

# Patent Law

(No. 64 of October 11, 1991)\*

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## Chapter I General Provisions

1. The rights in inventions shall be recognized and protected on the territory of Romania by the grant of titles of protection by the State Office for Inventions and Trademarks under the conditions specified in this Law.

2. The title of protection for an invention shall be the patent, which shall confer on its owner an exclusive right of exploitation for the duration of its validity.

3. The right to the patent shall belong to the inventor or to his successor in title.

4. Where an invention has been made jointly by two or more inventors, each shall have the status of joint inventor and the rights shall belong to them jointly.

Where two or more persons have made the same invention independently of each other, the right to the patent shall belong to the one who first files a patent application with the State Office for Inventions and Trademarks, or, where priority has been recognized, to the person whose patent application has the earliest priority date, provided that the qualifying application was not refused, withdrawn or abandoned.

5. Where the inventor is an employee and there is no contractual provision more favorable to him, the right to the patent shall belong:

(a) to the employer in the case of inventions made by the employee under a contract of employment that provides expressly for the performance of inventive activities, where the said activities correspond to his actual duties; the inventor shall be paid additional remuneration specified by contract;

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\* *Romanian title:* Lege privind brevetele de inventie.

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\*\* Added by WIPO.

(b) to the employee for inventions made by him either in the course of his duties or within the area of concern of the employer, through knowledge or use of technology or means specific to the employer or information available on the premises of the employer, or again with material assistance from the employer, except where otherwise provided by contract.

Where the invention is the result of a research contract, unless otherwise provided the right to the patent shall belong to the employer who commissioned the research, the inventor being entitled to additional remuneration specified in an additional clause in the contract.

In the cases provided for in the first paragraph under (a) and (b) and in the second paragraph, the inventor and the employer shall be under the obligation to inform each other in writing of the making and the stage of development of the invention, and to abstain from disclosing it.

Failure to observe the obligation to inform shall result in the liability of the person responsible.

If, in the case provided for in the first paragraph under (a) and in the second paragraph, the patent application has not been filed with the State Office for Inventions and Trademarks within 60 days of the employee's having informed the employer in writing of the contents of the description of the invention, the right to file the patent application and to be granted a patent, in the absence of any other agreement between the parties, shall belong to the employee as provided in the first paragraph under (b).

In the case provided for in the first paragraph under (b), the employer shall have a preferential right to conclude a contract in respect of his employee's invention, which right shall be exercised within three months of the date of the employee's offer; in the absence of agreement on the contract price, the latter shall be established by judicial decision.

6. Foreign natural persons or legal entities having their domicile or registered office outside the territory of Romania shall enjoy the benefits of the provisions of this Law in accordance with international treaties on inventions to which Romania is party or on the basis of reciprocity.

## **Chapter II**

### **Patentable Inventions**

7. An invention shall be patentable if it is new, involves an inventive step and is susceptible of industrial application.

A patentable invention may relate to a product, a process or a method.

An invention relating to a new variety of plant, a hybrid or a new animal breed shall be patentable insofar as it is new, distinct, uniform and stable.

8. An invention shall be considered new if it does not form part of the state of the art. The state of the art includes all knowledge that has been made available to the public up to the date on which the patent application was registered or up to the date of recognized priority.

Disclosure shall not be taken into account when it was effected by the inventor or his successor in title and occurred within the 12 months preceding the date on which the patent application was registered or the date of recognized priority.

9. An invention shall be regarded as involving an inventive step if, to a person skilled in the relevant field, it does not obviously derive from prior art.

10. An invention shall be susceptible of industrial application if its subject-matter may be used in at least one field of industrial activity, agriculture or any other activity, and may be reproduced with the same characteristics whenever necessary.

11. Varieties of plants, hybrids or animal breeds that form the subject-matter of an invention must remain uniform and stable in their relevant characteristics after repeated propagation or at the end of each breeding cycle, and must not have been previously marketed or offered for sale.

12. Inventions contrary to morality or public policy shall not be patentable.

**13.** The following shall not be considered patentable within the meaning of Section 7: ideas, discoveries, scientific theories, mathematical methods, computer programs as such, solutions of an economic or organizational character, diagrams, educational and teaching methods, rules of games, city planning systems, systematization plans and methods, physical phenomena as such, culinary recipes and creations of purely aesthetic character.

### **Chapter III**

## **Registration, Publication and Examination of the Patent Application; Grant of the Patent**

**14.** The patent application, comprising the personal particulars of the applicant, accompanied by a description of the invention, claims and where appropriate explanatory drawings, with all written matter in Romanian, shall be filed with the State Office for Inventions and Trademarks to constitute a regular national filing.

The patent application shall contain particulars serving to identify the inventor, failing which the patent applied for shall not be granted.

The patent application shall be filed by the person entitled to the grant of a patent under Sections 3, 4, first paragraph, and 5, either in person or through an authorized agent whose domicile or registered office is in Romania.

**15.** The State Office for Inventions and Trademarks shall register the patent application on condition that at least the following documents have been filed:

(a) an application containing the express request for the grant of a patent, together with particulars for the identification of the applicant;

(b) a description of the invention.

The claims and explanatory drawings relating to the invention may be filed within two months of the registration of the patent application.

The patent application shall be registered in the National Register of Patent Applications, which shall be confidential.

**16.** The date of regular national filing shall be that by which all the documents provided for in the first paragraph of Section 14 have been filed, or the date provided for in treaties or conventions to which Romania is party.

The date of regular national filing shall also be recognized in cases where, on justified grounds, foreign natural persons or legal entities have filed the description, claims and drawings in a foreign language, provided that within two months of the date of registration of the application an accurate translation in Romanian of the said documents is filed with the State Office for Inventions and Trademarks.

**17.** The regular national filing of a patent application secures a right of priority, starting on the date of the said filing or on the priority date claimed and recognized, in relation to any filing of the same invention effected at a later date or having a later recognized priority date.

**18.** The invention shall be presented in a description, claims and drawings in a manner sufficiently clear, complete and correct from a scientific and technical point of view for a person skilled in the art to be able to make it without engaging in inventive activity.

If the invention relates to reproducible biological material that cannot be so described that it can be made by a person skilled in the art, and if the material is not available to the public, the description of the invention shall be accompanied by a document attesting the deposit of the material with a depositary institution designated by the Government or having the status of international depositary authority. Such deposit shall be effected not later than on the date of registration of the patent application.

**19.** A patent application shall relate to one invention only or to a group of inventions so linked as to form a single inventive concept.

Patent applications that fail to meet the condition specified in the first paragraph may be divided by the inventor or his successor in title, either on his own initiative or at the request of the State Office for Inventions and Trademarks, until such time as a decision has been made on the said patent applications.

**20.** Patent applications may contain one or more priority claims based on one or more prior applications having the status of regular national filings, in accordance with conventions to which Romania is party.

Foreign natural persons or legal entities of States party to the conventions to which Romania is also party, and nationals of such States or their successors in title, shall have a right of priority starting on the date of first filing if they apply for the grant of a patent in respect of the same invention within 12 months of that date.

It shall be acceptable to claim multiple priorities in a patent application, provided that the unity of invention requirement specified in Section 19 is met and the priority period specified in the second paragraph above is observed.

**21.** Priority may also be claimed in a patent application based on a filing made after a product embodying the invention has been displayed at an international exhibition organized on the territory of Romania or of a State party to conventions to which Romania is also party, provided that the patent application is filed within six months of the date on which the product was put on display at the exhibition.

The six-month period shall not extend the period of priority provided for in the second paragraph of Section 20.

**22.** Priority as provided for in Sections 20 and 21 shall be claimed at the same time as the patent application is filed, and shall be attested by priority documents.

Where the applicant has failed to claim priority at the time of filing the patent application, he may claim it up to two months following the date of registration of the patent application.

Priority documents shall be filed within three months of the date of the regular national filing.

Failure to observe the time limits specified in the second and third paragraphs above shall result in refusal to recognize the priority claimed.

**23.** Patent applications that meet the requirements specified in Sections 14, 15 and 16 shall be published immediately after an 18-month period has expired following the date of regular national filing or of claimed and recognized priority, except in the case of applications provided for in the second and third paragraphs of Section 44, and those in respect of which a decision has been taken, during the same period, to grant or refuse the patent, or which have been withdrawn, as provided in Sections 7 to 11 or in Section 12 or 13.

**24.** At the request of an entitled natural person or legal entity, publication may be effected within a shorter time than that provided for in Section 23.

**25.** The publication of patent applications may be accompanied by a search report.

If the search report is not published at the same time as the patent application, it shall be published subsequently.

**26.** Examination with a view to the grant of a patent may be requested on the filing date of the patent application or within 30 months of the said date.

Patent applications in respect of which examination with a view to the grant of a patent has not been requested within the period specified in the first paragraph above shall be considered abandoned and shall be rejected.

**27.** The examination of patent applications shall take the following into account:

- (a) fulfillment of the conditions set forth in Sections 14, 15, 16 and 18;
- (b) the conditions set forth in Sections 12 and 13;
- (c) priority claimed under Sections 20, 21 and 22;
- (d) unity of invention under Section 19;

(e) the criteria under Sections 7 to 11.

**28.** The State Office for Inventions and Trademarks is authorized to request the applicant or his successor in title to provide explanations or documents considered necessary in connection with the regular filing made or in order to meet the conditions of patentability.

The applicant shall file with the State Office for Inventions and Trademarks all public documents connected with his invention, including copies of patents granted in other States.

At the request of the State Office for Inventions and Trademarks or on his own initiative, the applicant or his successor in title may, until such time as a decision is made, modify the claims, the drawings or the description if such modifications do not extend beyond the limits of disclosure of the invention on the filing date of the patent application.

**29.** The decision to grant a patent or to reject a patent application shall be taken by the Examination Board of the State Office for Inventions and Trademarks in accordance with Sections 7 to 11, 12 and 13 of this Law and on the basis of the patent application examination report within 18 months of the date on which examination of the application was requested.

Decisions to grant patents taken by the State Office for Inventions and Trademarks shall be published within 30 days, and the descriptions, claims and drawings of patented inventions shall be published within three months.

The State Office for Inventions and Trademarks shall issue a decision rejecting a patent application on expiration of the time limits provided for in Sections 26 and 47 in cases of abandonment or failure to pay registration, publication or examination fees, and shall record the withdrawal of a patent application when such withdrawal has been notified in writing by the person entitled to do so.

All decisions issued by the State Office for Inventions and Trademarks shall be substantiated and registered in the National Register of Patent Applications.

**30.** The State Office for Inventions and Trademarks may revoke its decisions *ex officio* for failure to comply with the conditions laid down in this Law until such time as the said decisions are made public.

**31.** Patents shall be issued by the Director General of the State Office for Inventions and Trademarks in accordance with the grant decision.

Patents shall be recorded in the National Register of Patents.

**32.** The term of validity of patents shall be 20 years starting on the date on which a regular national filing was effected.

**33.** The term of validity of patents for inventions that improve on other patented inventions and cannot be worked without the previously patented inventions shall be limited to that of the patent granted for the invention on which the improvement was made, but shall be no shorter than 10 years.

## **Chapter IV Rights and Obligations**

**34.** The patent confers on its owner the right to prohibit third parties from performing the following acts without his consent:

(a) in relation to products: manufacturing, marketing, offering for sale, using, importing or storing for the purposes of selling, offering for sale or use;

(b) in relation to processes or methods: use.

The extent of protection conferred by a patent shall be determined by the content of the claims, which shall be interpreted in the light of the description and drawings of the invention.

**35.** In the case of a patent application published under Section 23, the natural person or legal entity entitled to the grant of a patent shall benefit temporarily from the same rights as are conferred on the patent

owner under the provisions of Section 2 and (a) and (b) of the first paragraph of Section 34, starting on the date on which the regular filing was made and until the grant of the patent.

Where the patent application has been rejected, the applicant does not qualify for the provisions of the first paragraph above.

**36.** The owner of an improvement patent may use his invention only with the consent of the owner of the invention on which the improvement has been made.

**37.** The following acts shall not constitute infringements of the rights provided for in Section 2, in the first paragraph under (a) and (b) of Section 34 and in Section 35:

(a) exploitation of the invention in the construction and operation of land vehicles or aircraft and aboard vessels or in devices used in the operation thereof that belong to States party to international conventions concerning inventions to which Romania is also party, when the vehicles, craft or vessels enter the territory of Romania either temporarily or accidentally, provided that such exploitation is exclusively for the needs of the vehicles, craft or vessels;

(b) exploitation of the invention by a person who has applied it or has taken real and effective steps towards exploiting it, in good faith, within the territory of Romania independently of the owner of the patent, and before a regular national filing concerning the invention has been effected or before the recognized priority date, in which case the invention may continue to be exploited by that person to the same extent as on the date of the regular national filing or recognized priority, but the right of use may not be transferred otherwise than with the assets of that person or the part of the said assets assigned to the exploitation of the invention;

(c) production or use of the invention exclusively for experimental purposes;

(d) marketing or offering for sale within the territory of Romania, with or without the express consent of the patent owner, of specimens of the product constituting the subject-matter of the invention that have been previously sold by the patent owner.

**38.** The inventor shall have the right to the mention of his full name and status in the patent granted, in his employment record and in any other documents or publications concerning his invention.

Where the patent owner is not the same person as the inventor, a duplicate patent shall be issued to the latter.

**39.** The economic rights accruing to the inventor shall be determined by contract.

**40.** In the event of forfeiture of his rights under the second paragraph of Section 47, the patent owner may apply to the State Office for Inventions and Trademarks, stating legitimate grounds, for reinstatement of the patent within six months of the date of publication of the said forfeiture. Reinstatement of the patent shall be published by the State Office for Inventions and Trademarks.

It shall not be an infringement of the rights under Sections 2, 34 and 35 for third parties to exploit, or to take real and effective steps to exploit, the invention during the time between the forfeiture of the patent owner's rights and the reinstatement of the patent.

In the cases provided for in the first and second paragraphs above, the invention may continue to be used to the same extent by such third parties, but may not be transferred without the assets or a part of the assets of the person using the invention.

**41.** The patent owner may renounce the patent either wholly or in part by virtue of a written statement filed with the State Office for Inventions and Trademarks.

In the case of inventions provided for in the first paragraph under (a) and in the second paragraph of Section 5, and inventions that have been assigned as provided in the first paragraph under (b) of Section 5, the patent owner shall notify the inventor of his intention to renounce the patent. The patent owner shall transfer the patent rights to the inventor at the latter's request.

Where the patent is the subject of a license agreement, renunciation shall be possible only with the agreement of the licensee.

The invention or part of the invention in respect of which protection has been renounced may be freely exploited by third parties.

The inventions provided for in the second paragraph of Section 44 may be renounced only with the agreement of the authorities that made them secret.

Renunciation shall come into effect on the date of the registration thereof at the State Office for Inventions and Trademarks.

**42.** A patent granted by the State Office for Inventions and Trademarks shall be cancelled either wholly or in part, at the request of interested parties, where it is established that the conditions of patentability were not met on the date of registration of the patent application. Requests for cancellation may be made throughout the term of validity of the patent, and shall be ruled upon by the Municipal Court of Bucharest.

The cancellation decision shall be registered at the State Office for Inventions and Trademarks and published within the period specified in the second paragraph of Section 29.

**43.** In proceedings before the State Office for Inventions and Trademarks, natural persons or legal entities entitled to the grant of a patent may avail themselves of the assistance of an authorized industrial property attorney.

**44.** Inventions for which patent applications have been filed may not be disclosed without the consent of the inventor or his successors in title until the description of the invention has been published by the State Office for Inventions and Trademarks.

Descriptions of inventions in the field of national defense and State security made on the territory of Romania shall be secret where declared such by the competent authorities, and the inventor or his successor in title shall be informed accordingly and granted material compensation by the authority that has made the invention secret. Such secrecy shall be lifted at the discretion of the same authorities.

In the case of other inventions, at the request of the natural person or legal entity that has applied for the patent, the State Office for Inventions and Trademarks shall not publish the invention until the date requested by the said person or entity.

**45.** Inventions made by Romanian natural persons on the territory of Romania may not be patented abroad until a patent application has been registered at the State Office for Inventions and Trademarks.

In the case of inventions under the second paragraph of Section 44, the grant of foreign patents shall be subject to authorization by the authorities that made the inventions secret.

For the patenting of their inventions abroad, entitled natural persons may avail themselves of credits in convertible currency for the payment of fees.

With regard to the inventions provided for in the first paragraph above, the applicant shall inform the State Office for Inventions and Trademarks of his intention to apply for a patent abroad.

**46.** In the case of inventions for which an employer is entitled to the grant of a patent, that employer shall be obliged to inform the inventor of the stage reached by the examination of the patent application at the State Office for Inventions and Trademarks, and on the status and any results of exploitation of the invention.

At the request of the patent owner, the inventor shall be obliged to afford technical assistance under contract for the exploitation of the invention.

**47.** The filing, publication and examination of patent applications, the claiming of priority, the grant of patents and the maintenance of such patents shall all be subject to the payment of fees within time limits and in amounts laid down by law.

Throughout the term of validity of the patent, the patent owner shall be obliged to pay annual patent maintenance fees. Failure to pay such fees shall cause the forfeiture of the patent owner's rights under the patent. The forfeiture of the said rights shall be published.

Fees payable by foreign natural persons or legal entities shall be paid in convertible currency into the account of the State Office for Inventions and Trademarks.

## **Chapter V**

### **Transfer of Rights**

**48.** The right to the grant of a patent, the rights in the patent, the rights deriving from the registration of a patent application and also the rights deriving from a patent shall be transferable, either wholly or in part.

Transfers may be effected by assignment, by the grant of exclusive or non-exclusive licenses or by legal or testamentary succession.

Transfers shall be binding on third parties as from the date on which they are registered at the State Office for Inventions and Trademarks.

**49.** At the request of any interested party, the Municipal Court of Bucharest may grant a compulsory license after four years have elapsed from the date of registration of a patent application or after three years have elapsed from the grant of the patent, whichever period expires later.

The provisions of the first paragraph above shall apply only where the invention has not been exploited or has been insufficiently exploited on the territory of Romania, and the patent owner cannot justify his inaction, and where no agreement has been reached with the patent owner regarding the transfer of rights.

The compulsory license shall be non-exclusive, and shall be granted on certain conditions regarding duration, royalty amounts and economic rights accruing to the inventor.

The compulsory license shall be registered with the State Office for Inventions and Trademarks, and shall be effective as from the date of such registration.

Where the licensee is found to be not complying with his obligation to exploit the invention under the agreed conditions, the compulsory license may be revoked by the Court at the request of the patent owner.

**50.** When the interests of public health dictate, granted patents relating to the field of health that are not being exploited or are being insufficiently exploited may, where the patent owner is unable to justify his inaction, be made subject to the *ex-officio* licensing regime by the Municipal Court of Bucharest at the express request of the Ministry of Health.

Any interested party may apply to the Ministry of Health for a non-exclusive exploitation license after publication of the court decision making the invention subject to *ex-officio* licensing.

**51.** The competent ministry may serve notice on the owners of patents other than those provided for in Section 50 to exploit an invention in a manner sufficient to meet the needs of the national economy.

Where the notice thus served has no effect within one year, and the lack of exploitation or insufficient exploitation, in terms of quality or quantity, is seriously prejudicial to the national economy or the public interest, the patent concerning which the notice was served may, at the request of the competent ministry and by order of the Government, be made subject to *ex-officio* licensing.

The one-year period provided for in the second paragraph above may be extended by the competent ministry on legitimate grounds invoked by the owner that are compatible with the needs of the national economy.

Any interested party may, after publication of the decision provided for in the second paragraph above, apply to the competent ministry for a non-exclusive license to exploit the invention.

**52.** In the interest of national defense or State security, the Government shall grant an *ex-officio* license, at the request of the competent ministry, for the exploitation of an invention that is the subject of a patent application or granted patent.

Such license shall be granted direct to the competent ministry or to undertakings that are able to exploit the invention on behalf of the said ministry.

A license granted under the first paragraph above shall produce its effects as from the date on which the Government took its decision, and shall be registered with the State Office for Inventions and Trademarks.



**53.** Decisions to subject a patent to the system of *ex-officio* licensing under Sections 50 and 51 shall be notified to the State Office for Inventions and Trademarks, which shall publish the decisions within three months of the date of notification.

**54.** Exploitation licenses provided for in Sections 50, 51 and 52 shall not be transferable, and royalties shall be determined by contract between the parties or, in the event of disagreement, by decision of the Municipal Court of Bucharest.

## **Chapter VI**

### **Defense of Rights in Inventions**

**55.** Decisions of the State Office for Inventions and Trademarks may be contested at the said Office by any interested party within three months of notification thereof.

**56.** Any interested party shall be entitled to apply in writing, on valid grounds, to the State Office for Inventions and Trademarks for the revocation, either full or partial, of the decision to grant a patent within six months of the publication provided for in the second paragraph of Section 29, insofar as at least one of the conditions set forth in Sections 7 to 11 has not been met.

The contestation, or as the case may be the request for revocation, shall be considered within three months of registration thereof by a Reexamination Board of the State Office for Inventions and Trademarks, which shall be composed of persons other than those who made the original decision.

**57.** The decision of the Board of Reexamination shall be notified to the parties within 15 days of pronouncement, and may be appealed against before the Municipal Court of Bucharest within three months of such notification.

Decisions to grant a patent made by the Reexamination Board or decisions made by judicial authorities, which shall be final, shall be published within 30 days.

**58.** The unlawful assumption, in any way, of the status of inventor shall constitute an offense and shall be punished with imprisonment for six months to two years or with a fine of 50,000 to 100,000 lei.

**59.** The unauthorized manufacture, use or putting into circulation of the subject-matter of a patent, or any other infringement of the rights under a patent, during the term of validity thereof, shall constitute the offense of infringement under this Law and shall be punished with imprisonment for three months to two years or with a fine of 50,000 to 100,000 lei.

Criminal proceedings shall be initiated by the preliminary filing of a complaint by the aggrieved party.

The patent owner shall be entitled, for prejudice caused to him, to damages as provided for in civil law, and the infringing products may be confiscated as provided for in criminal law.

Any infringement by third parties of rights under the first paragraph of Section 35 shall make the infringers liable for damages under civil law, and the entitlement to the payment of damages shall be enforceable after the grant of the patent.

**60.** Disclosure, by the staff of the State Office for Inventions and Trademarks and also by persons doing work in connection with inventions, of the information contained in patent applications prior to the publication thereof shall constitute an offense and shall be punished with imprisonment for three months to two years or with a fine of 50,000 to 100,000 lei.

The State Office for Inventions and Trademarks shall be answerable to the inventor for prejudice caused as a result of the offense provided for in the first paragraph above.

**61.** Any litigation concerning the status of inventor or patent owner, concerning other rights arising from the patent, including the inventor's economic rights under assignment or licensing contracts, or concerning failure to comply with the provisions of Sections 39 and 46 shall be within the jurisdiction of the courts and shall not be subject to stamp duty.

**62.** Where a court decision has established that a person other than the one named in the patent is entitled to have the patent granted to him, the State Office for Inventions and Trademarks shall grant a patent to the entitled person and publish the change of ownership.

## **Chapter VII**

### **Responsibilities of the State Office for Inventions and Trademarks**

**63.** The State Office for Inventions and Trademarks is a specialized government body with sole authority on the territory of Romania for the provision of protection in the field of industrial property under the law and the provisions of international conventions to which the Romanian State is party.

**64.** In the field of inventions, the State Office for Inventions and Trademarks shall have the following responsibilities:

(a) registration, publication and examination of patent applications, and grant of protection by the issue of patents;

(b) maintenance of the National Register of Patent Applications and of the National Register of Patents, in which all particulars of patent applications and granted patents are recorded;

(c) administration, maintenance and development by international exchange of the national collection of descriptions of inventions, and creation of a computer data base in the field of inventions;

(d) provision of technical information services on request on the basis of descriptions of Romanian and foreign inventions and official industrial property publications;

(e) conduct of relations with equivalent government organizations and with specialized international organizations to which the Romanian State belongs;

(f) provision of assistance in the field of industrial property on request, and organization of training courses for specialists in the same field;

(g) periodical compilation and publication, in the Official Bulletin of Industrial Property of Romania, of information relating to patent applications and patents granted.

## **Chapter VIII**

### **Transitional and Final Provisions**

**65.** Patent applications filed with the State Office for Inventions and Trademarks under Law No. 62/1974 in respect of which no decision has been taken on either grant or refusal shall be ruled upon according to the provisions of the present Law.

Inventors, applicants or designated owners, as the case may be, shall by common agreement designate, informing the State Office for Inventions and Trademarks accordingly, the person entitled to the grant of a patent, and also the economic rights accruing to the inventor where the patent is to be granted to a person other than the said inventor.

The aforesaid agreement shall be authenticated; the time limit for its filing with the State Office for Inventions and Trademarks shall be six months from the entry into force of this Law. When this time limit expires without the agreement having been filed with the State Office for Inventions and Trademarks, the right to the grant of a patent shall belong to the inventor, as provided in Section 3 or in the first paragraph under (b) of Section 5 of this Law, as the case may be.

**66.** Patents issued prior to the entry into force of this Law shall have the term of validity provided for in the law applicable on the date of grant thereof.

Economic rights accruing to inventors for patented inventions that have been exploited, which rights have been partly settled or not settled prior to the entry into force of this Law, shall be negotiated between the inventor and the undertaking that has exploited the said invention. In such cases, the negotiation shall begin at the highest amount of compensation that the inventor could claim under the law applicable on the

date of registration of the patent application. In the absence of agreement between the parties, the remuneration shall be determined according to the provisions of Section 61 of this Law.

The right to the patent shall revert to the inventor by operation of the law where, on the date of entry into force of this Law, the undertaking that has become the owner by legal assignment under Section 14 of Law No. 62/1974 has not exploited the invention or has not taken the necessary steps for its exploitation.

**67.** The economic rights of the maker of a technical achievement that is new and useful to an undertaking shall be determined by contract concluded between the said maker and the undertaking.

The undertaking that exploits the technical achievement shall attest the status of the person who made it.

Failure to comply with the provisions of the first and second paragraphs shall place the undertaking under the obligation to pay damages under civil law to the maker of the technical achievement. Damages shall be determined according to the economic performance achieved by the undertaking.

**68.** Profit made through exploitation of an invention shall be exempt from tax during the first five years of exploitation, counted from the date on which the patent becomes effective, and shall in that case remain entirely at the disposal of the undertaking that is exploiting the invention.

**69.** Before the provisions of this Law enter into force, the Government shall approve regulations for the implementation thereof, which shall lay down the procedure for the filing and examination of patent applications, the relations between employee-inventors and employers as provided in Section 5, and the conditions for the grant of patents for new varieties of plants and animal breeds.

**70.** This Law shall enter into force three months after the date of its publication in the Official Gazette of Romania.

On the same date, Law No. 62/1974 on Inventions and Innovations, Decree No. 93/1976 on the Standards for the Calculation of Remuneration Payable to the Makers of Inventions Exploited in the National Economy, Decree No. 363/1976 on the Fees Payable for Patent Applications and Granted Patents, and any other provisions contrary to this Law, shall be repealed.

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