

# **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, amend. and suppl. SG. 92/27 Oct 2020*

## **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) (Amend. – SG, 92/20) The provisions of this Act shall apply to Bulgarian natural and legal persons, as well as to foreign nationals and legal persons from states - parties to international 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, amend. – SG, 92/20) Any person who, under this Act, has the right to act before the Patent Office may do so in person,

through a lawyer or through an industrial property representative.

(2) (amend. SG 66/02, amend. – SG, 92/20) A person under Para. 1, who is not established in the Republic of Bulgaria or in another Member State of the European Union, in a state - party to the European Economic Area Agreement or in the Swiss Confederation, shall be obliged to act before the Patent Office through a lawyer or an industrial property representative.

(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.

#### Rules for submission of documents and for correspondence

Art. 4a. (New, SG, 92/20) (1) All documents in proceedings before the Patent Office shall be submitted in the Bulgarian language or with a translation into the Bulgarian language.

(2) Correspondence in connection with proceedings before the Patent Office shall be kept at an address in the Republic of Bulgaria, at an electronic address or through the portal for electronic services of the Patent Office, if this is possible. In case of change of the indicated address, the party to the proceedings shall notify the Patent Office within 7 days from occurrence of the change.

(3) When the party to the proceedings before the Patent Office has not indicated an address in the Republic of Bulgaria, a notification shall be sent to the same, which shall be given at least 7 days from its receipt to indicate an address. Where no address is indicated, the rules for notification under the Administrative Procedure Code shall apply, unless otherwise provided in this Act.

(4) When the party, which has initiated proceedings before the Patent Office, has not eliminated the irregularities within the term under Para. 3, the same shall be terminated.

(5) The inspection for the existence of the requirements under Para. 2 in the proceedings on applications for patents and utility models shall be carried out under Art. 46, respectively under Art. 75d.

#### Fees

Art. 5. (suppl. SG 66/02) (1) (amend. - SG 64/06, in force from 09.11.2006, amend. and suppl. – SG, 92/20) 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 and its extension, 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 in relation to the expertise of the application 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-Size 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, 92/20) For proceedings in connection with a notification for application of

exemptions from a supplementary protection certificate within the meaning of Regulation (EC) № 469/2009 of the European Parliament and of the Council of 6 May 2009 on a supplementary protection certificate for medicinal products (OJ , L 152/1 of 16 June 2009), amended by Regulation (EU) 2019/933 of the European Parliament and of the Council of 20 May 2019, amending Regulation (EC) № 469/2009 on the supplementary protection certificate for medicinal products (OB, L 153/1 of 11 June 2019), hereinafter referred to as "Regulation (EC) № 469/2009", as well as for the publication of this notification in the Official bulletin of the Patent Office, fees shall be paid, according to the tariff under Para. 1.

(5) (new – SG 66/02; prev. text of para 03, amend. - SG 64/06, in force from 09.11.2006, former Para. 4, amend. – SG, 92/20) 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, amend. – SG, 92/20) (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) The State Register of Patents shall contain:

1. N of patent;
2. International Patent Classification Index;
3. number and date of filing the patent application;
4. data for claimed priority - number, date and country of the initial application;
5. number of the official bulletin and date of publication of the application;
6. number of the official bulletin and date of publication of the issued patent;
7. number of the official bulletin and date of publication of the corrected patent;
8. data about separated applications;
9. data about the international application under the Patent Cooperation Treaty, including number and date of publication;
10. name and address of:
  - a) the applicant or the patent holder;
  - b) the inventor, respectively the inventors;
  - c) the industrial property representative or the lawyer, when authorized;
11. name of the invention;
12. submission or withdrawal of a license readiness declaration;
13. the paid annual patent fees for maintaining the validity of the patent for each patent year - date of payment and the following year, to which it refers;
14. legal status of the patent;
15. other circumstances, subject to entry under this Act.

(3) The State register of utility models shall contain:

1. N and date of registration of the utility model;
2. International Patent Classification index;
3. number and date of submission of the application for registration of a utility model;
4. data for claimed priority - number, date and country of the initial application;
5. number of the Official bulletin and date of publication for the registration of the utility model;
6. data for separated applications;
7. patent application data for parallel or transformed applications;

8. data on the international application under the Patent Cooperation Treaty, including number and date of publication;

9. name and address of:

a) applicant, or registration holder;

b) inventor /s;

c) the industrial property representative or the lawyer, when authorized;

10. name of the utility model;

11. extended term of validity of the registration;

12. legal status of the registration;

13. other circumstances, subject to entry under this Act.

(4) The State Register of supplementary protection certificates shall contain:

1. number and date of the application for a supplementary protection certificate;

2. number and name of the patent, to which it relates;

3. term of validity of the patent;

4. term of validity of the certificate;

5. certificate type;

6. name of the product, date and number of the marketing authorization;

7. the Regulation, under which the certificate is issued;

8. name and address of:

a) the applicant or the certificate holder;

b) the industrial property representative or the lawyer, when authorized;

9. number of the Official bulletin and date of publication of the notice of the application for a certificate;

10. number of the Official bulletin and date of publication of a notice for issued / extended certificate for supplementary protection;

11. number of the Official bulletin and date of publication of the notice for termination of the certificate validity;

12. other circumstances, subject to entry under this Act.

(5) In the Registers under Para. 1 shall be entered respectively all applications for obtaining legal protection under this Act, as the order for their keeping shall be determined by an act of the chairman of the Patent Office.

(6) The Registers under Para. 1 shall be electronic and public and shall be available on the website of the Patent Office.

(7) The Patent Office shall collect, organize, make public and store the data subject to entry, including all personal data, necessary for the purposes of maintaining the Registers, in compliance with the requirements for personal data protection.

(8) Any person may request an official reference or an extract from the contents of the Registers. A fee shall be paid for the reference or the extract, according to the tariff under Art. 5, Para. 1.

## File

Art. 5b. (new - SG 98/19) (1) (Amend. – SG, 92/20). The Patent Office keeps, for each invention, a utility model and a certificate for supplementary protection a file on paper or 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) (Suppl. – SG, 92/20) The procedure for keeping, 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. (suppl. – SG, 92/20) essentially biological processes for production of plants and animals, as well as plants and animals, produced by such methods.

(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

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) (Suppl. – SG, 92/20) 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 unless a contract provides otherwise. 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 extend 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 extend 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) (Amend. – SG, 92/20) 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 State register of patents and the publications referred to in Art. 51 shall be made.

(10) (Repealed – SG, 92/20)

(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 66/02, amend. – SG, 92/20) 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) (Amend. – SG, 92/20) The request 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) (Amend. – SG, 92/20) The licensing contract shall be enforceable against third parties from the date of registration in the State register of the patents.

(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) (Amend. – SG, 92/20) The provision shall be entered into the State register of the patents upon request by one of the parties of the action.

(3) (Amend. – SG, 92/20) The request 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 request.

(4) (Amend. – SG, 92/20) In respect of the applicant, respectively the patent holder or the licensee of an exclusive license, the security shall be valid from the date of receipt of the notice of its imposition, and in respect of third parties - from the date of entry of the security in the State Patent Register.

#### 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) (Amend. – SG, 92/20) The pledge shall have effect regarding third persons from the date of its entry into the State register of the patents.

#### 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, suppl. – SG, 92/20) 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 publication of the application, for study and expertise, 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, suppl. – SG, 92/20) Where the applicant files the application through a lawyer, through an industrial property representative, a power of attorney shall be attached to the application.

#### Patent application

Art. 36. (Amend. – SG, 92/20) The application for granting a patent shall include: name and address of the applicant, or the lawyer, or of the industrial property representative, who represents him - 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, amend. – SG, 92/20) In case of non-compliance with the requirements under Art. 40, an official of the unit under Art. 82, Para. 1, item 1 shall notify the applicant in writing within three months to separate the application, as of the date of receipt of the notification. When within this period the applicant submits separate applications, the content of which does not go beyond the content of the original application, the date of submission, respectively priority of these applications, shall be considered the date of submission, respectively the priority of the originally submitted application, when the requirements of Art. 34, Para. 2 have been observed.

(2) (amend. SG 66/02; amend. - SG 64/06, in force from 09.11.2006, amend. – SG, 92/20) 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 separation 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, amend. – SG, 92/20) 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, items 1, 2 and 3, Para. 4 and Art. 36 shall be performed for each application with determined date of filing. When irregularities 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 irregularities, 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, amend. – SG, 92/20) When priority was claimed according to Art. 44, Para 2 or 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 irregularities, 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) (Amend. – SG, 92/20) Within a three-month term from the check referred to in Art. 46, an expert of the unit under Art. 82, Para. 1, item 1 shall perform preliminary expertise according to Art. 37, 38, and 40. When irregularities 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 irregularities, a decision for termination of the procedure shall be made.

(2) (Amend. – SG, 92/20) 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 irregularities are found, the expert of the unit under Art. 82, Para. 1, item 1 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, repealed – SG, 92/20)

Publication of the Application

Art. 46c. (new - SG 64/06, in force from 09.11.2006) (1) (Amend. – SG, 92/20) The patent application shall be published in the Official Gazette of the Patent Office immediately after the expiration of 18 months from the date of filing, respectively of the priority of the originally filed application, except in cases where:

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. (amend. – SG, 92/20) 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) (Suppl. - SG, 92/20) Simultaneously with the publication regarding the application the Patent Office shall provide access to the description, the claims and the drawings, attached to it by entry in the State Register of Patents.

#### 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) (Amend. – SG, 92/20) For each application, which has not been withdrawn or for which no decision has been issued under Art. 46 and 46a, expert from the unit under Art. 82, Para. 1, item 1 shall examine the condition of the equipment under Art. 8 and prepare a report for the research, as well as a written statement, regarding the patentability of the invention, in accordance with Art. 6, Para. 1 and Art. 7a in connection with 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) (Amend. – SG, 92/20) 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 irregularities or makes an ungrounded objection, a decision shall be made for refusal to grant a patent.

(4) (Amend. – SG, 92/20) When the expert of the unit under Art. 82, Para. 1, item 1 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) (Amend. – SG, 92/20) 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 unit under Art. 82, Para. 1, item 1 shall send a written notification for payment of fees of Art. 33, Para. 4 and Art. 53.

(6) (Amend. – SG, 92/20) The expert of the unit under Art. 82, Para. 1, item 1 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) (Amend. – SG, 92/20) 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) (Amend. – SG, 92/20) 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 unit under Art. 82, Para. 1, item 1 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, amend. – SG, 92/20) Upon a request 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. (Amend. – SG, 92/20) (1) Deadlines, missed due to special unforeseen circumstances may be renewed once at the request of the person, who missed them, to which a document for paid fee is attached, if the payment is by bank transfer.

(2) The request shall be submitted within one month after the reason for missing the deadline has lapsed, but not later, than three months after the expiration of the missed deadline.

(3) The request shall state all the circumstances, justifying it and shall provide all evidence for its validity.

(4) The decision to renew the term shall be taken by the chairman of the Patent Office or by a deputy chairman, authorized by him.

(5) When before or simultaneously with the request under Para. 1, a complaint under Art. 55, Para. 1 has been submitted, the request for renewal of a term shall be left without consideration.

(6) Renewal of term under Para. 1 shall be inadmissible for the terms under Para. 2 and under Art. 48.

#### 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, amend. – SG, 92/20) 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 entered in the State register of patents.

#### 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) (Amend. – SG, 92/20) Before the unit under Art. 82, Para. 1, item 2, the following decisions shall be appealed:

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) (Amend. – SG, 92/20) The unit under Art. 82, Para. 1, item 2 shall also consider requests for:

1. (amend. – SG, 92/20) declaring null and void of 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, amend. – SG, 92/20) Appeals under Art. 55, Para. 1 shall be filed at the Patent office 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) (Amend. – SG, 92/20) The disputes shall be considered by specialized panels on disputes, determined by the chairman of the Patent Office for each specific case and shall include officials of the unit under Art. 82, Para. 1, item 2.

(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 Proceedings (Title, amend. – SG, 92/20)

Art. 58. (amend. - SG 64/06, in force from 09.11.2006) (1) (Amend. – SG, 92/20) The proceedings shall be initiated within one month of receiving the appeals or petitions referred to in Art. 55.

(2) (Amend. – SG, 92/20) 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 panel 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. (amend. – SG, 92/20) uphold the decision of the unit under Art. 82, Para. 1, item 1;

2. (amend. – SG, 92/20) reverse in whole or in part the decision of the unit under Art. 82, Para. 1, item, 1 and return the application for reconsideration.

(4) (Amend. – SG, 92/20) The decision in connection with the expertise of the application, issued by the unit under Art. 82, Para. 1, item 1, upon re-examination of the application under Para. 3, item 2, may be appealed by an administrative procedure, within the term under Art. 56, Para. 1, where a decision is made on the merits.

(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 01.03.2007, previous text of Art. 59 - SG, no. 64 of 2006, in force since 09.11.2006, amended. - SG, 92/20) The party, dissatisfied with the decision of the panel on disputes, issued pursuant to Art. 58, Para. 3, item 1 and Art. 58, Para. 5, within three months from the receipt of the decision may file an appeal to the Administrative Court - city of Sofia under the Administrative Procedure Code.

(2) (new - SG 64/06, in force from 09.11.2006, amend. – SG, 92/20) The decisions in relation to the expertise of the application, 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 procedure.

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, suppl. – SG, 92/20) When the defendant in an infringement claim has filed with the Patent Office a request for annulment of the patent or for cancellation of the registration of a utility model, or has filed in the European Patent Office or before the Unified Patent Court an objection against the European patent, pursuant to Art. 99 or 105 of the Convention on the Grant of European Patents (European Patent Convention) of October 5, 1973, amended and supplemented by the Act for Revision of Art. 63 of the Convention of 17 December 1991 and by decisions of the Administrative Council of the European Patent Organization of 21 December 1978, 13 December 1994, 20 October 1995, 5 December 1996 and 10 December 1998 (ratified by an Act - SG, 15/02) (SG, 71/10), hereinafter referred to as "the Convention", the court shall suspend the case until a final decision on the request is rendered.

(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".**

## **EUROPEAN PATENTS AND EUROPEAN PATENTS WITH SINGLE EFFECT (NEW, SG No. 66/2002, TITLE, AMENDED, SG, 92/20)**

#### Submitting of applications for European patent

Art. 72a. (new – SG 66/02) (1) (Amend. – SG, 92/20) Applications for European patent within the meaning of the Convention may be filed with the Patent Office of the Republic of Bulgaria or with the European Patent Office in one of the languages, pursuant to Art. 14 of the "Convention", in compliance with the requirements of Art. 25. Separated applications for a European patent, as well as international applications, for which a regional phase is opened in the European Patent Office, shall be filed directly with 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.

(4) (New, SG, 92/20) When in the application for a European patent the designation of the Republic of Bulgaria is withdrawn, the application shall be deemed withdrawn in respect of the territory of the Republic of Bulgaria with all the ensuing consequences.

(5) (New, SG, 92/20) A decision of the European Patent Office for the restoration of the rights of an applicant or holder of a European patent shall also have effect on the territory of the Republic of Bulgaria.

#### Equivalence of European and national application

Art. 72b. (new – SG 66/02) (1) (Suppl. – SG, 92/20) 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 for a patent.

(2) (Amend. - SG, 92/20) 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 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.

(4) (New, SG, 92/20) When an application for a European patent has been withdrawn or refused in a procedure before the European Patent Office, the same shall be deemed to have been withdrawn or refused on the territory of the Republic of Bulgaria.

Effect of the European patent and of the European patent with unitary action (Title, suppl. – SG,

92/20)

Art. 72c. (new – SG 66/02) (1) (Amend. – SG, 92/20) 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, or from the date of entry into force of the decision to refuse or revoke the unitary effect of the European patent, where unitary action is requested under Regulation (EU) № 1257/2012 of the European Parliament and of the Council of 17 December 2012, enhanced cooperation in the field of the creation of unitary patent protection (OJ L 361/1 of 31 December 2012), a request was made to the Patent Office for recognition of the validity of the European patent, accompanied by a translation of the description and claims into the Bulgarian language, and a publication fee is paid.

(2) (Amend. – SG, 92/20) The translation of Para 1 shall contain the name of the invention, the description, including drawings, when necessary, and the patent claims.

(3) (Amend. and suppl. – SG, 92/20) The request under Para. 1 shall contain 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, data about an authorized representative or a lawyer.

(4) (Amend. – SG, 92/20) The Patent Office shall issue a certificate for validity of a European patent on the territory of the Republic of Bulgaria, put an announcement in the Official Bulletin of the Patent Office for the received translation and publish the translation of the European patent in the Bulgarian language in the Register of European Patents under Art. 72i.

(5) (Amend. – SG, 92/20) 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. 101, Para 3 of the Convention.

(6) (Amend., SG, 92/20) When it is established, that no translation has been attached to the request and / or the publication fee has not been paid, the holder of the European patent shall be notified thereof, giving him the opportunity to eliminate the irregularities until the expiration of the term under Para. 1, or within three days from the receipt of the notification, when it has been received after the term under Para. 1. If the holder does not eliminate the established irregularities within the indicated term, a state expert under Art. 83, Para. 2 shall take a decision for refusal of recognition of the validity of the European patent on the territory of the Republic of Bulgaria.

(7) (New - SG, 92/20). When it is established, that the requirements of Para. 2 and 3 have not been implemented, the holder of the European patent shall be notified thereof, giving him the opportunity to eliminate the irregularities within one month from the receipt of the notification. If the holder does not eliminate the established irregularities within the indicated term, a state expert under Art. 83, Para. 2 shall take a decision for refusal of recognition of the validity of the European patent on the territory of the Republic of Bulgaria.

(8) (New - SG, 92/20) (\*) When it is established, that for a European patent, for which a request for securing action has been filed on the territory of the Republic of Bulgaria, a request for unitary action has been filed before the European Patent Office, the proceedings on the request before the Patent Office shall be suspended until the entry into force of the decision on the request for unitary action.

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, amend. – SG, 92/20) Application for European patent, in which the Republic of Bulgaria is pointed out, may upon a request 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) (Amend. – SG, 92/20) The request for the transformation shall be submitted within the terms of Art. 135, Para 2 of the convention.

(3) (Amend. – SG, 92/20) In three-month term after the date of receiving of the request 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) (Amend. – SG, 92/20) When a national patent for invention is issued, for which a European patent is issued with validity on the territory of 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 validity.

(2) (Amend. – SG, 92/20) (\*) Under the conditions of Para. 1, the national patent shall

terminate its effect as of the date of publication of a notice for issuance of the European patent in the European Patent Bulletin, in case the European patent with effect on the territory of the Republic of Bulgaria or with registered unitary effect has not been declared invalid with an enforced decision or no objection has been lodged to the extent, that they overlap.

(3) (New, SG, 92/20) The application for a national patent for an invention, for which a European patent has been issued, which is valid on the territory of the Republic of Bulgaria, with the same filing date or priority date, on the same person or his successor in title shall be deemed to be withdrawn to the extent, that it is identical with the European patent. In this case, an expert from the unit under Art. 82, Para. 1, item 1 shall enable the applicant to make changes in the application for a national patent under Art. 47, Para. 4.

(4) (New, SG, 92/20 (\*)) National patent for an invention, for which a European patent has been issued with unitary effect, with the same date of application or priority date, on the same person or his successor in title, shall terminate its effect to the extent, that it is identical to the European patent. The proceedings shall be initiated at the request of any person or ex officio and shall be considered as the requests under Art. 55, Para. 2.

(5) (New, SG, 92/20 (\*)) The rights under this Act, arising from Art. 72c, Para. 1, in connection with the European patent, for which a unitary effect has been registered, shall be terminated, as of the date of publication of the announcement for its issuance in the European Patent Bulletin.

#### 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 with effect on the territory of the Republic of Bulgaria (Title, suppl. – SG, 92/20)

Art. 72i. (1) (new – SG 66/02, former text of Art. 72i, suppl. – SG, 92/20) The Patent Office shall enter the applications for European patents, for which the conditions under Art. 72b, Para. 2 have been fulfilled, 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 procedure.

(2) (New, SG, 92/20) The Patent Office shall maintain a State Register of European Patents with effect on the territory of the Republic of Bulgaria, which shall contain the following data:

1. N of the European patent;
2. International Patent Classification index;
3. number and date of filing the patent application;
4. data for claimed priority - number, date and country of the initial application;
5. number of the official bulletin and date of publication of the application;
6. number of the official bulletin and date of publication of the issued patent;
7. number of the official bulletin and date of publication of the corrected patent;
8. data for separated applications;
9. data on the international application under the Patent Cooperation Treaty, including number and date of publication;
10. name and address of:
  - a) the applicant or the patent holder;
  - b) the inventor/s;
  - c) the industrial property representative or the lawyer, when authorized;
11. name of the invention;



12. submission / withdrawal of a license readiness declaration;
13. the paid annual patent fees for maintaining the validity of the patent for each patent year - date of payment and the following year, to which it refers;
14. legal status of the patent;
15. other circumstances, subject to entry under this Act.

(3) (New – SG, 92/20) Changes in the data of the holder of a European patent, entered in the Register of European patents, made in the period for objections or in the course of the proceedings on objections against an issued European patent, shall be entered in the Register under Para. 1, after submission of a request, to which is attached a copy of the communication for the entry, issued by the European Patent Office.

## **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 01.01.2007) (1) (Amend. – SG, 92/20) 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 (EC) № 469/2009 and Regulation (EC) № 1610/96 of the European Parliament and of the Council of 23 July 1996 on the establishment of a supplementary protection certificate for plant protection products.

(2) (Amend. – SG, 92/20) The application for a supplementary protection certificate or for the extension of a supplementary protection certificate shall be filed with the Patent Office. For the submission of the application, issuance, maintenance of the validity of the certificate and for publications, fees determined by the tariff under Art. 5, Para. 1 shall be paid. An annual fee shall be due for maintaining the validity of the certificate for each year, and fees for the entire validity of the certificate shall be paid once in the last year of the validity of the basic patent. Where the decision to grant a certificate has been received during the last two months of the period of validity of the basic patent or after its expiry, the fees shall be due within two months from the date of receipt of the decision. After the expiration of the payment term, the fees may be paid in an additional two-month term in double amount.

(3) (Suppl. – SG, 92/20) The procedure on granting a certificate for supplementary protection and for extension of its validity shall be determined by an Ordinance of the Council of Ministers.

(4) (Amend. – SG, 92/20) The provisions, regarding the representation under Art. 3, the right to apply under Art. 13, the scope of the legal protection under Art. 17, the content of the exclusive right under Art. 19, limiting the effect of the patent under Art. 20, the exhaustion of rights under Art. 20a, the right of pre-use under Art. 21, the infringement of patent rights and the claims for infringement under Art. 27 and 28, the right to information under Art. 28a, the license readiness under Art. 30, the contractual and compulsory license under Art. 31 and 32, restoration of terms under Art. 49, disputes under Art. 54, Art. 55, Para. 1, items 1 and 2 and Para. 2, item 1 and Art. 56 - 59 shall be applied also with regard to the certificates for additional protection, insofar as the Regulations under Para. 1 do not provide otherwise.

(5) (New – SG, 92/20) When there is an effective decision for declaring complete invalidity of the basic patent, the Patent Office may ex officio declare invalid the certificate for additional protection on the grounds of Art. 15, Para. 1, letter "c" of the respective Regulations under Para. 1. The conditions and the procedure for official declaration of invalidity of the supplementary protection certificate shall be determined by the Ordinance under Art. 55, Para. 3.

Exceptions from the protection, provided by the supplementary protection certificate

Art. 72k. (New, SG, 92/20) (1) The certificate under Art. 72k for medicinal products shall not provide protection against actions, for which the consent of the certificate holder is required under the conditions, in the manner and within the time limits, laid down in Regulation (EC) N 469/2009.

(2) The notification under Annex-Ia to Regulation (EU) 2019/933 of the European Parliament and of the Council of 20 May 2019, amending Regulation (EC) № 469/2009 on the supplementary protection certificate for medicinal products (OJ L 153 / 1 of June 11, 2019) shall be filed with the Patent Office. Simultaneously with the submission of the notification, the fees under Art. 5, Para. 4 shall be paid.

(3) When it is established, that the notification does not contain the information according to the Annex under Para. 2 and / or the due fees have not been paid, the Patent Office shall notify the applicant of the need to eliminate the indicated irregularities within 7 days from the notification.

(4) If the irregularities have not been eliminated within the term under Para. 3, the notification proceedings shall be terminated by a motivated decision of the chairman of the Patent Office or of a deputy chairman, authorized by him.

(5) Within 7 days from the submission of the notification under Para. 2 or from the elimination of the irregularities therein the chairman of the Patent Office or a deputy chairman, authorized by him shall issue a decision for conformity and a publication shall be made in the Official Gazette of the Patent Office.

## **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) (Amend. – SG, 92/20) 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. (suppl. – SG, 92/20) authorization, when the application is filed through industrial property representative, or through a lawyer;

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. (suppl. – SG, 92/20) a request for registration containing a name and address of the applicant and name of the utility model, revealing at least the essence 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, former text of Art. 75, amend. – SG, 92/20) 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 on the patent application, but not later than 10 years from the date of filing the patent application.

(2) (New, SG, 92/20) When the application for registration of a utility model is submitted after the expiration of the terms under Para. 1, proceedings under it shall not be instituted, of which the applicant shall be notified.

#### 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. (suppl. – SG, 92/20) name and address of the industrial property representative, or of the lawyer, 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) (Amend. – SG, 92/20) 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 irregularities, 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) (Amend. – SG, 92/20) When the applicant does not respond, does not remedy the irregularities, 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. 1, 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) (Amend. – SG, 92/20) For each application which meets the formal requirements an expert of the unit under Art. 82, Para. 1, item 1 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) (Amend. – SG, 92/20) Upon finding irregularities, the applicant shall be notified and shall be provided a three-month term for opinion and/or for making changes in the application.

(3) (Amend. – SG, 92/20) When, within the term provided, the applicant does not respond, objects groundlessly and/or does not remedy the irregularities, referred to in Para 1, Item 1, a decision on termination of the procedure shall be made.

(4) (Amend. – SG, 92/20) 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 irregularities, referred to in Para 1, item 2 and 3, a decision on rejection shall be made.

(5) (Amend. – SG, 92/20) Where, as a result of the inspection, no irregularities are found or the irregularities have been eliminated, the applicant shall be instructed to pay a registration fee, for the issuance of a registration certificate, within one month from the receipt of the notification, for publication in the State Register of the utility models of the description, drawings, claims and the abstract, and for publication in the Official Gazette of the Patent Office of a registration notice, together with the independent claims under a registered utility model. After expiration of this period, the fees may be paid within an additional one-month period, due in double amount. If the fees are not paid within this period, the application is 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) (Amend. – SG, 92/20) The applicant may file a request for searching the state of the art by paying a search fee.

(2) (Amend. – SG, 92/20) 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) (Amend. – SG, 92/20) 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) (Amend. – SG, 92/20) 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, amend. – SG, 92/20) Together with 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, previous text of Art. 75h, as amend. - SG, 92/20) At the request of the applicant, submitted before the expiration of the term under Art. 75d, Para. 2, sentence two, one-time extension by one month shall be allowed upon payment of a fee, with the exception of the term for submission of the document for paid fees under Art. 75, Para. 1, item 6.

(2) (New, SG, 92/20) At the request of the applicant, submitted before the expiration of the term under Art. 75e, Para. 2, one-time extension by three months shall be allowed 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) (Amend. – SG, 92/20) 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) (Amend. – SG, 92/20) The request for each extension shall be filed in the last year of the previous period of effect of the registration.

(3) (Amend. – SG, 92/20) 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) (Suppl. – SG, 92/20) 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) (Amend. - SG, 92/20) Within one month from the publication of the registration under Para. 1, a certificate for registration of the utility model shall be issued and the description, drawings and claims to the certificate shall be entered in the State Register of Utility Models.

(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) (Amend. – SG, 92/20) In view of its responsibilities as set herein, the following units shall be established with the Patent Office, implementing the functions of:

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 eight "b".**

#### **INDUSTRIAL PROPERTY REPRESENTATIVES (NEW, SG, 92/20)**

##### General provisions

Art. 84. (New – SG, 92/20) (1) An industrial property representative, hereinafter referred to as "representative", shall be a natural person, who meets the requirements of this Act, has acquired or his professional qualification has been recognized as a representative and is entered in the Register of Industrial Property Representatives.

(2) A representative is also a person, entitled to practice the profession in another Member State of the European Union, in a state - party to the Agreement on the European Economic Area or in the Swiss Confederation, as well as a person, entered in the Register of Representatives of the European Patent Office.

Which provided one-time or temporary services of a representative on the territory of the Republic of Bulgaria.

(3) The profession of representative may be exercised independently, or jointly with other representatives in accordance with this Act.

(4) A representative may act before the Patent Office only in respect of the objects of industrial property, for which he has acquired the right to practice the profession, including when acting on behalf of a company or partnership.

#### Requirements for practicing the profession of representative

Art. 85. (New – SG, 92/20) (1) The right to exercise the profession of representative shall have any natural person, who:

1. is a Bulgarian citizen or a citizen of another Member State of the European Union, of a state - party to the European Economic Area Agreement, or of the Swiss Confederation;

2. holds a diploma for completed higher education with a master's degree, issued by an accredited Bulgarian higher school, or a diploma for completed higher education with a master's degree, recognized in accordance with Bulgarian legislation, acquired in a foreign higher school; the representatives in the field of patents and utility models must have acquired the required educational degree in one of the professional fields of higher education "Natural Sciences, Mathematics and Informatics", "Technical Sciences", "Agricultural Sciences and Veterinary Medicine", or in professional fields: "Medicine", "Dentistry", "Pharmacy" or "Law";

3. has successfully passed an examination for the acquisition of a professional qualification as a representative in the field of patents, utility models and / or in the field of trademarks, industrial designs and geographical indications or has been recognized as such;

4. is entered in the Register of Industrial Property Representatives.

(2) Cannot be representative a person, who:

1. is a civil servant;

2. works in an employment relationship, except as a teacher in a higher school;

3. has been convicted of an intentional crime of a general nature and has not been rehabilitated;

4. has been placed under interdiction.

#### Exam for acquiring professional qualification

Art. 86. (New – SG, 92/20) (1) Professional qualification for a representative shall be acquired by passing an examination before a commission, appointed by an order of the chairman of the Patent Office. The commission shall consist of at least 5 members and include at least one habilitated representative of the academic community.

(2) The applicant shall be admitted to an examination, if he has submitted a written request to the chairman of the Patent Office and meets the requirements of Art. 85, Para. 1, items 1 and 2.

(3) The application must contain the name and address of the applicant, data on the diploma for completed education - number and university, and the objects of industrial property, for which the applicant wishes to acquire a professional qualification. When the requirements under Art. 85, Para. 1, items 1 and 2 are subject to certification with a document, issued by a body or institution of another state, a copy of this document shall be attached to the request.

(4) The chairman of the Patent Office shall issue a decision for admission to an examination or a reasoned refusal.

(5) The refusal under Para. 4 may be appealed under the Administrative Procedure Code. The appeal shall not suspend the examination of the other applicants.

(6) The exam under Para. 1 shall be written and oral, conducted in the Bulgarian language and consist checking the level of theoretical and practical knowledge of the applicants in the field of patents, utility models and / or in the field of trademarks, industrial designs and geographical indications with regard

to the Bulgarian and European legislation and practice, as well as international treaties, to which the Republic of Bulgaria is a party.

(7) The exam shall be held at least once a year.

(8) Each applicant, who has passed the examination shall be issued a certificate of acquired professional qualification for the profession of representative.

(9) The procedure for conducting the examination and the manner of assessment shall be determined by an act of the chairman of the Patent Office and shall be published on the website of the Office.

#### Training for acquiring professional qualification

Art. 87. (New, SG, 92/20) (1) The Patent Office shall organize training for acquiring a professional qualification for a representative at least once a year. Certificates shall be issued to those, who have completed the training.

(2) The minimum requirements for the scope of training shall be determined by an act of the chairman of the Patent Office and shall be announced on the website of the Office.

#### Recognition of professional qualifications

Art. 88. (New, SG, 92/20) (1) Persons, who have acquired the right to exercise the profession of representative in another Member State of the European Union, or in a state - party to the European Economic Area Agreement or in the Swiss Confederation, as well as citizens of a Member State of the European Union, entered in the Register of Representatives to the European Patent Office, who are established in the Republic of Bulgaria and wish to practice the profession permanently, shall submit a request for recognition of their professional qualification to the chairman of the Patent Office.

(2) The request under Para. 1 shall be submitted in the Bulgarian language and shall contain:

1. names of the person, date and place of birth, citizenship;
2. the permanent address, telephone N, e-mail address and correspondence address, when different from the permanent one;
3. the objects of industrial property, for which the person has acquired a professional qualification and for which he wants to be recognized as such in the Republic of Bulgaria;
4. the country. in which the person has acquired the professional qualification;

(3) To the request under Para. 1, the person shall attach the following documents:

1. a diploma for graduated education;
2. a document, certifying the right to practice the profession in the state, in which the legal capacity was acquired, when the profession is regulated in that state;
3. evidence, confirming the pursuit of the profession for at least one year in the last 10 years - full-time or equivalent - part-time, when the profession is not regulated in the country, in which it is practiced.

(4) The documents under Para. 3 shall be submitted in translation into the Bulgarian language.

(5) Within 7 days of receiving the request under Para. 1 and of the documents, attached to it, the Patent Office shall notify the person of their receipt and, when necessary, shall provide him with a one-month term for elimination of incompleteness or irregularities in it or in the attached documents.

(6) Within 7 days from the expiration of the respective term under Para. 5, the chairman of the Patent Office or a deputy chairman, authorized by him shall issue a motivated decision for recognition of the professional qualification, for refusal, or for termination of the proceedings for recognition of the professional qualification.

(7) The decisions under Para. 6 may be appealed under the Administrative Procedure Code.

(8) Upon establishing differences between the qualification, acquired by the foreign representative and the qualification, required under this Act, the persons under Para. 1 may choose between passing an internship for adjustment or taking an examination for recognition of legal capacity. The

conditions and the procedure for conducting the internship for adaptation and the examination for recognition of legal capacity shall be determined by an act of the chairman of the Patent Office and shall be published on the website of the Office

(9) The internship under Para. 8 shall be carried out for a period of three years with a representative, entered in the Register of the representatives on industrial property.

(10) The provisions of the Act on the recognition of professional qualifications shall apply to the issues, not settled in this Article.

#### Company of industrial property representatives

Art. 89. (New – SG, 92/20) (1) Representatives may establish a company of industrial property representatives under the Commerce Act. The company shall be entered in the Register of Companies and Associations of Industrial Property Representatives.

(2) Companies of industrial property representatives, established in another Member State of the European Union, in a state - party to the European Economic Area Agreement, or in the Swiss Confederation, shall be entered in the register under Para. 1, when the persons, who represent the company and act permanently as representatives in the Republic of Bulgaria, meet the requirements of Art. 85.

(3) Company under Para. 1, whose capital is divided into shares, may not issue dematerialized shares or bearer shares.

(4) Company under Para. 1 and the representatives, participating in it may not represent clients, who have conflicting interests.

(5) The client authorizes a company under Para 1 to perform representation under Para. 1. Actions before the Patent Office shall be carried out by a representative, designated by the company or by the client, who exercises the profession on behalf of the company.

(6) Each representative, practicing the profession on behalf of the company shall be personally liable for damages, caused to the client. In these cases, the company shall be jointly and severally liable with the representative.

(7) The recognition of the professional qualification of the foreign representatives, who will practice the profession on behalf of the company, shall be carried out under Art. 88.

#### Association of Industrial Property Representatives

Art. 90. (New – SG, 92/20) (1) Representatives and companies of industrial property representatives may unite their activities through a partnership agreement under the Obligations and Contracts Act, insofar as the provisions of this Act do not provide otherwise. The contract also specifies the boundaries of the association. The association of industrial property representatives shall be entered in the Register of Companies and Associations of Industrial Property Representatives.

(2) The contract shall be concluded in writing and the partnership is entered in the Register of Companies and Industrial Property Associations at the request of the person, representing it under the contract. The contract must specify the general address of the participants in the partnership, which also serves as an address for correspondence with the partnership.

(3) With regard to the partnerships, the provisions of Art. 89, Para. 4 – 7 shall apply.

#### Register of Industrial Property Representatives and Register of Companies and Associations of Industrial Property Representatives

Art. 91. (New – SG, 92/20) (1) The Patent Office shall maintain a Register of Industrial Property Representatives and a Register of Companies and Associations of Industrial Property Representatives. The registers shall be electronic and public and shall be available on the website of the Patent Office.

(2) In the Register of the representatives on industrial property, the representatives under Art. 85 shall be entered.

(3) The companies and associations of the representatives under Art. 89 and 90 shall be entered

in the Register of companies and associations of industrial property representatives.

(4) In the Registers under Para. 2 and 3 shall not be entered persons and companies, which are entered in the registers of bar associations in the Republic of Bulgaria according to the Bar Act and which are represented before the Patent Office, except when they request entry and meet the requirements of this Act.

#### Special rules in the procedure for entry in the Registers

Art. 92. (New – SG, 92/20) (1) For entry in the register under Art. 91, Para. 2, a written request shall be submitted to the chairman of the Patent Office, containing the date on which the applicant has successfully passed the examination for acquiring professional qualification, as well as information, necessary for carrying out an official inspection for fulfillment of the requirements under Art. 85, Para. 1, items 1 and 2 and Para. 2, item 3. A declaration for lack of the circumstances under Art. 85, Para. 2, items 1, 2 and 4 shall be attached.

(2) When the requirements under Art. 85, Para. 1, items 1 and 2 and Para. 2, item 3 are subject to certification with a document, issued by a body or institution of another state, a copy of: identity document, diploma for completed higher education with educational-qualification degree "master", a certificate for acquired professional qualification or another document, proving the legal capacity to practice the profession and a criminal record shall be attached to the request.

(3) Upon entry in the register, the representative shall also submit an affidavit, signed by him with the following content: "I swear, that I will perform in good faith my duties as an industrial property representative in accordance with the Constitution, the laws of the country and morals, I will diligently and honestly defend the interests, entrusted to me, I will not divulge the secrets of my trustees and I will strictly follow all norms. arising from my professional duties. "

(4) The entry in the register under Art. 91, Para. 3 shall be carried out at the request of the legal representative of the company or the partnership. The request shall contain the circumstances under Art. 93, Para. 2 and a copy of the constitutive act, by which the company, respectively the partnership, has been established in accordance with the legislation of the country of origin shall be attached to it.

(5) The entries in the registers, with the exception of those under Art. 93, Para. 5, shall be carried out on the basis of a motivated decision of the chairman of the Patent Office or of a deputy chairman, authorized by him, issued after an inspection of the circumstances, subject to entry.

(6) When the request does not meet the relevant requirements, within 7 days of its receipt, the sender shall be notified in writing with instructions for elimination of irregularities and / or for provision of additional information.

(7) The submitter of the request shall eliminate the irregularities and / or provide additional information within one month, as of the date of the notification under Para. 6.

(8) In case of failure to eliminate the irregularities or failure to provide the requested additional information within the term under Para. 7, as well as in case of established discrepancy of the person, respectively of the persons - members of the company or the partnership, with the requirement to be representatives in the sense of Art. 84, Para. 1, the decision under Para. 5 shall refuse entry in the register.

(9) The decision may be appealed under the Administrative Procedure Code.

(10) The registered representative and the registered company or partnership shall be issued a certificate for entry in the Register, and the representative - an identification card.

#### Circumstances to be entered in the Registers

Art. 93. (New – SG, 92/20) (1) The following circumstances shall be entered in the Register of Industrial Property Representatives:

1. the name of the representative;
2. the country, in which the legal capacity was acquired - for the foreign representatives;
3. the address, at which the representative exercises his activity, telephone, e-mail address and

address for correspondence, when different from the address of exercising the activity;

4. the subject, according to the diploma;

5. the objects of industrial property, for which a professional qualification has been acquired or recognized in the Republic of Bulgaria;

6. the temporary termination of the activity and its resumption;

7. deregistration from the Register.

(2) The following circumstances shall be entered in the Register of Companies and Associations of Industrial Property Representatives:

1. the name and the legal organizational form;

2. the country of origin;

3. the address, at which the company or the partnership carries out its activity, telephone, e-mail address and correspondence address, when different from the address of carrying out the activity;

4. the names of the industrial property representatives, acting on behalf of the company or partnership;

5. the sites of industrial property, for which the professional qualification of the partners under item 4 has been acquired or recognized;

6. the names of the persons, entitled to represent the company / partnership in the country of origin - for the foreign associations;

7. deregistration from the Register.

(3) Representative, company or partnership, entered in the Registers under Para. 1 and 2, shall declare in the Patent Office any change in the circumstances, subject to entry, within 7 days from their occurrence.

(4) All documents, on the basis of which an entry has been made under Para. 1 and 2 shall be kept in the Patent Office, and a separate file shall be drawn up for each representative and for each company or association of representatives.

(5) Changes in the name and / or address of a registered industrial property representative or of a registered company or partnership shall be made upon a written request to the chairman of the Patent Office.

One-time or temporary provision of services by foreign representatives

Art. 94. (New – SG, 92/20) (1) Representatives, companies or associations of representatives, practicing the profession in another Member State of the European Union, in a state - party to the European Economic Area Agreement or in the Swiss Confederation may provide services once or temporarily in the Republic of Bulgaria, if within three days prior to the provision of the service, notify the chairman of the Patent Office, when they have:

1. acquired the right to exercise the profession of representative or are registered as companies / partnerships of industrial property representatives;

2. have practiced the profession for at least one year in the last 10 years - full-time or equivalent - part-time, when the profession is not regulated in the country, in which it is practiced.

(2) Citizens of a Member State of the European Union, a State - Party to the European Economic Area Agreement or the Swiss Confederation, who are entered in the Register of Industrial Property Representatives of the European Patent Office, may provide services once or temporarily in the Republic of Bulgaria only on requests for action on the territory of the Republic of Bulgaria of issued European patents. In this case, the person shall notify the chairman of the Patent Office of his request within three days before the provision of the service.

(3) The notification under Para. 1 and 2 shall contain respectively:

1. the full name, the nationality and the name of the country, in which the profession is practiced, when they are natural persons;

2. name of the company or partnership, the names of the persons, representing it, the country,

under whose legislation the company or partnership is established and where it is established;

3. address for correspondence in the Republic of Bulgaria or e-mail address;

4. the objects of industrial property, for which they have acquired legal capacity in the country of origin;

5. the period of provision of the services and the objects of industrial property for which the services will be provided.

(4) The following shall be attached to the notification accordingly:

1. a nationality document for natural persons or a reference from the relevant register of the country of origin of the company, or partnership, or from the Register of Industrial Property Representatives at the European Patent Office;

2. a document, certifying the right to practice the profession in the state, in which the legal capacity was acquired, when the profession is regulated in that state;

3. where the profession is not regulated in the state, in which it is practiced, evidence shall be provided, confirming the practice of the profession for at least one year in the last 10 years - full-time or equivalent - part-time.

(5) The representative or the representative of the company, respectively the partnership, shall notify the chairman of the Patent Office of any change in the circumstances under Para. 1 and 2 within 7 days of their occurrence.

(6) The notification and the documents, attached to it shall be submitted in translation into the Bulgarian language.

(7) The representatives, companies or partnerships under Para. 1 and 2 shall not be entered in the registers under Art. 91, Para. 1. A list shall be kept of them, containing the name of the representative, the name of the company or partnership, and the persons representing him. The list shall be electronic and public and available on the website of the Patent Office.

(8) The one-time or temporary nature of the provision of services on the territory of the Republic of Bulgaria shall be determined by the Chairman of the Patent Office for each specific case, in view of the term, frequency, regularity and continuity of the provision of services.

(9) Representatives or companies / associations of representatives, practicing the profession temporarily or once may provide services only for industrial property, for which they have acquired legal capacity.

(10) The notification for temporary or one-time provision of services by foreign representatives shall be valid from the date of its submission.

(11) The provisions of the Act on the Activities of Provision of Services and the Act on the Recognition of Professional Qualifications shall apply to the issues, not settled in this Article.

Termination of the exercise of the profession of representative and deregistration from the Register

Art. 95. (New – SG, 92/20) (1) The representative shall be deregistered from the Register under Art. 91, Para. 2:

1. upon his request;

2. when it is established. that he does not meet the requirements of Art. 85;

3. in case of death.

(2) The company or the partnership shall be deregistered from the Register under Art. 91, Para. 3:

1. at his request, made by the person, representing him;

2. upon termination of the company on the grounds of a provision of the Commercial Act, or on the grounds, arising from the legislation of registration;

3. when the partnership is terminated on any of the grounds under Art. 363 of the Act on



Obligations and Contracts, or on grounds, arising from the legislation of registration;

4. when the members of the company or the partnership become less than two.

(3) In the cases under Para. 1, item 1 and Para. 2, item 1, the representative, respectively the company or the partnership, shall be written off within 7 days from the receipt of the request.

(4) In the cases under Para. 1, item 2 and Para. 2, item 2, the representative, respectively the representative of the company or the partnership, shall notify in writing the chairman of the Patent Office within 7 days from the occurrence of the circumstances. In case the Patent Office ex officio establishes the occurrence of these circumstances, it initiates proceedings for deregistration of the representative, respectively the company or the partnership, on its own initiative, giving them a 14-day term for an opinion.

(5) In the cases under Para. 1, item 3 and Para. 2, item 3, the Patent Office shall write off the respective representative, company or partnership ex officio after a reference from the General Directorate "Civil Registration and Administrative Services" in the Ministry of Regional Development and Public Works, or after receiving a notification letter from the representative of the company or partnership, filed with the Patent Office within 7 days of the occurrence of the circumstance.

(6) The deregistration shall be carried out by a motivated decision of the chairman of the Patent Office or of a deputy chairman, authorized by him, which shall be subject to appeal under the Administrative Procedure Code.

#### Activity of the representatives

Art. 96. (New – SG, 92/20) (1) The representative shall provide specialized assistance and services in the field of industrial property and represent Bulgarian and foreign natural and legal persons in proceedings before the Patent Office, before foreign competent authorities and before international and European organizations.

(2) The representative shall perform actions on behalf of his client on the basis of a written power of attorney.

(3) The representative shall have the right to re-authorize another representative with the rights, granted to him only with the consent of the client.

#### Right to access to a file

Art. 97. (New, SG, 92/20) The representative shall have the right of access to the file of the object of industrial property, for which he is authorized and shall have the right to receive a copy of the documents from the file, kept at the Patent Office under conditions and procedure, determined by an act of the chairman of the Patent Office.

#### Certification of documents

Art. 98. (New, SG, 92/20) In exercising his profession, the representative shall have the right to certify copies of documents, provided to him in connection with or in connection with the protection of the rights to the objects of industrial property of his client, which have the force of official documents before the Patent Office.

#### Remuneration

Art. 99. (New, SG, 92/20) The representative shall be entitled to remuneration for his work, which shall be determined by agreement between him and the client.

#### Client's account

Art. 100. (New, SG, 92/20) (1) The funds, provided by the client for spending by the representative may be deposited in a bank on a client's account. The amounts on the client's account shall not be part of the property of the representative and not subject to seizure.

(2) Amounts shall be transferred to the client's account for payment of:

1. costs and state fees;

2. remuneration of third parties, other than the representative.

(3) The representative shall be obliged to submit to his client a written report on the funds spent.

#### Obligations of the representatives

Art. 101. (New – SG, 92/20) (1) In his activity, the representative shall be obliged to:

1. be guided by the rule of law and good morals;
2. exercise the profession in good faith and not to damage its prestige;
3. act in view of the order and the interest of the client;
4. notify the client in case of conflict of interest;
5. keep in secret the information he has learned in connection with the exercise of the profession; the obligation shall also apply in cases, when the representative has temporarily suspended the exercise of the profession or when he has been deregistered from the register;
6. maintain “professional liability” insurance.

(2) The representative shall not have the right to:

1. use ways to attract clients, that are incompatible with professional ethics;
2. undertake work, for the implementation of which he knows that he does not have the necessary knowledge and training;
3. assume representation if for the same object he has represented or represents another person, whose interests are in conflict with the interests of the person, requesting representation.

#### Refusal of representation

Art. 102. (New, SG, 92/20) (1) The representative may waive the assumed representation if the trust between him and the client is violated, if the client does not cooperate or does not pay an agreed remuneration, or there is another valid reason.

(2) The representation shall be considered terminated from the date of the written notification of the client.

(3) In respect of the Patent Office, the representation shall be deemed to be terminated from the date, on which the written notification is received at the Patent Office.

(4) Within one month from the date of termination of the representation under Para. 2, the representative shall be obliged:

1. to inform the client about the received correspondence on the object of industrial property, on which representation is carried out;
2. to return to the client or to a person, designated by him the originals of all documents, entrusted to him; the representative shall have the right to keep for himself only copies of these documents.

#### Obligations after termination of activity

Art. 103. (New - SG, 92/20) The representative shall be obliged within one month from the date of deregistration from the Register:

1. to notify all his clients, who have authorized him to represent them;
2. to hand over to the client or to a person, designated by him the originals of all documents, entrusted to him;
3. to take all necessary actions to protect the interests of the client.

#### Rights and obligations of companies / partnerships of representatives and lawyers

Art. 104. (New, SG, 92/20) The provisions of Art. 96 - 103 shall be applied respectively for the companies or associations of industrial property representatives and the lawyers, performing activity for representation under this Act.

#### Property liability of the persons, performing representation activity and their companies or partnerships

Art. 105. (New, SG, 92/20) (1) The representatives and lawyers, practicing industrial property representation on the territory of the Republic of Bulgaria and their companies or associations shall bear

property liability for the damages, caused by culpable non-compliance with their professional duties.

(2) The responsibility under Para. 1 shall be carried out according to the general claim procedure.

#### Professional Liability Insurance

Art. 106. (New, SG, 92/20) (1) The representatives and lawyers, practicing the activity of representation in industrial property, including as members of a company or partnership, shall be obliged to have concluded a "Professional Liability" insurance for the damages, which may occur as a result of illegal actions or inactions during or in connection with the performance of their duties.

(2) The minimum sum insured shall be BGN 20,000 for one insurance event and BGN 60,000 for all insurance events for the term of the insurance under Para. 1.

(3) Where the representative also practices law or other compatible activities, the Professional Liability Insurance, which he has included in connection with this activity may also include risks to cover liability for damages, that may arise from culpable failure to fulfill his obligations under this Act.

(4) Representatives, companies or partnerships shall be recognized for Professional Liability Insurance, issued in another Member State of the European Union, or in a State - Party to the European Economic Area Agreement, or in the Swiss Confederation, where the insurance has an effect, covering his activities on the territory of the Republic of Bulgaria.

(5) The insurance under Para. 1 shall be concluded for a period of one year and shall cover the liability of the insured under written claims, filed within the term of validity of the insurance contract, for:

1. illegal actions or inactions of the insured person during or on the occasion of fulfillment of his obligations, performed during the term of the contract;

2. illegal actions or inactions of the insured person during or on the occasion of fulfillment of his obligations, performed in the period from the retroactive date to the conclusion of the contract; in this case the insurer shall not be liable for damages, that occurred before the conclusion of the insurance contract.

(6) Retroactive date within the meaning of Para. 5, item 2 shall be the date of commencement of activity under representation on industrial property by the persons under Para. 1. For persons, who have been engaged in activity for more than 5 years, the retroactive date shall be 5 years before the conclusion of the insurance contract.

(7) The insurance contract is concluded by the persons under Para. 1 within 15 days from the beginning of their professional activity, as for the period from the date of the beginning of their professional activity a retroactive coverage under Art. 355 of the Insurance Code, including for damages, occurred during the retroactive period, without affecting the effect of Art. 355, Para. 2 and 3 of the Insurance Code.

(8) The insurance shall be renewed annually without interruption for the time, during which the persons under Para. 1 exercise representation in industrial property.

(9) Upon termination of the activity, the persons under Para. 1 shall be obliged to conclude additional insurance, covering a period of 5 years, following the termination of the activity, in case the harmful action has been performed after the retroactive date under Para. 6.

(10) The provisions of the Insurance Code shall apply to the issues, not settled in this Article.

#### Rights of the client

Art.107. (New, SG, 92/20) (1) The client and the persons under Art. 106, Para. 1 may be agreed with a contract to be concluded a separate insurance for securing the responsibilities of the representative for a specific site.

(2) The client may request in writing from the persons under Art. 106, Para. 1 proof of valid "Professional Liability" insurance.

(3) The persons under Art. 106, Para. 1 shall be obliged to provide evidence under Para. 2 within 7 days from the date of receipt of the written request.

(4) The client may suspend all due payments to the persons under Art. 106, Para. 1, when it

ascertains, that they do not have a valid insurance, or in case they do not provide evidence for such within the term under Para. 3.

## **Chapter nine.**

### **PENAL ADMINISTRATIVE PROVISIONS**

#### Sanctions

Art. 108. (1) (Amended, SG No. 11/1998; amend., SG 45/02; amend. - SG 64/06, in force from 09.11.2006, prev. Art. 84 - SG, 92/20) 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.

9. (new, SG, 92/20) "Legal capacity" shall be recognized as having a professional qualification as an industrial property representative with the entry in the register under Art. 91, Para. 2.

10. (new – SG, 92/20) "Internship for adjustment" shall be the internship, acquired at an industrial property representative, registered in the Republic of Bulgaria, and shall be certified with a declaration by the training representative.

### **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) (Amend. – SG, 92/20) 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) (Amend. – SG, 92/20) 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) (Amend. – SG, 92/20) 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) (Amend. – SG, 92/20) 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) (Amend. – SG, 92/20) 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. (amend. – SG, 92/20) request 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, para 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.

### **Concluding provisions**

## **ACT, AMENDING AND SUPPLEMENTING THE ACT ON PATENTS AND REGISTRATION OF USEFUL MODELS**

(PUBL. – SG, 92/20)

§ 47. In the other texts of the Act:

1. the words "application" are replaced by "request" respectively;
2. the words "the expert department" shall be replaced by "the unit under Art. 82, Para 1, item 1";
3. the words "deficiencies" and "inconsistencies" are replaced by "irregularities" and the word "deficiencies" is replaced by "irregularities".

### **Transitional and concluding provisions**

## **TO THE ACT, AMENDING AND SUPPLEMENTING THE ACT ON PATENTS AND REGISTRATION OF USEFUL MODELS**

(PUBL. – SG, 92/20)

§ 48. (1) This Act shall be applied to the applications and requests, on which no decision has entered into force until its entry into force.

(2) In the case of patent applications for inventions, on which no final decision has been made

by the entry into force of this Act and the fee for examination and expertise and the fee for publication of the application have not been paid, the applicant shall be notified, which gives him the opportunity to pay them within three months. If the fees have not been paid within this period, the application shall be considered withdrawn and shall not be published.

(3) This Act shall not apply to the terms, that began to run before its entry into force.

§ 49. (1) The representatives, entered in the register under Art. 16, Para. 1 of the Ordinance on Industrial Property Representatives (SG, 64/17), shall retain their registration and the right to exercise the profession.

(2) The persons who, before the entry into force of this Act, have successfully passed the examination by the order of the Ordinance under Para. 1, shall be entered in the register of the representatives on industrial property, without taking a new examination.

(3) The associations of industrial property representatives, entered in the register under the Ordinance of Para. 1, shall retain their registration and the right to exercise activity if within two months from the entry into force of this Act, the person representing the partnership submits to the Patent Office a written request, in which the circumstances under Art. 93, Para. 2, items 1 – 6 have been indicated, accompanied by a copy of a current partnership agreement. When within the specified term a request is received for the partnership to continue to exercise its activity in the form of a company under Art. 89, the change shall be entered in the register, as the company shall keep the number of entry of the partnership, as well as all powers, arising from the authorization of the partnership, provided that a unique identification code is presented and the circumstances under Art. 93, Para. 2, pp. 1 – 6 have been indicated. When no written request is submitted within the specified term, the partnership shall be officially deregistered from the register.

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§ 54. Paragraph 30, regarding art. 72c, para. 1 and 8 in the part for the European patent with unitary effect, and § 31, regarding art. 72g, para. 2, 4 and 5 in the part for the European patent with unitary effect, shall be applied after the entry into force of the Agreement on the Unified Patent Court, signed in Brussels on 19 February 2013 (ratified by an Act - SG, 32/16).

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