Gazette.

**Transitional and concluding provisions
TO THE ACT ON AMENDMENT OF THE FISHERIES AND AQUACULTURE ACT**

(AMEND. – SG 36/08)

§ 63. In the Patents and Registration of Utility Models Act (prom. SG 27/93) the words "the Minister of Agriculture and Forests", everywhere are replaced respectively by "the Minister of Agriculture and Food Supply".

Transitional and concluding provisions
TO THE ACT AMENDING AND SUPPLEMENTING THE TRADEMARKS AND
GEOGRAPHIC NAMES ACT

(PROM. – SG 19/10, IN FORCE FROM 10.06.2010)

§ 57. This Act shall enter into force three months after its promulgation in the State Gazette except § 1, 3, 5, 6, § 7, Item 1, Letter “d” and “e”, § 8, 15, 16, 17, 19, 20 – 24, 26, 30, 33, 35, 36, 37, 39 and 40, which shall enter into force after 12 months from the promulgation of the Act.

Transitional and concluding provisions
TO THE ACT AMENDING AND SUPPLEMENTING THE CIVIL SERVANTS ACT

(PROM. - SG 38/12, IN FORCE FROM 01.07.2012)

§ 84. (In force from 18.05.2012) Within one month from the promulgation of the Act in the State Gazette:

1. the Council of Ministers shall bring the Classifier of Administration Positions in compliance with this Act;
2. the competent authorities shall bring the statutory rules of the respective administration in compliance with this Act.

§ 85. (1) Legal relations with the persons from administrations under the Radio and Television Act, the Independent Financial Audit Act, the Electronic Communications Act and the Financial Supervision Commission Act, Act on Access to and Disclosure of the Documents and Announcing Affiliation of Bulgarian Citizens with the State Security Service and the Intelligence Services of the Bulgarian Popular Army, Confiscation by the State of Proceeds of Crime, Act on Prevention and Findings of Conflict of Interests, Code of Social Insurance, Health Insurance Act, Agricultural Producers Assistance Act and the Roads Act shall be regulated under the terms and following the procedure of § 36 of the Transitional and Final provisions of the Act Amending and Supplementing the State Servant Act (SG 24/06).

(2) By the act appointing the civil servant shall be:

1. awarded the minimum rank for the position occupied defined in the Classifier of Administration Positions, unless the civil servant has a higher rank;
2. determined the individual basic monthly salary.

(3) The funds additionally needed for insurance instalments of the persons referred to in para 2 shall be provided within the costs for salaries, remuneration and insurance instalments of the budgets of the respective budget credit spending units.

(4) The Council of Ministers shall carry out the changes required in the extra-budgetary account of State Fund Agriculture according to this Act.

(5) The managing bodies of the National Insurance Institute and the National Health Insurance Fund shall carry out the changes requires according to this Act in the respective

budgets.

(6) Unused leaves under employment relationships shall be retained and may not be compensated by cash benefits.

§ 86. (1) Within one month from entry into force of this Act the individual basic monthly salary of the employee shall be determined in such a manner as to ensure that the said salary, reduced by the tax due and the mandatory insurance instalments at the expense of the insured person, if they were due, is not lower than the gross monthly salary received hitherto, reduced by the mandatory insurance instalments due at the expense of the insured person, if they were due, as well as by the tax due.

(2) The gross salary under para 1 shall include:

1. the basic monthly salary or basic monthly remuneration;
2. bonuses paid regularly along with the basic monthly salary or basic monthly remuneration due, which are related solely to the hours worked off.

§ 87. The Act shall enter into force from July 1, 2012 except for § 84, which shall enter into force from the date of its promulgation in the State Gazette.

Concluding provisions

TO THE ACT AMENDING THE ACT ON BULGARIAN FOOD SAFETY AGENCY

(PROM. - SG 58/17, IN FORCE FROM 18.07.2017)

§ 76. This Act shall enter into force on the day of its promulgation in the State Gazette.

Relevant acts from the European legislation:

DIRECTIVE 2004/48/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 29 APRIL 2004 ON THE ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS

DIRECTIVE 98/44/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 6 JULY 1998 ON THE LEGAL PROTECTION OF BIOTECHNOLOGICAL INVENTIONS

REGULATION (EEC) NO 2380/74 OF THE COUNCIL OF 17 SEPTEMBER 1974 ADOPTING PROVISIONS FOR THE DISSEMINATION OF INFORMATION RELATING TO RESEARCH PROGRAMMES FOR THE EUROPEAN ECONOMIC COMMUNITY

COUNCIL REGULATION (EEC) NO 1768/92 OF 18 JUNE 1992 CONCERNING THE CREATION OF A SUPPLEMENTARY PROTECTION CERTIFICATE FOR MEDICINAL PRODUCTS

REGULATION (EC) NO 1610/96 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 23 JULY 1996 CONCERNING THE CREATION OF A SUPPLEMENTARY PROTECTION CERTIFICATE FOR PLANT PROTECTION PRODUCTS

COUNCIL REGULATION (EC) NO 1383/2003 OF 22 JULY 2003 CONCERNING CUSTOMS ACTION AGAINST GOODS SUSPECTED OF INFRINGING CERTAIN INTELLECTUAL PROPERTY RIGHTS AND THE MEASURES TO BE TAKEN AGAINST GOODS FOUND TO HAVE INFRINGED SUCH RIGHTS