

# 435/2001 Coll. of Laws of the Slovak Rep.

## ACT

of October 4, 2001

### on patents, supplementary protection certificates and on alterations of and additions to certain laws (Patent Act)

Amendment: 435/2001 Coll. of Laws of the Slovak Rep.  
Amendment: 402/2002 Coll. of Laws of the Slovak Rep.  
Amendment: 84/2007 Coll. of Laws of the Slovak Rep.  
Amendment: 517/2007 Coll. of Laws of the Slovak Rep. (indirect amendment)  
Amendment: 495/2008 Coll. of Laws of the Slovak Rep.  
Amendment: 202/2009 Coll. of Laws of the Slovak Rep. (indirect amendment)  
Amendment: 125/2016 Coll. of Laws of the Slovak Rep.  
Amendment: 242/2017 Coll. of Laws of the Slovak Rep.  
Amendment: 242/2017 Coll. of Laws of the Slovak Rep.  
Amendment: 291/2018 Coll. of Laws of the Slovak Rep.

The National Council of the Slovak Republic has adopted the following Act:

Art. I

### PART ONE

### BASIC PROVISIONS

§ 1

#### Subject-matter of regulation

This Act shall regulate legal relationships arising in connection with the creation, legal protection and application of an invention being the subject-matter of a patent application or patent.

§ 2

#### Scope of the Act

This Act applies to

- (a) a patent application (hereinafter referred to as "application"), a European patent application [section 3(e)] and an international application [section 3(g)],
- (b) a patent and a European patent [section 3(f)],
- (c) the rights and obligations of an inventor, an applicant of an application (hereinafter referred to as "applicant") and the patent owner, the applicant for a European patent application and the owner of a European patent, the applicant for an international application,
- (d) the legal status of a third party who is a holder of other rights or obligations in relation to an application, a European patent application, an international application, a patent or a European patent,
- (e) proceedings on subject-matters of a right pursuant to subsections (a) to (d).

§ 3

#### Definition of some terms

For the purposes of this Act

- (a) biological material means any material containing genetic information and capable of reproducing itself or being reproduced in a biological system,
- (b) a microbiological process means any process involving or performed upon or resulting in microbiological material,
- (c) an essentially biological process for the creation of plants or animals means a process based entirely on natural phenomena, such as crossing or selection,
- (d) reproduction means generative or vegetative reproduction,
- (e) a European patent application means an application for a European patent filed under the Convention on the Grant of European Patents concluded in Munich on October 5, 1973 (hereinafter referred to as the "European Patent Convention"),
- (f) a European patent means a patent granted by the European Patent Office under the European Patent Convention,
- (g) an international application means an application filed under the Patent Cooperation Treaty, 1)
- (h) commercial exploitation of a patent or an invention means any activity in relation to the patent as a subject-matter of a right or in relation to the invention as the subject-matter of the patent performed by the patent owner or another authorized person with the aim of making a profit.

## PART TWO

### PATENTS FOR INVENTIONS

#### § 4

The Industrial Property Office of the Slovak Republic (hereinafter referred to as the "Office") shall grant patents for inventions that meet the terms and conditions established by this Act.

#### § 5

##### Patentability of inventions

(1) Patents shall be granted for inventions, in all fields of technology that are new, involve an inventive step and are susceptible of industrial application.

(2) Patents pursuant to subsection 1 shall be also granted for biotechnological inventions which concern a product consisting of or containing biological material or a process by means of which biological material is produced, processed or used, even if the invention concerns

(a) biological material which is isolated from its natural environment or produced by means of a technical process even if it previously occurred in nature,

(b) plants or animals if the technical feasibility of the invention is not confined to a particular plant or animal variety, 2)

(c) a microbiological or other technical process, or a product obtained by means of such a process,

(d) an element isolated from the human body or otherwise produced by means of a technical process, including the sequence or partial sequence of a gene, even if the structure of that element is identical to that of a natural element.

(3) The following in particular shall not be regarded as inventions within the meaning of subsection 1

(a) discoveries, scientific theories and mathematical methods,

(b) aesthetic creations,

(c) schemes, rules and methods for performing mental acts, playing games or doing business,

(d) programs for computers,

(e) presentations of information.

(4) Subsection 3 shall exclude the patentability of the subject-matter or activities referred to therein only to the extent to which a patent relates to such subject-matter or activities as such.

#### § 6

##### Exceptions to patentability

(1) Patents shall not be granted in respect of

(a) plant varieties and animal varieties,

(b) essentially biological processes for the creation of plants or animals,

(c) methods for treatment of the human or animal body by surgery or therapy and diagnostic methods and disease prevention methods practiced on the human or animal body. This provision shall not apply to products, in particular substances or compositions, for use in any of the said methods of treatment, diagnostics or disease prevention,

(d) inventions that relate to the human body, at various stages of its formation and development, and the simple discovery of one of its elements, including the sequence or partial sequence of a gene, with the exception of section 5(2)(d)

(e) inventions the commercial exploitation of which would be contrary to "ordre public" or morality. The mere prohibition of the exploitation of the invention by law shall not be deemed contrary to "ordre public" or morality within the meaning of this provision.

(2) Pursuant to subsection 1 paragraph (e) patents shall not be granted in particular in respect of

(a) processes for cloning human individuals,

(b) processes for modifying the germ line genetic identity of human beings,

(c) uses of human embryos for industrial or commercial purposes,

(d) processes 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 processes.

#### § 7

##### Novelty

(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 anywhere in any way before the date from which an applicant enjoys a priority right (section 36).

(3) The contents of patent applications and utility model applications filed in the Slovak Republic with an earlier priority right shall also be considered state of the art, if they are published in the Official Gazette of the Industrial Property Office of the Slovak Republic (hereinafter referred to as "Official Gazette") on or after the day from which the applicant enjoys the priority right. This shall also apply to international applications with designation for the Slovak Republic, where the publication of the international application shall mean publication in the Official Gazette (section 41), and to European patent applications with designation for the Slovak Republic (hereinafter referred to as "European patent application"), where the publication of the European patent application shall mean publication pursuant to Article 93 or Article 153 of the European Patent Convention. A classified application (section 59(10)) shall be considered published for the purpose of this provision after the expiry of 18 months from the date of the creation of the priority right.

(4) A disclosure of an invention shall not be considered state of the art if it occurred not earlier than six months preceding the filing of the patent application and if it directly or indirectly results from

(a) an evident abuse in relation to an applicant or his legal predecessor,

(b) the fact that the applicant or his legal predecessor has displayed the invention at an official or officially recognized exhibition pursuant to an international convention.<sup>3)</sup> In this case, the applicant is obliged to state, when filing the application, that the invention has been so displayed and within 4 months of filing the application he shall file a certificate of displaying the invention

pursuant to an international convention. 3)

- (5) Subsections 1 to 3 shall not exclude the patentability of substances or compositions which are
- (a) comprised in the state of the art, for their use in methods referred to in section 6(1)(c), provided that such use is not comprised in the state of the art,
  - (b) referred to in subparagraph a) for any specific use thereof in methods referred to in section 6(1)(c), provided that such specific use is not comprised in the state of the art.

## § 8

### **Inventive step**

(1) An invention shall be considered as involving an inventive step if it does not follow from the state of the art in an obvious way for a person skilled in the art.

(2) When assessing the inventive step, the contents of applications, European patent applications and utility model applications that have not been published as of the date from which the applicant enjoys the right of priority shall not be taken into account (section 41 or section 60(2)).

## § 9

### **Industrial application**

An invention shall be considered as susceptible of industrial application if it can be made or used in any industry, especially in the industrial industry or in agriculture.

### **Heading repealed as of January 1, 2018**

## § 10

### **Inventor**

(1) The right to a solution, including the right to file an application (hereinafter referred to as the "right to a solution"), shall belong to the inventor of the invention (hereinafter referred to as the "inventor"), unless section 11 provides otherwise.

(2) The inventor is the one who created the invention through his own creative activity.

(3) Co-inventors of the invention (hereinafter referred to as "co-inventors") shall have the right to a solution to the extent that they have participated in the creation of the invention. Unless the co-inventors agree otherwise or unless the court decides otherwise, it holds that the share of the co-inventors in the creation of the invention is identical.

(4) If an invention has been created by several persons independently of each other, the right to a solution shall belong to the one who has the earlier priority right (section 36). This applies only if the application has been published according to section 41 or section 60(2).

## § 11

### **Employee invention**

(1) If the inventor has created an invention as part of the performance of tasks resulting from a labor law relationship, a similar work-related relationship or a membership relationship (hereinafter referred to as "employee invention"), the right to a solution belongs to the employer, unless the participants of this relationship have agreed otherwise. This does not affect the right to inventorship.

(2) An inventor having created an employee invention is obliged to notify the employer of this fact in writing without delay, and at the same time to hand over to him all the documents necessary for the assessment of the invention. In the notification, the inventor shall describe the technical problem and its solution, as well as the origin and essence of the employee invention so that a person skilled in the art can implement the invention.

(3) The employer may exercise the right to a solution against the inventor in writing within a period of three months from the notification by the inventor pursuant to subsection 2. The filing of an application, a European patent application or an international application, the subject-matter of which is an employee invention and in which the inventor who created the employee invention is listed as the inventor shall be also considered an exercise of the right to a solution pursuant to the preceding sentence. If the employer exercises the right to a solution, he is obliged to immediately inform the inventor in writing about the chosen method of protection of the employee invention, in particular about the filed application, European patent application or international application.

(4) If the employer does not exercise the right to a solution in the manner referred to in subsection 3 within the period pursuant to subsection 3 or notifies the inventor in writing within this period that he does not exercise the right to a solution, this right shall be transferred to the inventor.

(5) Until the expiry of the deadline for exercising the right to a solution pursuant to subsection 3 or until exercise of the right to a solution pursuant to subsection 3 or until the transfer of the right to a solution to the inventor pursuant to subsection 4, whichever occurs first, the employer and the inventor are obliged to maintain confidentiality towards third parties about the employee invention. If the employer has exercised the right to a solution within the period pursuant to subsection 3, the inventor is obliged to maintain confidentiality about the employee invention towards third parties until the invention is made available to the public in accordance with this Act, the European Patent Convention or the Patent Cooperation Treaty or until it is made available to the public with the employer's consent, whichever occurs first. If the right to a solution has been transferred to the inventor in accordance with subsection 4, the employer is obliged to maintain confidentiality about the employee invention towards third parties until it is made available to the public in accordance with the previous sentence.

(6) The inventor, against whom the employer has exercised the right to a solution pursuant to subsection 3, has the right to an adequate remuneration in relation to the employer. When determining the amount of remuneration, the technical and economic significance of the employee invention and the benefit that can be achieved through its exploitation or other application are decisive, taking into account the employer's material share in the creation of the employee invention and the scope and contents of the inventor's work tasks. The remuneration shall be payable within one month from the exercise of the right to a solution.

(7) If the remuneration under subsection 6 does not correspond to the benefit achieved by the later exploitation or

another application of the employee invention, or if the remuneration has been determined by the employer as a lump sum without taking into account the conditions under subsection 6, the inventor has the right to an additional settlement. After the expiration of three years from the exercise of the right to a solution, the employer, based on the inventor's written request, is obliged to provide the inventor with the source documents necessary to determine the amount of the additional settlement. If the employer provides the inventor with information marked by the employer as confidential, the inventor is obliged to keep it confidential towards third parties and must not use it for himself contrary to the purpose for which the employer provided it to him. The inventor can exercise the right to additional settlement at the earliest after three years have passed since the employer exercised the right to a solution. The right to additional settlement does not expire before the protection of the employee invention lasts.

(8) The rights and obligations under subsections 1 to 7 remain unaffected after the termination of the legal relationship between the inventor and the employer.

(9) Co-inventors have the right to an adequate remuneration pursuant to subsection 6 and the right to additional settlement pursuant to subsection 7 to the extent that they have participated in the creation of the employee invention. Unless the co-inventors have agreed otherwise or unless a court has decided otherwise, it holds that the share of the co-inventors in the creation of the employee invention is identical.

(10) Provisions of the Civil Code shall apply to legal relationships arising from an employee invention, unless otherwise provided in subsections 1 to 9.

## § 12

### **Transfer and assignment of the right to a solution**

(1) The right to a solution, apart from the right to inventorship, also belongs to the legal successors of the persons specified in section 10(1) and (3) or in section 11(1) and (4).

(2) The right to a solution is transferred to another person in cases established by special pieces of legislation.<sup>4</sup>

(3) The contract for the assignment of the right to a solution must be in writing, otherwise it is invalid.

(4) The assignment or transfer of the rights resulting from the application occurs simultaneously with the assignment or transfer of the right to a solution, which takes place after the application has been filed.

## § 13

### **Scope of protection**

(1) The scope of protection conferred by a patent shall be determined by the contents of the patent claims. The description of the invention and the drawings shall also be used for the interpretation of the patent claims.

(2) The scope of the protection resulting from the application shall be preliminarily determined by the contents of the patent claims published pursuant to section 41. A granted patent or a partially revoked patent shall determine the scope of this preliminary protection retroactively; this does not apply if the patent confers a broader protection than from the published application.

(3) The protection conferred by a patent granted for a process shall also apply to the product directly obtained by such process.

(4) The protection conferred by a patent granted for biological material with specific properties resulting from the invention also applies to any other biological material derived from the original biological material in the form of reproduction in an identical or different form with the same properties.

(5) Protection conferred by a patent granted for a process enabling the production of biological material with specific properties resulting from the invention also applies to biological material obtained directly by a protected process, as well as to any other biological material derived from directly obtained biological material in the form of reproduction in an identical or different form with the same properties.

(6) Protection conferred by a patent granted for a product containing genetic information or consisting in genetic information applies to all material in which the product is incorporated and in which the genetic information is contained and performs its functions. This does not apply to the case under section 6(1)(d).

(7) A product identical to a product protected pursuant to subsections 3 and 5 shall be considered a product directly obtained by a protected process, unless the contrary is proven.

## § 14

### **Exploitation of the invention**

(1) The patent owner (section 19) shall have the exclusive right to exploit the invention, to give consent for the exploitation of the invention, to assign the patent to another person or to establish a right of pledge with respect to the patent.

(2) The patent shall be effective from the date of the announcement of the grant of the patent in the Official Gazette.

## § 15

### **Prohibition of the exploitation of the invention**

(1) Without the consent of the patent owner, no one may

(a) produce, exploit, use, offer or place on the market, or for this purpose store or import a product that is the subject-matter of a patent,

(b) use a production process that is the subject-matter of a patent (hereinafter referred to as "protected process") or offer such a protected process for use to another person,

(c) produce, exploit, use, offer or place on the market, or for this purpose store or import a product directly obtained in a protected process,

(d) deliver or offer for delivery to a person who is not authorized to use the invention the means used for the implementation of the invention, if the infringer knows or, taking into account the circumstances, should know that these means are intended or suitable for the implementation of the invention; this does not apply if these means are available on the market and the supplier did not instigate the unauthorized person to act contrary to paragraphs (a) to (c).

(2) The applicant also has exclusive rights pursuant to subsection 1, starting from the date of publication of the

application in the Official Gazette, provided that a patent has been granted for an invention that is the subject-matter of the application. However, asserting these rights against third parties is only possible from the date on which the effects of the patent begin.

## § 16

### Exhaustion of rights

(1) The patent owner does not have the right to prohibit third parties from disposals of the product that is the subject-matter of patent protection after this product has been placed on the market by the patent owner or with his express consent in a member state of the European Union or a state that is a party to the Agreement on the European Economic Area; this does not apply if there are reasons for extending the rights resulting from the patent to such disposals.

(2) Subsection 1 also applies to biological material obtained by reproduction of protected biological material, provided that such reproduction necessarily results from the use for which the biological material has been placed on the market, if the biological material thus obtained is not subsequently used for its further reproduction.

(3) The acquisition of protected plant reproduction material by a grower within a business relationship with the patent owner or with his consent includes the grower's right to use the product of his work to reproduce this product in his farm. To determine the scope of the grower's right according to the first sentence and the conditions for the exercise of this right, the provisions of a special piece of legislation shall be used *mutatis mutandis*. 6(a)

(4) The acquisition of protected animal reproduction material by a breeder within the framework of a business relationship with the patent owner or with his consent includes the right of the breeder to use protected livestock for agricultural purposes, including the use of animal reproduction material to carry out the breeder's agricultural activities, with the exception of the sale of animal reproduction material in connection with business or for the purpose of business<sup>5)</sup> in the form of subsequent reproduction activity.

### Limitation of the effects of the patent

## § 17

(1) A right of the patent owner cannot be exercised against a person who, prior to the emergence of the priority right (section 36), exploited the invention in good faith on the territory of the Slovak Republic or carried out demonstrable preparations directly aiming at the exploitation of the invention independently of the inventor or the patent owner (hereinafter referred to as "prior user"). In case of doubts, the prior user's actions are considered to be in good faith until proven otherwise.

(2) The assignment or transfer of the prior user's right to exploit the invention under subsection 1 shall be possible exclusively as part of the transfer or passage of the business enterprise or its part within which the invention is being exploited.

## § 18

(1) The rights of the patent owner are not violated if the invention is exploited

- (a) on vessels of other countries that are members of an international convention<sup>6)</sup> or members of the World Trade Organization<sup>7)</sup> (hereinafter referred to as "Union countries") of which the Slovak Republic is a member, in the vessel's hull, in the machinery, in the vessel's equipment, in the devices and other accessories, if those vessels temporarily or accidentally enter the territory of the Slovak Republic and the invention is used exclusively for the needs of the vessel,
- (b) in the construction or operation of aircraft or vehicles of the Union countries, or in the case of parts or other accessories of these aircraft or vehicles, if they temporarily or accidentally enter the territory of the Slovak Republic,
- (c) when carrying out activities pursuant to an international contract,<sup>8)</sup> if these activities concern the aircraft of the state that enjoys the advantages of this contract,
- (d) in individual preparation of a medicine in a pharmacy on the basis of a medical prescription or during activities related to the medicine prepared in this way,
- (e) in activities carried out privately and for non-commercial purposes,
- (f) in activities carried out for experimental purposes, which also includes studies and tests necessary for the registration proceedings pursuant to a special piece of legislation. 8(a)

(2) Persons using the invention under subsection 1(d) to (f) are not considered to be persons authorized to exploit the invention under section 15(1)(d).

## § 19

### Patent owner

Patent owner shall mean the legal entity or natural person registered as the owner in the Patent Register of the Office (hereinafter referred to as the "Register"), unless a court decides otherwise.

## § 20

### Co-ownership of a patent

(1) The co-ownership share in a patent is derived from the extent of the right to a solution, unless the co-owners of the patent agree otherwise.

(2) On the basis of a request documented by a written agreement concluded between the patent owner or all co-owners of the patent and the person who has the right to a solution under section 10 to 12, the Office will enter such a person in the Register as a co-owner of the patent.

(3) Each of the co-owners of the patent has the right to exploit an invention which is the subject-matter of the patent, unless the co-owners of the patent agree otherwise. In case of unauthorized interference with the exclusive rights pursuant to section 15, each of the co-owners of the patent can assert claims pursuant to section 32 by a court action in accordance with the Code of Contentious Civil Procedure or by a motion according to a special piece of legislation.<sup>8b)</sup> As soon as the proceedings according to the previous sentence started or have been finally ended, court actions in accordance with the Code of Contentious Civil Procedure or motions according to a special piece of legislation<sup>8b)</sup> of other co-owners of the patent for the same claims from the same unauthorized interference are not permissible; this is without prejudice to the right of those co-owners of the

patent to intervene in the initiated proceedings as the plaintiff. Final decisions on claims pursuant to section 32(1) issued on the basis of a court action of even one co-owner of the patent are also binding for other co-owners of the patent; this does not affect the right of co-owners of the patent to assert claims in accordance with section 32(2).

(4) Granting the right to exploit an invention protected by a patent to a third party requires the consent of all co-owners of the patent, unless the co-owners of the patent agree otherwise; this does not affect the right of co-owners to disposals of their co-ownership share in accordance with section 21 to 23.

(5) The agreement on cancellation of co-ownership of the patent and mutual settlement must be in writing, otherwise it is invalid. The agreement according to the first sentence shall acquire legal effects vis-à-vis third parties on the day of entry into the Register.

(6) If the co-owner of the patent has no legal successor, after the death or cessation of the existence of the co-owner of the patent, his share shall be transferred to the other co-owners of the patent in a proportion corresponding to their co-owner shares; this also applies if the patent co-owner gives up his share.

(7) Subsections 1 to 6 shall be applied mutatis mutandis to legal relationships between co-applicants.

(8) The provisions of the Civil Code on ownership in common<sup>9)</sup> shall be applied mutatis mutandis to the legal relationships between the co-owners of the patent, unless subsections 1 to 7 provide otherwise.

## § 21

### Patent assignment

(1) A contract for the assignment of a patent must be in writing, otherwise it is invalid. A partial assignment of a patent is not permissible.

(2) The assignment of a patent shall acquire legal effects vis-à-vis third parties on the date of entry of the assignment of the patent in the Register. The rights of third parties acquired prior to the date of the entry of the assignment of the patent in the Register shall remain preserved.

(3) The entry of the assignment of a patent in the Register shall be carried out by the Office on the basis of a request for the entry of the assignment of a patent, which any of the parties to the contract on the assignment of the patent is authorized to file. The Office shall refuse a request for the entry of the assignment of a patent unless the requester attaches documents proving the assignment of the patent to the request; before deciding on the refusal of the request for the entry of the assignment of the patent, the Office shall allow the requester to comment on the established reasons on the basis of which the request for the entry of the assignment of the patent is supposed to be refused.

(4) The acquirer of the patent may perform acts towards the Office only after receiving the request for the entry of the assignment of the patent; this does not apply to filing a request pursuant to subsection 3 and paying a patent maintenance fee according to a special piece of legislation<sup>9a)</sup> (hereinafter referred to as "maintenance fee").

(5) Subsections 1 to 4 shall also be applied mutatis mutandis to the assignment of rights resulting from the application.

## § 22

### Patent transfer

(1) A patent is transferred to a new owner by registration in another person's name pursuant to section 48 and in cases stipulated by special pieces of legislation.<sup>4)</sup>

(2) The transfer of the patent shall acquire legal effects vis-à-vis third parties on the date of the entry of the transfer of the patent in the Register. The rights of third parties acquired prior to the date of transfer of the patent shall remain preserved; this does not apply in the case of a registration in another person's name pursuant to section 48.

(3) The entering of the transfer of a patent in the Register shall be carried out by the Office on the basis of a request of the original patent owner or on the basis of a request of the new patent owner. The Office shall refuse the request for entry of the transfer of the patent unless the requester attaches to the request the documents proving the transfer of the patent; before deciding on the refusal of the request for the entry of the transfer of the patent, the Office shall allow the requester to comment on the established reasons on the basis of which the request for the entry of the transfer of the patent is supposed to be refused.

(4) The new patent owner may perform acts towards the Office only after the request for the entry of the transfer of the patent has been delivered; this does not apply to request filings under subsection 3 and to the payment of the maintenance fee.

(5) Subsection 1 to 4 shall also be applied mutatis mutandis to the transfer of rights resulting from the application.

## § 23

### Right of pledge

(1) A right of pledge may be established for a patent. The establishment of a right of pledge with respect to a part of the patent is not permissible.

(2) The contract on the establishment of a right of pledge with respect to a patent must be in writing, otherwise it is invalid.

(3) At the request of the pledgee or at the request of the pledgor, the Office shall enter the right of pledge in the Register. The Office shall refuse the entry of the right of pledge with respect to the patent unless the requester attaches to the request the documents proving the transfer of the patent; before deciding on the refusal of the request for the entry of the right of pledge with respect to the patent, the Office shall allow the requester to comment on the established reasons on the basis of which the request for the entry of the right of pledge with respect to the patent is supposed to be refused.

(4) Subsections 1 to 3 shall also apply mutatis mutandis to the right of pledge with respect to the application and to the right of pledge with respect to the patent that will be granted in the future<sup>10)</sup> (hereinafter referred to as "right of pledge with respect to the application"). The grant of a patent does not affect the entry of the right of pledge with respect to an application and is considered to be an entry of a right of pledge with respect to the patent, unless otherwise agreed in the contract for the establishment of the right of pledge or if it does not follow otherwise from the decision by which the right of pledge has been established. A modification or division of the application (section 45) does not affect the entry of the right of pledge with respect to the application; in the case of a division of the application (section 45(2)), the Office shall enter a right of pledge also with respect to divisional applications.

(5) Provisions of the Civil Code shall apply to the creation, termination and exercise of a right of pledge with respect to a patent,<sup>11)</sup> unless otherwise provided in subsections 1 to 4.

## § 24

### License contract

(1) The patent owner may grant another person the right to exploit an invention protected by a patent (hereinafter referred to as the "license") by means of a license contract.

(2) The license shall acquire legal effects vis-à-vis third parties on the date of entry into the Register. The entry of the license shall be carried out by the Office based on a request for the entry of the license, which any of the parties to the license contract is authorized to file. The Office shall refuse the entry of the license unless the requester attaches to the request the documents proving the license; before deciding on the refusal of the request for the entry of license, the Office shall allow the requester to comment on the established reasons on the basis of which the request for the entry of the license is supposed to be refused.

(3) The patent owner may grant an exclusive license or a non-exclusive license by means of a license contract. Unless it has been agreed in the license contract that the patent owner has granted an exclusive license, it holds that he has granted a non-exclusive license.

(4) If the patent owner has granted an exclusive license, he must not grant the license to a third party and is obliged, unless otherwise agreed in the license contract, to refrain from using the invention protected by the patent himself.

(5) If the patent owner has granted a non-exclusive license, his right to exploit the invention (section 14) and his right to grant a license to a third party are not affected.

(6) A license contract by which the patent owner granted a license to a third party is invalid if the licensee of the previously granted exclusive license has not given prior written consent to conclude such license contract.

(7) The assignment or transfer of the right of the licensee is possible exclusively as part of an assignment or transfer of a business enterprise or its part within which the invention is used on the basis of a license, unless the license contract stipulates otherwise.

(8) Unless otherwise agreed, in the event of unauthorized interference with exclusive rights pursuant to section 15, the licensee of a non-exclusive license, on his own behalf and on his own account, can assert claims pursuant to section 32 by means of a court action pursuant to the Code of Contentious Civil Procedure or a motion pursuant to a special piece of legislation<sup>9b)</sup> only with the consent of the patent owner; the licensee of an exclusive license can do so if the patent owner, after a written notification, does not assert claims pursuant the Code of Contentious Civil Procedure pursuant to section 32(1). The provisions of the previous sentence do not affect the rights and obligations of the patent owner and licensee under the Commercial Code<sup>12)</sup> nor the right of the licensee to intervene in proceedings initiated by the patent owner as an intervener.

(9) Subsections 1 to 8 shall also apply mutatis mutandis to the license contract by which the applicant grants authorization to exploit the invention being the subject-matter of the application (hereinafter referred to as the "license for the application"). The granting of a patent does not affect the entry of a license for the application and it shall be considered an entry of a license in accordance with subsection 2, unless otherwise agreed in the license contract. A modification or division of the application (section 45) does not affect the entry of the license for the application; in the case of a division of the application (section 45(2)), the Office shall also enter a license for the divisional applications.

(10) Provisions of the Commercial Code<sup>12a)</sup> shall apply to the creation, termination and exercise of the rights resulting from a license contract, unless otherwise provided in subsections 1 to 9.

### License offer

## § 25

(1) If the applicant or patent owner (hereinafter referred to as the "licensor") files a written statement at the Office that he will grant anyone the right to exploit the invention for an adequate compensation (hereinafter referred to as the "license offer"), the Office shall enter the license offer in the Register.

(2) The license offer may be withdrawn until the licensor receives a written notification of acceptance of the license offer.

(3) If the licensor does not withdraw the license offer, it is not possible to enter an exclusive license in the Register.

(4) The statement on the license offer cannot be filed if an exclusive license has been entered in the Register.

(5) On the date of the entry of the patent owner's assignment in the Register pursuant to section 48, it holds that the license offer has been withdrawn if the new patent owner does not deliver to the Office a written request to maintain the license offer within 30 days from the date of entry of the registration in another person's name.

## § 26

(1) The right to exploit the invention shall arise to the person who accepts the license offer and notifies thereof the provider as well as the Office in writing.

(2) A license obtained pursuant to subsection 1 shall be considered a contractual non-exclusive license concluded for an indefinite period and valid on the territory of the Slovak Republic.

(3) If, despite attempts, no agreement has been reached between the participants of the created licensing relationship on a compensation for the granted license, the amount of an adequate compensation, as well as the payment conditions, shall be determined by a court upon proposal of one of the participants of the licensing relationship, taking into account the significance of the invention and the usual license prices in the given area. In the event of a substantial change in the circumstances decisive for the determination of an adequate compensation, the court may, upon proposal of one of the participants of the licensing relationship, change the amount of compensation originally agreed or determined by the court or the terms of payment, if, despite attempts, no agreement has been reached between the participants.

### Compulsory license

## § 27

(1) Upon motion, a court may grant a compulsory license to anyone who demonstrates the ability to use the invention, which is the subject-matter of the granted patent, on the territory of the Slovak Republic, provided that

(a) four years have passed since the filing of the application, or three years since the grant of the patent, whichever expires later,

(b) the movant for the granting of the compulsory license gave the patent owner, prior to filing the motion, a proper offer to

conclude a license contract and this offer was not accepted by the patent owner within three months of its filing, and  
(c) the invention is not used on the territory of the Slovak Republic without adequate reason on the part of the patent owner or is exploited insufficiently, and the subject-matter of the patented invention is not supplied as a product to the market of the Slovak Republic in sufficient quantities. Absence of a reasonable cause is presumed until proven otherwise.

(2) A compulsory license can only be granted as a non-exclusive license and its duration and scope shall be limited to the purpose for which it is granted, with the condition of preferential satisfaction of the needs of the domestic market.

(3) If the subject-matter of a patent is the technology of semiconductor products, a compulsory license can only be granted for public non-commercial exploitation or to prevent further actions of the patent owner, which, based on a decision of the competent authority, can be considered actions that abuse or restrict economic competition,<sup>13)</sup> or in the event of a threat to an important public interest.

(4) In the event of a threat to an important public interest, a compulsory license may be granted regardless of subsection 1(a) and (b).

(5) Regardless of the prerequisites pursuant to subsection 1 and the conditions pursuant to subsection 2, a court may, upon motion, grant a forced non-exclusive license for the exploitation of a biotechnological invention, if the breeder<sup>2)</sup> cannot use or acquire the right to a plant variety without infringing an earlier right to the patent, if the movant proves that

(a) before filing the motion he gave the patent owner a proper offer to conclude the license contract and the patent owner did not accept this offer within three months of its filing, and

(b) the plant variety represents an important technical progress of significant economic importance comparable to the invention that is the subject-matter of the motion for the granting of the compulsory license.

(6) In the case of the granting of a compulsory license according to subsection 5, the patent owner has the right to grant a compulsory cross-license for the use of a plant variety pursuant to a special piece of legislation.<sup>2)</sup>

(7) If a patent owner has been granted a compulsory license for the exploitation of a plant variety pursuant to a special piece of legislation,<sup>13a)</sup> the holder of a cultivator certificate has the right to be granted a compulsory cross-license for the exploitation of the biotechnological invention.

(8) The assignment or transfer of the right of the licensee of the compulsory license is possible only as part of the assignment or transfer of the business enterprise or its part within which the invention is exploited on the basis of the compulsory license.

(9) The licensee of a compulsory license may waive the rights resulting from the compulsory license by a written notification delivered to the Office. The waiver of the right shall take effect as from the date of delivery of the notification to the Office or the later date specified in the notification as the date on which the licensee of the compulsory license waives his rights.

#### § 28

(1) The granting of a compulsory license does not affect the patent owner's right to an adequate compensation; for the purpose of determining the compensation for the exploitation of the invention, which is the subject-matter of the compulsory license, section 26(3) shall apply *mutatis mutandis*.

(2) In the event of a substantial change in the circumstances that led to the granting of the compulsory license, a court may, upon motion of one of the participants of the licensing relationship, cancel the decision on the granting of the compulsory license, provided that the re-occurrence of the reasons for the granting of a compulsory license is unlikely or that the rights resulting from the compulsory license have not been used during one year.

(3) The Office shall enter the valid decision on the granting and cancellation of the compulsory license in the Register without undue delay.

#### § 29

##### **Patent validity**

A patent is valid for 20 years from the date of filing the application (section 35).

#### § 30

##### **Patent surrender**

(1) The patent owner may surrender the patent by written notification delivered to the Office. A partial surrender of a patent is not permissible.

(2) The surrender of a patent becomes effective on the date of delivery of the notification pursuant to subsection 1 to the Office or a later day, which is indicated in the notification as the date on which the owner surrenders the patent.

(3) The surrender of a patent, to which the rights of third parties entered in the Register are attached, becomes effective only upon submission of the written consent of the person whose rights and legitimate interests may be affected by the termination of the patent. The same applies in the case of the existence of a litigation entered in the Register, the subject-matter of which is the right to a solution, until the expiration of six months of the date of finality of the court's decision.

#### § 31

##### **Termination of the patent**

(1) A patent shall terminate

(a) upon expiry of its term,

(b) upon expiry of the time limit set for the payment of the maintenance fee,

(c) on the effective date of patent surrender pursuant to section 30(2).

(2) The time limit for the payment of the maintenance fee shall be interrupted on the date of delivery of the request for the entry of the litigation on the right to a solution in the Register (section 50(4)) until the expiration of six months from the date of finality of the court's decision.

(3) repealed as of January 1, 2008

(4) repealed as of January 1, 2008.

##### **Enforcement of rights**

#### § 32



### Heading repealed as of January 1, 2018

(1) In the case of unauthorized interference with exclusive rights pursuant to section 15, the patent owner may demand, in particular, that the violation of the right or the endangering of the right be prohibited and the consequences of this interference be removed.

(2) If damage has been caused by interference with the rights pursuant to subsection 1, the patent owner has the right to compensation for the damage, including lost profit. If non-proprietary damage has been caused by interference with the rights pursuant to subsection 1, the patent owner has the right to adequate satisfaction, which may also be monetary performance.<sup>13b)</sup> The right to the recovery of property obtained as a result of unjust enrichment as a result of interference with the rights under subsection 1 is not affected by this.

(3) The right to compensation for damages or the right to adequate satisfaction in money pursuant to subsection 2 shall become time-barred three years from the date the patent owner becomes aware of the damage or non-proprietary damage and of who is responsible for it; when exercising the rights pursuant to section 15(2) there will be no time bar earlier than three years of the date on which the effects of the patent begin. At the latest, the right to compensation for damages or the right to adequate satisfaction in money pursuant to subsection 2 shall be time-barred five years, and in the case of damage or non-proprietary damage caused intentionally, ten years from the day when the rights pursuant to subsection 1 were interfered with, or from the date from which the effects of the patent take effect, whichever of these facts occurs later.

(4) The right to the recovery of property obtained as a result of unjust enrichment pursuant to subsection 2 shall become time-barred three years after the patent owner learns that unjust enrichment has occurred and who has enriched himself at his expense; when exercising the rights pursuant to section 15(2) the time bar shall not occur earlier than three years from the date on which the effects of the patent begin. At the latest, the right to the recovery of property obtained as a result of unjust enrichment pursuant to subsection 2 shall be time-barred five years, and in the case of intentional unjust enrichment, ten years from the date when the rights pursuant to subsection 1 have been interfered with or from the date from which the effects of the patent begin, whichever of these facts occurs later.

(5) Provisions of the Civil Code shall apply to legal relationships that have arisen as a result of the interference with rights pursuant to subsection 1, unless otherwise provided in subsections 1 to 4.

### § 32a

#### Right to information

(1) In the case of unauthorized interference with the rights protected by this Act, the patent owner may request that the person who violates or endangers his rights provide him with information regarding the origin of the product or services and the circumstances of their placing on the market.

(2) The information pursuant to subsection 1 shall contain in particular

(a) the first and last name or name and permanent residence, place of business or registered office of the manufacturer, processor, storer, distributor, supplier, seller, intended seller and other previous holders of the product or service provider, (b) data on the produced, processed, delivered or ordered quantity and the price of the respective products or services.

(3) A person who

(a) possesses products that violate rights pursuant to this Act, (b) uses services that violate rights pursuant to this Act, (c) provides services used in activities related to a violation of rights pursuant to this Act, or (d) has been designated by a person mentioned in paragraphs (a) to (c) as a person involved in the production, processing or distribution of products or the provision of services violating rights pursuant to this Act, is also obliged to provide information pursuant to subsections 1 and 2.

(4) The court shall not grant the right to provide information if the possible consequences of its exercise would be disproportionate to the seriousness of the consequences resulting from the fulfillment of the imposed obligation.

### Heading repealed as of January 1, 2018

### § 33

#### Judicial protection of rights

(1) Disputes about rights under this Act shall be discussed and decided by courts<sup>13c)</sup>, unless this Act provides otherwise.

(2) Upon motion, a court shall order that products, materials or instruments through which a violation of the law or endangering of the law directly occurs be

(a) recalled from the channels of commerce, (b) definitively removed from the channels of commerce, (c) otherwise secured in a manner preventing further violations or endangering of the law, (d) destroyed in an appropriate manner.

(3) Measures pursuant to subsection 2 shall be carried out at the expense of the person violating or endangering the rights protected by this Act, unless special circumstances justify a different procedure.

(4) The motion pursuant to subsection 2(d), in the part concerning the method of destruction, it is not binding on the court.

(5) Upon motion, a court may request from the Office an expert opinion<sup>13d)</sup> on questions related to the scope of protection resulting from the specific patent (section 13).

### § 34

#### Security on the part of the movant for a preliminary injunction

(1) In the resolution ordering a preliminary injunction,<sup>14)</sup> a court may, even without a motion, impose on the movant the obligation to post monetary security in an adequate amount or make the enforceability of the preliminary injunction conditional on the posting of a monetary security. When deciding on the amount of the monetary security, the court shall take into account the extent of the damage or other loss that may be incurred by the other party, as well as the movant's possibilities

in terms of property, providing that the imposition of the obligation to post security must not be a significant obstacle to an effective application of the law.

(2) A final legally awarded compensation for damages or other loss shall be satisfied from the posted security pursuant to subsection 1.<sup>14a)</sup> The obligation to compensate for damage or other loss that has not been satisfied from this security shall not be affected by this.

(3) The court shall return the posted security pursuant to subsection 1 or its proportional part to the movant, if  
(a) the injured party does not assert a claim for compensation for damages or other loss<sup>14a)</sup> in court within six months from the date on which the injured party became aware of the occurrence of the damage or other loss, but no later than three years from the order of the preliminary injunction,

(b) an agreement of the parties on the use of monetary security has been presented to the court or

(c) the movant has succeeded, wholly or partially, in rem.

## **PART THREE**

### **PROCEEDINGS BEFORE THE OFFICE**

#### **§ 35**

##### **Application filing date**

(1) The application proceedings begin with the filing of the application at the Office.

(2) Unless otherwise stated below, the application filing date shall be deemed to be the date of delivery or supplementing of the filing which contains at least

(a) data from which the intention of the applicant to file the application is obvious,

(b) data enabling the identification of the applicant and contact with the applicant,

(c) the part that appears as a description.

(3) The obligation of the applicant to make a filing in the state language (section 79(12)) does not apply for the purpose of determining the application filing date in relation to the data pursuant to subsection 2(c).

(4) If the Office finds out that the application does not meet the requirements pursuant to subsection 2(c) or is incomplete, it shall call upon the applicant to supplement the application within a period that cannot be shorter than two months. If the applicant does not comply with the request of the Office pursuant to the previous sentence, the application shall be considered not filed, and the Office shall notify the applicant of this.

(5) In the case under subsection 4, the application filing date shall mean the date of supplementation of the missing part of the filing.

(6) The determination of the application filing date pursuant to subsection 5 shall not apply if

(a) the priority right pursuant to section 36(2) was exercised in the original filing and - simultaneously with supplementing the missing part of the description or the missing drawing, which the applicant is obliged to supplement no later than two months after the original filing - the applicant requests that the date of the application be determined as at the date of the original filing, or

(b) after supplementing the filing due to incompleteness pursuant to subsection 4, the applicant withdraws his filing in the part thus supplemented before publication of the application.

(7) The applicant may request the determination of the application filing date as at the date of the original filing pursuant to subsection 6(a), if the missing part of the description or the missing drawing were the contents of the first application.

#### **§ 35a**

(1) When filing an application, the applicant may replace the part of the filing pursuant to section 35(2)(c) with a reference to the first application, if he has exercised the priority right pursuant to section 36(2) in the application.

(2) The reference to the first application pursuant to subsection 1 shall contain

(a) an express declaration of the will of the applicant that he is replacing the part of the filing pursuant to section 35(2)(c) with a reference to the first application,

(b) the number of the first application,

(c) the date of filing of the first application,

(d) the state in which the first application has been filed, or the authority to which the first application has been filed.

(3) The applicant is obliged to submit a copy of the first application within two months based on a call of the Office; if the first application is not in the state language, the applicant is obliged to submit also its translation into the state language within two months based on a call of the Office.

(4) If the reference to the first application pursuant to subsection 1 does not contain the requirements pursuant to subsection 2 or the applicant does not comply with the call of the Office pursuant to subsection 3, the application shall be considered unfiled. If the application is considered unfiled, the Office shall notify the applicant of it.

#### **§ 36**

##### **Priority right**

(1) The priority right shall arise for the applicant

(a) on the application filing date or

(b) on the date of the priority right pursuant to the conditions specified in an international convention,<sup>14b)</sup> which results from the first application, from the application for a utility model, inventor's certificate or utility certificate.

(2) The priority right pursuant to subsection 1(b) must be exercised by the applicant in the application.

(3) The priority right pursuant to subsection 1(b) can be exercised if the first application is filed in a state or in relation to a state that is a party to an international convention<sup>6)</sup> or that is a member of the World Trade Organization.<sup>7)</sup> Otherwise, this right can only be exercised if the condition of reciprocity has been met.

(4) If the applicant, who filed the application within 12 months from the date of creation of the priority right, does not exercise the priority right pursuant to subsection 1(b) in the application, the Office shall grant the priority right on the basis of a request for subsequent granting of a priority right filed within 16 months from the date of creation of the priority right, but no later

than

- (a) within four months from the application filing date,
- (b) on the date of filing a request for earlier publication of the application (section 41(2)).

(5) If, despite the due care required by the circumstances, the applicant files an application after 12 months have passed from the date of creation of the priority right, the Office shall grant the priority right on the basis of a request for subsequent granting of a priority right, provided that

- (a) the application, as well as the request for subsequent granting of a priority right, were filed within 14 months from the date of the creation of the priority right,
- (b) in his request, the applicant adequately justifies the late filing of the application and, in particular, states the facts that prevented the timely filing of the application.

(6) The Office may call upon the applicant to prove the exercised priority right with a document on the priority right (hereinafter referred to as "priority document") within the period determined by the Office, but no sooner than 16 months after the date of creation of the priority right.

(7) If the applicant does not prove the priority right properly and in time pursuant to subsection 6, the Office shall grant the priority right on the basis of a justified request for subsequent granting of a priority document, provided that

- (a) a request for the issuance of a priority document has been filed to the competent authority no later than one month from the date of delivery of the call to the Office pursuant to subsection 6,
- (b) a request for subsequent recognition of the priority document together with the priority document was filed within one month from the date of delivery of the priority document to the applicant.

(8) If the assessment of the patentability of the invention depends on the granting of the priority right, the Office may call upon the applicant to submit a translation of the priority document into the Slovak language or into one of the official languages of the European Patent Office at the applicant's choice.

(9) In the case of justified doubts about the truth of the justification pursuant to subsections 5 and 7, the Office may call on the applicant to prove his statements.

(10) The applicant is obliged to pay an administrative fee for the application pursuant to subsections 4, 5 and 7 (section 79(13)).

(11) The Office does not take into account the exercise of the priority right and a proof of the priority right that does not meet the conditions pursuant to this provision and pursuant to a generally binding piece of legislation. The Office shall notify the applicant of this fact.

(12) At the request of the applicant or patent owner, after payment of an administrative fee (section 79(13)), the Office shall issue a priority document in paper form certifying the priority right resulting from an application, from an international application or from a European patent application filed at the Office.

#### § 36a

If the applicant applied for utility model protection for the same subject-matter in the Slovak Republic before filing the application, he can request the granting of the date of filing, or where applicable also the priority right from this utility model application, when filing the application. The Office shall grant to the application the filing date, and possibly also the priority right from this utility model application, as long as the application is filed within 36 months from the filing of the utility model application; if the proceedings on the utility model application have been discontinued or the utility model application was refused, the application must be filed within two months from the date of finality of this decision, but no later than within 36 months from the filing of the utility model application.

#### § 37

### Application

(1) An application may be filed by a person or persons who have the right to a solution pursuant to section 10(1) and (3), section 11(1) and (4) or section 12(1).

(2) If the right to a solution belongs to several persons, it is allowed that one or some of these persons file(s) the application on its (their) own behalf. On the basis of a request documented by a written agreement concluded between the applicant or applicants and a person who has the right to file an application pursuant to subsection 1, the Office will enter such a person in the Register as a co-applicant.

(3) The application may contain only one invention or a group of inventions that are connected to each other in such a way that they form a single inventive idea.

(4) The invention must be described and explained in the application so clearly and completely that an expert can implement it.

(5) The application must contain:

- (a) a request for the grant of a patent,
- (b) a description of the invention, abstract and, where applicable, drawings,
- (c) at least one asserted patent claim,
- (d) identification data of the applicant or co-applicants,
- (e) identification data of the inventor or co-inventors of the invention,
- (f) a proof of the acquisition of the right to a solution, if the applicant is not the inventor, or information that the subject-matter of the application is an employee invention.

(6) The applicant is obliged to pay an administrative fee for the filing of the application (section 79(13)).

#### § 38

### Special provision on the application of a biotechnological invention

(1) If the subject-matter of an invention is biological material or the use of biological material, which is not accessible to the public and which cannot be described in the application in such a way that a person skilled in the art can carry out the invention, the description shall be considered sufficient only provided that

- (a) the biological material has been deposited in a recognized depository institution no later than on the application filing date,
- (b) the application in its original form contains information about the properties of the stored biological material that the applicant had at his disposal,
- (c) the application states the name and seat of the storage institution, as well as the deposit number of the deposited sample.

(2) The deposited biological material shall be accessible from the date of publication of the patent application by providing a sample upon request. On the basis of a request filed to the Office before the application is published, the applicant is entitled to limit access to the deposited biological material to independent experts only.

(3) After the grant of a patent, irrespective of its revocation or expiration, the deposited biological material is accessible by providing a sample upon request.

(4) The sample can only be provided if the person requesting it, or the independent expert pursuant to subsection 2 second sentence, undertakes that during the validity of the patent

(a) he will not provide the sample or material derived from it to a third party and

(b) he will use the sample and the material derived from it only for experimental purposes, unless the applicant or the patent owner expressly relieves him of this obligation.

(5) On the basis of a request filed with the Office before publication of the application, the applicant is entitled to limit access to the deposited biological material for a period of 20 years from the application filing date to independent experts only in the event that the application is refused or the proceedings on the application are discontinued; subsection 4 shall apply *mutatis mutandis*.

(6) In case of doubts about the accessibility of biological material to the public or the sufficiency of the description under subsection 1, it holds that the condition of accessibility or sufficiency of the description has not been fulfilled until the contrary is proven.

(7) If the subject-matter of the application is a sequence or partial sequence of a gene, the industrial applicability of the invention must be explained in the application.

(8) A recognized depository institution is an institution for the deposition of biological material which has acquired a status pursuant to an international contract,<sup>15)</sup> or has been recognized for this by the Office.

(9) The conditions established by an international convention apply to the re-deposit of biological material in a recognized depository institution.<sup>15)</sup>

#### § 39

### **Suspension of the application proceedings**

(1) If there are court proceedings, the subject-matter of which is the right to a solution, the Office shall suspend the application proceedings at the request of one of the parties to the litigation. The applicant shall attach a counterpart of the court action, certified by the court, to the request for suspension of the application proceedings.

(2) During the suspension of the proceedings, the running of the prescribed time periods under this Act shall stop, with the exception of the time limit pursuant to section 41(1).

(3) The Office shall continue the suspended proceedings on the application after delivery of a final court decision on the right to a solution, which the party to the litigation that has filed the request pursuant to subsection 1 is obliged to deliver to the Office.

### **Preliminary examination of the application**

#### § 40

(1) As part of a preliminary examination of the application, the Office shall determine whether

(a) the conditions for determining the application filing date pursuant to section 35 are met,

(b) the conditions for granting the priority right pursuant to sections 36 and 36a are met,

(c) the application meets the conditions pursuant to sections 37, 38 and 59,

(d) the application meets the conditions pursuant to a generally binding piece of legislation (section 80),

(e) the applicant has paid the appropriate administrative fee pursuant to section 79(13),

(f) the applicant is represented pursuant to section 79(2),

(g) the application does not contain a subject-matter that clearly fails to meet the conditions pursuant to section 5(1) or is not considered an invention pursuant to section 5(3), or which is subject to exclusion from patentability pursuant to section 6.

(2) In case of doubt, the Office may call upon the applicant to demonstrate its usability by presenting the subject-matter of the application or in another appropriate way. If the applicant fails to demonstrate the usability or to comply with the call, the subject-matter of the application is not usable.

(3) In case of detection of deficiencies pursuant to subsection 1(e) and (f) or section 37(3) and (5), or section 45(1), or section 79(13), or pursuant to an implementing piece of legislation (section 80), the Office shall call upon the applicant to remove the alleged deficiencies within the specified period or to comment on the call. If the applicant fails to comply with the call within the specified period or his comment does not refute the justification of the call, the Office shall discontinue the application proceedings. The Office shall notify the applicant of this consequence in the call.

(4) If the application fails to meet the conditions pursuant to section 37(1) and (4) or section 38(1) to (3), or the subject-matter of the application clearly does not meet the conditions pursuant to section 5(1), or is not considered an invention pursuant to section 5(3), or is clearly subject-matter to exclusion from patentability pursuant to section 6, or the presumption pursuant to subsection (2) applies, the Office shall refuse the application. Before deciding on the refusal of the application, the Office shall call upon the applicant to comment on the detected facts that justify the refusal of the application.

(5) If the conditions for exercising the priority right pursuant to section 36(2) to (9) and pursuant to a generally binding piece of legislation (section 80) are not met, the Office shall grant the applicant the priority right pursuant to section 36(1)(a).

#### § 41

(1) The Office shall publish the application without undue delay after the expiry of 18 months from the creation of the priority right and shall announce this publication in the Official Gazette.

(2) The Office may publish the application before the expiry of the period specified in subsection 1, if the applicant requests it no later than within 12 months from the creation of the priority right and if he pays the administrative fee (section 79(13)). The Office shall publish the application before the expiry of the period specified in subsection 1, if a patent has already been granted for the invention; however, without the consent of the applicant, the Office shall not publish the application before the expiry of 12 months from the creation of the priority right.

(3) Together with the application, the Office may publish a report on the state of the art (search report) relating to the invention claimed in the application.

## § 41a

### International-type search

(1) Upon the applicant's request, the Office shall enable the international search authority<sup>15a)</sup> to conduct an international-type search regarding the subject-matter of the application.

(2) If the application pursuant to subsection 1 was filed within six months from the creation of the priority right and if in the application proceedings a report on an international-type search was filed, which was carried out by the Office as a branch of the Visegrad Patent Institute in accordance with an international contract,<sup>15b)</sup> the Office shall publish the report on the international-type search together with the application (section 41(3)) and the report on the international-type search shall be taken into account during the full examination of the application.

## § 41b

### Search within the priority period

(1) The applicant may file, along with the application, a request to conduct a search within a period of nine months from the filing of the application (hereinafter referred to as "search within the priority period"), which must contain

(a) identification data of the applicant or co-applicants,  
(b) the name of the invention being the subject-matter of the application,  
(c) the applicant's declaration of will that he requests that the Office conduct a search within the priority period and publish the application together with the search report (section 41(3)).

(2) The Office will immediately examine the request for conducting a search within the priority period as to whether it

(a) contains the details pursuant to subsection 1,  
(b) it has been filed together with the application,  
(c) the applicant's priority right arose on the application filing date pursuant to section 36(1(a)).

(3) If any of the requirements listed in subsection 2 are not met, the request to conduct a search within the priority period shall be considered unfiled.

(4) The Office is not obliged to take into account a request to conduct a search within the priority period if it has called upon the applicant to eliminate deficiencies pursuant to section 40(3) or for a comment pursuant to section 40(4).

(5) If the Office does not proceed pursuant to subsection 3 or subsection 4, within a period of nine months from the filing of the application, it shall draw up a search on the subject-matter of the application, deliver the search report to the applicant and publish it together with the application (section 41(3)).

## § 42

(1) After the publication of the application, anyone can submit critical comments to the Office on the patentability of its subject-matter; the critical comments shall be taken into account by the Office during the full examination of the application.

(2) Persons who filed the critical comments pursuant to subsection 1 do not become participants in the application proceedings. However, the applicant must be notified of the critical comments and can comment on them.

### Substantive examination of the application

## § 43

(1) At the request of the applicant, a third party, or ex officio, the Office shall without undue delay carry out a substantive examination of the application, in which it shall ascertain whether the application meets the conditions for granting a patent, established by this Act. A person other than the applicant, who filed a request for a substantive examination of the application, does not become a party to the application proceedings.

(2) The request for a substantive examination must be filed no later than 36 months from the application filing date (section 35) and cannot be withdrawn. The applicant is obliged to pay the administrative fee together with the application (section 79(13)).

(3) If the request to conduct a substantive examination has not been properly filed within the deadline pursuant to subsection 2 or if the Office did not start a substantive examination of the application ex officio within the same deadline, the Office shall discontinue the application proceedings.

(4) The Office shall notify the applicant without undue delay of the initiation of a substantive examination at the suggestion of a third party or ex officio. The Office shall notify the person who filed a request for a substantive examination of the application about the result of the substantive examination of the application; this does not affect section 56.

## § 44

(1) If the conditions established for the granting of a patent have not been met (sections 5, 7, 8 and 9), the Office shall refuse the application. Before refusing the application, the Office shall allow the applicant to comment on the detected reasons on the basis of which the application is to be refused.

(2) If the Office additionally discovers deficiencies in the application or non-fulfillment of the conditions that are the subject-matter of a preliminary examination of the application, he shall proceed pursuant to section 40(2) to (5).

(3) If several applications with the same subject-matter and priority right are filed (section 36), only one patent may be granted to one applicant. The Office shall discontinue the proceedings on other applications.

(4) If the subject-matter of the application meets the established conditions and the applicant pays the respective administrative fee (section 79(13)), the Office shall grant the applicant a patent and the applicant becomes the patent owner. The Office shall issue a patent document in paper form to the patent owner and he shall announce the granting of the patent in the Official Gazette.

(5) The owner is obliged to pay a maintenance fee for the maintenance of the patent.

## § 45

### Modification and division of the application

(1) The applicant may modify the application during the application proceedings; modifications and alterations made to the application may not go beyond its original filing.

(2) Until the moment of the grant of a patent pursuant to section 44(4), the applicant may divide the application. The Office shall grant the divisional applications a filing date, or even the priority right from the original application, if they do not exceed its scope.

(3) If an application is divisional after the start of a substantive examination pursuant to section 43, the divisional application shall be considered the application in which a request for a substantive examination was filed.

### Revocation and partial revocation of a patent

#### § 46

(1) The Office shall revoke a patent if it is proven in proceedings initiated at the request of a third party or ex officio that

(a) the conditions for its granting pursuant to sections 5 to 9 have not been met,

(b) the invention is not described and explained in the patent so clearly and completely that a person skilled in the art can implement it,

(c) the subject-matter of the patent exceeds the contents of the application in its original wording. This also applies if the subject-matter of the patent granted on the basis of an divisional application exceeds the contents of the original wording of the application,

(d) the scope of protection resulting from the patent has been extended,

(e) the owner does not have the right to a solution pursuant to section 10(1) and (3), section 11(1) and (4) or section 12(1),

(f) the conditions for its granting have not been met pursuant to the regulations in force at the time of its granting.

(2) If the reasons for revocation relate to the patent partially, the patent shall be revoked only to the extent adequate to the ascertained reasons, namely by a change of the patent claims, description or drawings.

(3) If the patent is revoked, it holds that it has not been granted to the extent affected by the revocation.

(4) The Office may cancel the patent even after its expiry, if the requester proves a legal interest.

(5) The Office may also revoke a patent at the request of the patent owner irrespective of the existence of reasons pursuant to subsection 1. The Office shall not take into account the patent owner's request for a partial revocation of the patent, if the patent revocation request proceedings or the patent revocation proceedings initiated ex officio are ongoing. If rights of third parties registered in the Register are attached to the patent, the Office shall act on the patent owner's request to revoke the patent only after the written consent of the person, whose rights and legitimate interests may be affected by the revocation of the patent, is filed; the Office shall proceed in the same way even in the case of a litigation entered in the Register, the subject-matter of which is the right to a solution, until the expiry of six months from the date of the finality of the court's decision.

(6) The Office shall discontinue the patent revocation proceedings if the decision by which the same patent was revoked has become final.

(7) The Office shall announce the decision on the revocation or partial revocation of a patent in the Official Gazette.

(8) Together with the filing of the request pursuant to subsections 1 and 5, the requester is obliged to pay an administrative fee (section 79(13)).

#### § 47

(1) The patent revocation request must contain a legal and factual justification. Simultaneously with the patent revocation request, the requester must submit evidence or designate the evidence that he will file. If the request for the revocation of the patent does not contain the requirements pursuant to the previous sentences or the requirements established by the generally binding piece of legislation issued pursuant to section 80 or the requester fails to file the designated evidence or the requester is not represented pursuant to section 79(2), the Office shall call upon the applicant to eliminate the detected deficiencies within the specified period. If the requester does not comply with the call within the specified period, the Office shall discontinue the patent revocation request proceedings. The Office shall notify the requester of this consequence in the call.

(2) If the patent revocation request proceedings have not been discontinued pursuant to subsection 1, the Office shall deliver the request for revocation of the patent to the patent owner and calls upon him to comment on it within the specified period. In the call pursuant to the previous sentence, the Office shall notify the patent owner of the possibility to change the patent claims, description or drawings with regard to the reasons and evidence applied and presented by the requester, and the changes made must meet the conditions pursuant to the generally binding piece of legislation issued pursuant to section 80 and must not go beyond the scope of protection resulting from the patent. If the patent owner proposes changes pursuant to the previous sentence, these are the basis for further proceedings on the request for revocation of the patent.

(3) The patent owner's statement pursuant to subsection 2 and his request for changes pursuant to subsection 2, if filed, shall be delivered by the Office to the requester, and if it deems it expedient, it shall also call upon him to comment on them within the specified period.

(4) In the course of patent revocation request proceedings, the Office may

(a) call upon the participant to comment on the filing of the other participant or on the facts that the Office considers decisive in the patent revocation proceedings, within the specified period, or

(b) determine a joint deadline for the participants for final comments; the Office shall not take into account comments received after this deadline and the Office shall notify of this the participants.

(5) If the patent owner does not comment on the request for revocation of a patent within the time limit specified in the call pursuant to subsection 2 or does not request changes pursuant to subsection 2 within the same time limit, or if the requester fails to comment within the time limit specified in the call pursuant to subsection 3, or if the participant fails to comment within the period pursuant to subsection 4(a), the Office shall continue the proceedings and shall make a decision based on the contents of the file.

(6) The Office shall proceed pursuant to subsection 5 even if the patent owner is not represented pursuant to section 79(2). If the patent owner does not comply with the call to submit the power of attorney within the specified period, it holds that he has not commented on the request for revocation of the patent.

(7) If it is not possible to make a decision based on the written filings of the participants in the patent revocation request proceedings, the Office shall determine the date of an oral hearing. Simultaneously with the summons for the oral hearing, the Office shall deliver to the participant in the patent revocation request proceedings all the comments of the other party, if it has not already done so earlier.

(8) The Office may continue the patent revocation request proceedings and decide on the matter even if the duly and

timely summoned participant fails to participate in the oral hearing. The Office may grant a request to postpone the oral hearing only for important reasons and only if the request to postpone the oral hearing was delivered to the Office without delay after the summoned participant in the patent revocation request proceedings learned about the reason for which the hearing is requested to be postponed; otherwise, the Office shall not take into account the request to postpone the oral hearing.

(9) Extending or supplementing a request for revocation of a patent by a new reason pursuant to section 46(1) or by a new proof of non-fulfillment of the conditions for granting a patent pursuant to section 5 to 9 or pursuant to section 37(4) is not permissible in patent revocation request proceedings; the Office shall not take into account such an extension or supplementing within these proceedings and this decision-making in the matter.

(10) Subsections 2 and 4 to 8 shall also be applied mutatis mutandis to patent revocation proceedings initiated ex officio.

#### § 48

### **Request for registration in another person's name**

(1) The Office shall enter the person of the requester as the patent owner, if

(a) it finds out from a final decision of a court that the person originally entered as the patent owner did not have the right to a solution pursuant to section 10(1) and (3), section 11(1) and (4) or section 12(1),

(b) the request for registration in another person's name has been submitted by a person who, pursuant to the final court decision, has the right to a solution, or its legal successor, and

(c) the request for registration in another person's name has been filed within six months from the date of finality of the court decision.

(2) The final decision of the court pursuant to subsection 1(a) shall constitute an annex to the request for registration in another person's name.

(3) If the request for registration in another person's name fails to meet the requirements pursuant to subsection 1 or subsection 2, the Office shall refuse the request for registration in another person's name; before deciding on the refusal of the request for registration in another person's name, the Office shall allow the requester to comment on the detected reasons on the basis of which the request for registration in another person's name is to be refused.

(4) If the person which, pursuant to the final decision of the court, has the right to a solution, or its legal successor, fails to file a request for registration in another person's name within the deadline pursuant to subsection 1(c), the Office shall revoke the patent ex officio for the reason under section 46(1)(e).

(5) Subsections 1 to 4 shall be used mutatis mutandis for registering the rights resulting from the application in another person's name. If the rights resulting from the application are not registered in another person's name for reasons pursuant to subsection 3, the Office shall refuse the application in accordance with section 40(4).

#### § 49

### **Determination proceedings**

(1) Upon request, the Office shall determine whether a subject-matter specified and described in the request falls within the scope of protection of a specific patent (hereinafter referred to as "determination request"). The description of the subject-matter of determination must be clear and complete, and the determination request must meet the requirements established by the generally binding piece of legislation issued pursuant to section 80.

(2) Only the person who filed the determination request shall be a participant in the determination proceedings.

(3) Upon initiation of patent revocation request proceedings or initiation of patent revocation proceedings ex officio or upon delivery of a request of a court for an expert opinion (section 33(5)), if the requester is a party to a litigation, the determination proceedings shall be suspended. The Office will notify the requester of the suspension of the determination proceedings. After the decision to revoke the patent becomes final, the Office shall discontinue the determination proceedings.

(4) If the description of the subject-matter of determination or the determination request does not meet the requirements pursuant to subsection 1, the Office shall call upon the requester to eliminate the identified deficiencies within the specified period. If the requester does not comply with the Office's call within the specified period, the Office shall discontinue the determination procedure; the Office shall notify the requester of this consequence in the call.

(5) The requester is obliged to pay an administrative fee (section 79(13)) together with the determination request.

#### § 50

### **Entry of a license, right of pledge, patent assignment, patent transfer, execution or litigation in the Register**

(1) If a request for the entry of a license, right of pledge, patent assignment, patent transfer, execution or litigation in the Register does not contain the requirements established by a generally binding piece of legislation issued pursuant to section 80, the Office shall call upon the requester to remove the identified deficiencies within the specified period. If the requester fails to eliminate the identified deficiencies within the specified period, the Office shall discontinue the request proceedings. The Office will notify the requester of this consequence in the call.

(2) Subsection 1 shall not apply to a compulsory license that the Office enters into the Register ex officio after delivery of a valid court decision on its granting.

(3) On the basis of a writ of execution<sup>15c)</sup> supported by a notification of the initiation of an execution and a list of rights which also includes the specific application or the specific patent, the Office shall enter in the Register the fact that this application or patent is affected by an execution with effect from the date of delivery of the writ of execution to the Office. The grant of a patent does not affect the entry of the execution by affecting the rights resulting from the application and is considered to be an entry of execution by affecting the rights resulting from the patent, unless the writ of execution states otherwise. A modification or division of the application (section 45) does not affect the entry of the execution of rights resulting from the application; in the case of a division of the application (section 45(2)), the Office shall also enter in the Register an execution by affecting the rights resulting from divisional applications.

(4) If there is a court proceeding, the subject-matter of which is a dispute over the right to a solution, the Office, at the request of one of the parties to the litigation, shall enter in the Register the fact that the litigation is ongoing, as well as the subject-matter of the proceeding, with the entry being effective on the day the request is delivered to the Office. The requester shall attach a copy of the court action certified by the court to the request for entry of the litigation. The grant of a patent does not affect the entry of a litigation in relation to the application and it is considered to be an entry of a litigation in relation to the

patent. A modification or division of the application (section 45) does not affect the entry of the litigation in relation to the application; in the case of a division of the application (section 45(2)), the Office shall enter a litigation in the Register also in relation to divisional applications.

(5) The requester is obliged to pay an administrative fee (section 79(13)) together with the filing of the request pursuant to subsections 1 and 4.

#### § 51

##### **Extension of the time limit and continuation of proceedings**

(1) On the basis of a request of a party in the proceedings for an extension of the time limit, determined by the Office, for the performance of an act, filed before the expiration of this time limit, the Office may extend the time limit.

(2) If the party in the proceedings has missed the time limit, set by the Office, for the performance of an act, after the expiration of this time limit, it may request the Office to continue the proceedings and perform the missed act, no later than two months from the date of delivery of the decision of the Office issued as a result of the missed time limit.

(3) The request pursuant to subsection 1 cannot be granted in the case of a time limit pursuant to section 47(4)(b), and the request pursuant to subsection 2 cannot be granted in the case of a missed time limit pursuant to section 47(1), (2), (4) and (6).

(4) The Office shall refuse a request for an extension of the time limit or a request for the continuation of proceedings that does not meet the conditions pursuant to subsection 1 or subsection 2, or cannot be granted pursuant to subsection 3; before the decision to refuse the request, the Office shall allow the requester to comment on the detected reasons on the basis of which the request is supposed to be refused.

(5) If the Office grants the request for the continuation of the proceedings, the legal effects of the decision issued as a result of missing the time limit shall cease or not occur.

(6) If the Office does not decide to refuse a request for an extension of the time limit that meets the conditions pursuant to subsection 1, within two months of its delivery, the request is deemed to have been granted.

#### § 52

##### **Restitutio in integrum**

(1) If, despite the due care required by the circumstances, a participant in the proceedings missed a legal time limit or a time limit set by the Office for performing an act, and the consequence of the failure to perform this act is a stopping of the proceedings or the loss of another right, he may request from the Office a restitutio in integrum and perform the missed act within two months from the disappearance of the obstacle for which he could not perform the act, but no later than 12 months from the expiry of the missed time limit.

(2) A participant in the proceedings is obliged to justify the request for a restitutio in integrum and to state the facts that have prevented the performance of the act, as well as the date of the disappearance of the obstacle, due to which he could not perform the act. Allegations submitted after the expiry of any of the time limits pursuant to subsection 1 shall not be taken into account by the Office when deciding on a request for a restitutio in integrum.

(3) If there are justified doubts about the truth of the justification pursuant to subsection 2, the Office may call on the requester to prove his allegations.

(4) Requests for a restitutio in integrum cannot be granted in cases of a missed time limit for  
(a) the filing of a request for continuation of proceedings pursuant to section 51(2) and a request for a restitutio in integrum pursuant to subsection 1,

(b) subsequent granting and proof of the priority right pursuant to section 36(4), (5) and (7),

(c) the filing of a remonstrance in the proceedings before the Office pursuant to section 55(1) and the filing of the reasoning for the remonstrance pursuant to section 55(3),

(d) the performance of acts pursuant to section 47(1), (2), (4) and (6).

(5) The Office shall refuse a request for a restitutio in integrum which does not meet the conditions pursuant to subsections 1 and 2, or the applicant does not prove his allegations pursuant to subsection 3, or it cannot be granted pursuant to subsection 4; before deciding on the refusal of the request, the Office will enable the requester to comment on the facts found, which justify the refusal of the request.

(6) If the Office complies with the request for a restitutio in integrum, the legal effects of the decision issued as a result of the missed time limit shall cease or not occur.

(7) A third person who, in the territory of the Slovak Republic, in good faith, from the finality of the decision issued as a result of missing the time limit until the expiry of the legal effects of this decision pursuant to subsection 6, exploited the invention that was the subject-matter of an application or patent, or made demonstrable preparations directly aimed at the exploitation of this invention, can use the invention within its business activities without the obligation to pay for the exploitation of the invention.

(8) The assignment and transfer of the right of the authorized user pursuant to subsection 7 is possible exclusively as part of the assignment or transfer of the business enterprise or its part in which the invention is being exploited.

#### § 53

##### **Source documents for a decision**

(1) The participant in the proceedings is obliged to present or propose evidence to prove his allegations.

(2) The Office shall produce evidence and evaluate evidence at its discretion, each evidence individually and all evidence in their mutual relations.

(3) The Office shall make decisions on the basis of facts ascertained from the produced evidence presented or proposed by the participants.

#### § 54

##### **Repealed as of January 1, 2018**

#### § 55



## Remonstrance

(1) A remonstrance against a decision of the Office may be filed within 30 days from the delivery of the decision, unless otherwise stated in subsections 4 and 5. A remonstrance filed in time has a suspensory effect.

(2) When deciding on a remonstrance, the Office is bound by its scope; this does not apply to matters

(a) in which proceedings can be initiated ex officio,

(b) of joint rights or obligations concerning several participants in the proceedings on one side.

(3) The reasoning for the remonstrance must be filed within two months from the date of filing the remonstrance, otherwise the Office will discontinue the remonstrance proceedings. The Office shall discontinue the proceedings even if the remonstrance has been filed with a delay or if the filing of the remonstrance is not permissible pursuant to subsection 4 or 5.

(4) It is not allowed to file a remonstrance against the decision by which the Office

(a) granted a request for the continuation of the proceedings or a request for a restitutio in integrum,

(b) discontinued the proceedings pursuant to section 46(6) or section 79(10), or suspended the proceedings pursuant to section 39(1) or section 79(11),

(c) discontinued the proceedings pursuant to subsection 3,

(d) decided in the determination proceedings pursuant to section 49.

(5) It is not allowed to file a remonstrance only against the reasoning of a decision.

## § 56

### Making data accessible

(1) Unless otherwise stated below, before publication of the application, the Office shall be authorized, without the consent of the applicant, to notify third parties only of the piece of data saying who is the inventor of the invention, who is the applicant, the name and file number of the application, and data on the priority right.

(2) Notwithstanding subsection 1, the Office shall, upon request, enable the patent owner or applicant to inspect the file relating to the unpublished application, if the unpublished application refers to the patent or application of that owner or applicant, or to the person against which the rights resulting from the unpublished application have been asserted.

(3) Unless otherwise stated below, after the publication of the application, the Office shall, upon request, allow anyone to inspect the file relating to the application or patent.

(4) The right to inspect the file also includes the right to make copies for a fee.

(5) Based on a written request of the inventor mentioned in the application pursuant to section 37(5), the Office shall not make his identification data accessible to third parties, in particular when the publication of an application, notice of the grant of a patent, issuance of a patent document, issuance of an extract from the Register and inspection of the file occurs.

(6) Upon a written request, provided that an urgent legal interest is proven, the Office is authorized to notify the requester whether the person designated by him is or is not listed as the inventor of the invention stated in the application.

(7) Upon a written request of the applicant or patent owner, parts of the file containing a trade secret or other information of a confidential nature, the disclosure of which is not indispensable to ensure the right to information of third parties, including participants in the proceedings, shall be excluded from the right of inspection.

(8) The rights pursuant to subsections 1 to 3 cannot be exercised with respect to applications and patents classified pursuant to a special piece of legislation,<sup>20</sup> the voting minutes and parts of the file containing auxiliary notes or working versions of decisions, assessments or opinions.

## § 57

### Register and Official Gazette

(1) The Office shall keep

(a) a register in which it enters decisive data regarding applications and granted patents,

(b) a European Patents Register, in which it enters decisive data regarding granted European patents with designation for the Slovak Republic,

(c) a register in which decisive data regarding requests for the granting of supplementary protection certificates for medicinal products or for plant protection products and granted supplementary protection certificates for medicinal products or for plant protection products are entered.

(2) The data entered in the registers pursuant to subsection 1 are considered valid until a decision of the competent authority determines otherwise.

(3) A change of data entered in the Register, resulting from a final and enforceable decision of a competent authority, shall be entered in the Register by the Office after delivery of the decision provided with a finality clause without unnecessary delay.

(4) Entering data and facts resulting from a law or a decision of a competent authority is not considered a decision issued in proceedings pursuant to a general piece of legislation on administrative proceedings. 21)

(5) Everyone has the right to inspect the registers referred to in subsection 1.

(6) The Office publishes the Official Gazette in which it publishes facts related to published applications, European patent applications, as well as patents, European patents, supplementary protection certificates and their protection, as well as official notices and decisions of a fundamental nature.

## § 58

### International application

(1) The Office is the place where an international application<sup>1)</sup> can be filed by

(a) natural persons who are citizens of the Slovak Republic,

(b) natural persons or legal entities which have their residence, registered office, business enterprise or organizational unit in the territory of the Slovak Republic.

(2) The applicant is obliged to pay an administrative fee (section 79(13)) for acts connected with the filing of an international application and, through the Office, pay the fees established by the Patent Cooperation Treaty. 1)

(3) The applicant of an international application,<sup>1)</sup> which requests the grant of a patent in the Slovak Republic, is

obliged to submit this international application to the Office within 31 months from the creation of the priority right, pay the administrative fee for filing the application (section 79(13)) and submit its translation into the state language.

(4) If the applicant of an international application,<sup>1)</sup> by which the granting of a patent is requested in the Slovak Republic, does not submit this international application to the Office within the deadline under subsection 3, the Office shall grant this international application the priority right pursuant to section 36(1)(a).

(5) At the request of the applicant, provided that the conditions pursuant to subsection 3 are met, the Office may start the international application proceedings even before the expiration of the deadlines specified in subsection 3.

#### **Protection of classified information**

##### **§ 59**

(1) If the domestic applicant knows or, depending on the circumstances, should know that the application contains information classified pursuant to a special piece of legislation,<sup>20)</sup> he is obliged to request in the application that the application be classified.

(2) The applicant is obliged to file an application pursuant to subsection 1, which is an international application or a European patent application, at the Office.

(3) After granting the date of filing (section 35), the Office shall deliver one copy of the application to the National Security Office<sup>20)</sup> (hereinafter referred to as the "Security Office") together with a request for a decision on security classification of the application pursuant to a special piece of legislation,<sup>20)</sup> possibly together with a request for permission to file the application abroad.

(4) The Office may proceed pursuant to subsection 3 even if the applicant has not requested a security classification of the application pursuant to subsection 1.

(5) The Security Office shall decide on the request pursuant to subsection 3 and shall deliver the decision to the Office. If this is permitted by an international convention, contract or agreement to which the Slovak Republic is bound, the Security Office shall also attach to the decision a request for a security classification of the subject-matter of the application by the contracting party in which the application is to be filed. The decision of the Security Office shall be notified to the applicant by the Office.

(6) An application pursuant to subsection 1, which is not a European patent application or an international application, can be filed by the applicant directly abroad only on the basis of a permission of the Security Office pursuant to subsection 3, issued upon the applicant's request.

(7) If as a result of the security classification of the application or as a result of a refusal of the request for permission to file the application abroad, the patent owner incurs a property loss, consisting in the prevention or limitation of the commercial exploitation of the patent [section 3(h)], the owner shall be entitled to compensation for the property loss against the Slovak Republic represented by the central body of the state administration, to whose jurisdiction the subject-matter of the classified application belongs.

(8) Section 11(6) shall be applied mutatis mutandis to the determination of the amount of the property loss under subsection 7.

(9) Applications, European patent applications or international applications, the security classification of which has been requested by a contracting party or a foreign applicant pursuant to an international convention, contract or agreement, to which the Slovak Republic is bound, shall be considered classified in accordance with a separate piece of legislation.<sup>20)</sup> A foreign applicant, who does not act on behalf of a contracting party, is obliged to prove the security classification of the subject-matter of the application by the contracting party, document the permission of the contracting party to file an application in the Slovak Republic and attach a statement waiving any claims for damages or other property loss that could arise as a result of the security classification of the application on the territory of the Slovak Republic.

(10) The provisions of this Act, with the exception of publishing (section 41) and making accessible (section 56) the data relating to a classified application or patent, apply to application and patent proceedings that are classified, or are deemed classified pursuant to a special piece of legislation,<sup>20)</sup>

(11) If the Security Office does not consider the facts contained in the application classified pursuant to a special piece of legislation,<sup>20)</sup> the Office shall notify the applicant of this fact and shall proceed with the application without applying the secrecy regime.

## **PART FOUR**

### **IMPLEMENTATION OF THE EUROPEAN PATENT CONVENTION**

##### **§ 60**

#### **Effects of a European patent application**

(1) The European patent application with designation for the Slovak Republic (hereinafter referred to as the "European Patent Application") has the same effects from the granted date of filing or from the date of the creation of the priority right exercised by the applicant of the European Patent Application as the application that has been filed pursuant to section 35 on the same day, or an application with the same date of creation of the priority right pursuant to section 36.

(2) After the publication of a European Patent Application by the European Patent Office and the subsequent submission of a translation of the patent claims into Slovak and payment of the fee for publication (section 79(13)) on the part of the applicant of the European Patent Application, the Office shall make the translation of the patent claims accessible to the public and announce this fact in Official Gazette.

(3) On the day the translation of the patent claims is made accessible to the public pursuant to subsection 2, the applicant of the European Patent Application has the same rights as the applicant under this Act, provided that a European patent with effects in the Slovak Republic has been granted.

(4) If a European Patent Application or a designation for the Slovak Republic was withdrawn in proceedings before the European Patent Office, or is considered withdrawn, it holds that the application proceedings have been discontinued pursuant to section 40(3). The refusal of a European Patent Application has the same effects as the refusal of an application pursuant to section 40(4).

(5) A decision of the European Patent Office on a continuation of the proceedings or on a restitutio in integrum has

the same effects as a decision of the Office pursuant to section 51(5) or pursuant to section 52(6) and (7).

#### § 61

##### **Conversion of a European Patent Application**

(1) Based on a request of an applicant of a European Patent Application for conversion of a European Patent Application to an application (hereinafter referred to as "conversion") filed pursuant to Art. 135 of the European Patent Convention, the Office shall start proceedings on the application pursuant to part three of this Act, or shall proceed pursuant to Art. 135(2) of the European Patent Convention.

(2) The applicant is obliged to submit a translation of the European Patent Application into the Slovak language within three months upon a call of the Office and to pay an administrative fee for filing the application (section 79(13)).

(3) If the request for conversion is not filed within three months from the day when the European Patent Application was withdrawn or when a notification that the European Patent Application is considered withdrawn, or a decision on the refusal of the European Patent Application or on revocation of a European patent was delivered, the applicant shall lose the priority right resulting from the originally filed European Patent Application.

(4) If the request for conversion has been filed in violation of Art. 135 and 137 of the European Patent Convention, the Office shall refuse the request.

(5) repealed as of January 1, 2008.

#### § 62

##### **Binding wording of the European Patent Application and the European patent**

(1) Decisive in the determination of the scope of protection resulting from a European Patent Application and a European patent shall be the content of the European Patent Application governed by the wording of the European patent in the language in which the European Patent Application proceedings were conducted before the European Patent Office.

(2) If the translation of the patent specification into the Slovak language submitted to the Office pursuant to section 63(2), as well as the translation of patent claims submitted to the Office pursuant to section 60(2), results in a narrower protection than the wording of the European Patent Application and the European patent in the language in which the proceedings before the European Patent Office took place, the translation into the Slovak language shall be considered to be the binding wording, with the exception of proceedings for the revocation of the European patent.

(3) The applicant of a European Patent Application or the owner of a European patent may file a corrected translation of the patent claims pursuant to section 60(2) or a corrected translation of the European patent specification pursuant to section 63(2) into the Slovak language at any time. After delivery of the corrected translation and payment of the administrative fee (section 79(13)), the Office shall make the corrected translation accessible to the public and shall announce this fact in the Official Gazette.

(4) The corrected translation shall apply instead of the original translation from the date of the notification of making the corrected translation accessible in the Official Gazette.

(5) The right of third parties to use the subject-matter of the invention, which, pursuant to the translation into the Slovak language valid in the decisive period, did not fall within the scope of a European patent, shall not be affected by the effects of the corrected translation, provided that they used the subject-matter of the invention in the territory of the Slovak Republic in good faith or made demonstrable preparations for exploiting the subject-matter of the invention.

#### § 63

##### **Effects of a European patent**

(1) A European patent granted by the European Patent Office with designation for the Slovak Republic has the same effects as a patent granted pursuant to section 44(4) from the date of the announcement of the grant of the European patent in the European Patent Bulletin.

(2) The owner of a European patent is obliged to file at the Office a translation of the patent specification into the Slovak language within three months of the notification of the grant of the European patent, to pay a publication fee (section 79(13)) and to notify the Office of the address for delivery in the territory of the Slovak Republic.

(3) If the owner of a European patent does not submit a translation of the European patent specification to the Office within the period specified in subsection 2, he may submit the translation within an additional period of three months, provided that he pays an increased fee pursuant to subsection 2 simultaneously with submission of the translation.

(4) If the translation of the European patent specification into the Slovak language is not submitted to the Office within the additional period under the conditions under subsection 3, the European patent shall be considered ineffective on the territory of the Slovak Republic ab initio.

(5) If the owner of a European patent does not notify the Office of the address for deliveries on the territory of the Slovak Republic, official reports regarding his patent shall be filed with the Office, and they shall be considered delivered within 30 days from the date of filing. The Office must notify the owner of the European patent of this consequence.

(6) Based on the fulfillment of the conditions pursuant to subsection 2 or 3, the Office shall make the translation of a European patent specification accessible and shall announce this accessibility as well as the grant of the European patent in the Official Gazette (section 57).

(7) After notification of the grant of a European patent in the European Patent Bulletin and provided that the conditions under subsection 2 or 3 are met, the Office shall enter the European patent in the European Patent Register with the data entered in the European Patent Register.

#### § 64

##### **Inadmissibility of double protection**

If a patent is granted for an invention for which a European patent with the same priority right has been granted to the same owner or its legal successor, the patent becomes ineffective to the extent that it coincides with the European patent from the date of expiry of the period for filing oppositions to the European patent, if no oppositions were filed, or from the date of the finality of the decision of the European Patent Office by which the European patent has been maintained in the oppositions

proceedings.

§ 65

**Revocation or maintenance of the European patent as amended**

(1) A decision of the European Patent Office on a partial or full revocation of a European patent or on the maintenance of a European patent in an amended version has the same effects in the Slovak Republic as a decision of the Office pursuant to section 46.

(2) Revocation of a European patent or its maintenance in an amended version shall be announced by the Office in the Official Gazette.

(3) If a European patent has been maintained in an amended version in opposition proceedings under Art. 101 of the European Patent Convention by a decision of the European Patent Office or limited in proceedings under Art. 105b of the European Patent Convention, a European patent owner is obliged to submit to the Office a translation of the amended version of the patent specification into Slovak within three months from the date of notification of the amendment in the European Patent Bulletin and to pay a publication fee (section 79(13)).

(4) If the European patent owner fails to submit a translation of the amended version of the European patent specification into the Slovak language or does not pay the publication fee within the deadline pursuant to subsection 3, the European patent is ineffective in the Slovak Republic ab initio.

(5) The Office shall revoke a European patent with designation for the Slovak Republic under the conditions pursuant to section 46 and the procedure pursuant to section 47, if the reason for the revocation of the patent pursuant to Art. 138 in conjunction with Art. 139 of the European Patent Convention, provided that

(a) the time limit for filing oppositions pursuant to the European Patent Convention has lapsed to no effect, or

(b) the European patent has not been revoked during the opposition proceedings before the European Patent Office.

(6) If, at the time of the revocation proceedings for a European patent, opposition proceedings against the same European patent before the European Patent Office begin or have been pending before the Office, the Office shall suspend the revocation proceedings. After the end of the proceedings before the European Patent Office, in which the European patent has not been revoked, the Office, at the request of one of the participants, continues the European patent revocation proceedings. If the request for continuation of the European patent revocation proceedings is not submitted within six months from the validity of a decision of the European Patent Office, the Office shall discontinue the European patent revocation proceedings.

§ 66

**European patent application filing**

(1) The Office shall be the place where legal entities or natural persons may file a European patent application.

(2) Subsection 1 does not apply to the filing of a divisional European patent application pursuant to Art. 76 of the European Patent Convention.

§ 67

**Fees**

To maintain the validity of a European patent in the Slovak Republic, its owner is obliged to pay annually a maintenance fee.

§ 67a

**Special provision on the period of validity of the supplementary protection certificate**

At the proposal of the owner of the supplementary protection certificate or at the proposal of a third party, the Office shall change the period of validity of the supplementary protection certificate for medicinal products or the supplementary protection certificate for plant protection products, if the date of the first authorization to place the product on the market in the European Union stated in the application for the granting of the supplementary protection certificate is incorrect.21(a)

**PART FIVE**

**Repealed as of March 1, 2007**

**Heading repealed as of March 1, 2007**

§ 68

**Repealed as of March 1, 2007**

§ 69

**Repealed as of March 1, 2007**

**Heading repealed as of March 1, 2007**

§ 70

**Repealed as of March 1, 2007**

§ 71

**Repealed as of March 1, 2007**

**Heading repealed as of March 1, 2007**

§ 72

**Repealed as of March 1, 2007**

§ 73

**Repealed as of March 1, 2007**

**Heading repealed as of March 1, 2007**

§ 74

**Repealed as of March 1, 2007**

§ 75

**Repealed as of March 1, 2007**

§ 76

**Repealed as of March 1, 2007**

§ 77  
Repealed as of March 1, 2007

§ 78  
Repealed as of March 1, 2007

## PART SIX

### COMMON, AUTHORIZING, TRANSITIONAL AND REPEALING PROVISIONS

§ 79

#### Common provisions

(1) Persons who have a permanent residence, registered office or business enterprise in the territory of a state that is a party to an international convention,<sup>6)</sup> or in the territory of a state that is a member of the World Trade Organization,<sup>7)</sup> or are nationals of that state, have the same rights and obligations as citizens of the Slovak Republic without prejudice to the provision of subsection 2. If the state of which the person is a national, or the state in whose territory the person has a permanent residence, registered office or business enterprise, is not a state that is a party to an international convention<sup>6)</sup> or a member of the World Trade Organization,<sup>7)</sup> rights pursuant to this Act may be granted only under the condition of reciprocity.

(2) Persons not having a permanent residence or registered office in the territory of the Slovak Republic must be represented by a lawyer<sup>26)</sup> or a patent attorney<sup>26a)</sup> in proceedings before the Office, including the submission of translations according to part four of this Act. The mandatory representation according to the previous sentence does not apply to participants in the proceedings, who are citizens of a contracting state of the Agreement on the European Economic Area, have a registered office or business enterprise in the territory of a contracting state of the Agreement on the European Economic Area; such participants in the proceedings are obliged to notify the Office of the address for delivery in the territory of the Slovak Republic.

(3) The provision of subsection 2 on mandatory representation does not apply to acts  
(a) preceding and connected with the determination of the filing date pursuant to section 35,  
(b) associated with the payment of fees,  
(c) associated with proving the priority right pursuant to section 36.

(4) A representative of a participant in the proceedings is obliged to notify the Office of the address for delivery on the territory of the Slovak Republic.

(5) A participant in the proceedings who performs acts pursuant to subsection 3 is obliged to notify the Office of the address for delivery on the territory of the Slovak Republic. If the participant in the proceedings fails to notify the Office of the address for delivery on the territory of the Slovak Republic, the Office's written documents relating to the proceedings shall be deposited at the Office, and they shall be considered delivered 30 days after the date of their deposit. The Office will notify the participant about this consequence.

(6) Proceedings before the Office pursuant to this Act are subject to a general piece of legislation on administrative proceedings<sup>21)</sup> except section 19, section 23, section 28, section 29, section 30(1)(b) and (d), section 32 to 34, section 39, section 49, section 50, section 59(1) and section 60.

(7) The provisions of this Act shall be applied mutatis mutandis to the creation, change and termination of legal relationships, the subject-matter of which is a certificate pursuant to special pieces of legislation,<sup>22a)</sup> as well as to proceedings on certificates pursuant to special pieces of legislation<sup>22a)</sup> unless a special piece of legislation<sup>22a)</sup> provides otherwise.

(8) If the attachment to the filing is a copy of a document, about the authenticity of which the Office has doubts, it may request the submission of the original document or its certified copy.

(9) If a party in the proceedings fails to comply with a call of the Office within the specified period, the Office may discontinue the proceedings. The Office shall notify the participant in the proceedings of this consequence in the call.

(10) The Office shall also discontinue the proceedings at the request of the person who filed the request for its initiation; the Office is not obliged to do so, in the case of proceedings that the Office can initiate ex officio. A request to discontinue proceedings cannot be withdrawn. In the case of a request to discontinue the proceedings on an application or a request to discontinue the proceedings on an application for the granting of a certificate, to which a litigation entered in the Register is related, the Office can discontinue the proceedings only after the submission of the written consent of the person who has filed the request to enter the litigation in the Register.

(11) If proceedings have been initiated on a preliminary issue that the Office is not authorized to resolve, the Office shall suspend the proceedings; this does not affect section 39. As soon as the obstacle for which the proceedings have been suspended disappears, the Office shall continue the proceedings even without a motion. During the suspension of the proceedings, the time limits pursuant to this Act do not expire.

(12) The filing at the Office shall be in writing, in paper form or in electronic form, and in the state language,<sup>27)</sup> unless otherwise provided for in the third or fourth part of this Act. The filing shall be judged by its content. It must be clear from the filing who is filing it, what matter it concerns and what it proposes. Each filing must be signed by the person filing it. A filing in electronic form authorized pursuant to a special piece of legislation<sup>29)</sup> must contain an identifier of the person of the participant in the proceedings and an identifier of the person of the representative pursuant to a special piece of legislation,<sup>27a)</sup> if the participant in the proceedings is represented.

(13) Administrative fees under a special piece of legislation shall be paid for acts pursuant to this Act and for acts pursuant to special piece of legislation<sup>22a)</sup>. 28)

(14) Unless otherwise provided for in subsection 15, a filing at the Office made in electronic form without authorization pursuant to a special piece of legislation<sup>29)</sup> must be additionally delivered in paper form or in electronic form, authorized pursuant to a special piece of legislation,<sup>29)</sup> if it is not additionally delivered to the Office within one month, the filing shall not be taken into account. The Office shall not call for additional delivery of the filing.

(15) Subsection 14 does not apply to a filing made through closed information systems.<sup>30)</sup>

§ 80

#### Authorizing provision

A generally binding piece of legislation issued by the Office shall stipulate

- (a) the details of the method and requirements for exercising and proving the priority right,
- (b) the details of the method of filing and the requirements, form and standards of an application,
- (c) the conditions for re-depositing biological material in a recognized deposition institution<sup>15)</sup> and conditions for making the deposited material available to the public,
- (d) the details of a divisional application, permissible alterations of the application and corrections of obvious errors,
- (e) the details of the requirements for a patent revocation request, request for registration in another person's name, request for determination, request for continuation of proceedings and request for a restitutio in integrum,
- (f) the details of the method and requirements for filing an international application, its translation and languages of filing,
- (g) the details of the method and requirements for filing a European patent application,
- (h) the details of the filing method and requirements for a request for revocation of a certificate pursuant to a special piece of legislation<sup>22a)</sup> and alteration of a certificate pursuant to a special piece of legislation,<sup>22a)</sup> as well as details of the proceedings on the cancellation and alteration of a certificate pursuant to a special piece of legislation,<sup>22a)</sup>
- (i) the details of the filing method and details of the request to conduct an international-type search,
- (j) the details of the method and requirements for filing a request for the entry of a right in the Register,
- (k) the details of the method and requirements of the offer of a license and its acceptance,
- (l) the details of data to be entered in the Register and announced in the Official Gazette,
- (m) the details of the regime of proceedings in matters of classified applications, patents and certificates pursuant to a special piece of legislation, 22(a)
- (n) the details of the filing method and the requirements of a request for the conversion of an inventor's certificate to a patent,
- (o) the length of the time limits determined by the Office for the acts of the participants in proceedings pursuant to this Act,
- (p) further details of the form of filing, the number of copies of the filing with attachments and delivery to the Office.

### Transitional provisions

#### § 81

(1) The creation, alteration and termination of legal relationships that occurred before this Act comes into effect are assessed pursuant to hitherto existing legislation.

(2) Invention application proceedings and patent proceedings which were not finally terminated before this Act comes into effect, shall be terminated pursuant to this Act, provided that in the case of applications for inventions filed pursuant to Act No. 84/1972 Coll. of Laws on discoveries, inventions, rationalization proposals and industrial designs, the Office shall perform a full investigation ex officio.

(3) Applications for inventions filed pursuant to current legislation are considered applications pursuant to this Act.

(4) If the use of the subject-matter of the invention applications referred to in subsections 1 and 2 took place before this Act comes into effect and under the conditions established by hitherto existing legislation, the rights of third parties shall remain unaffected. The right of an inventor to remuneration for the exploitation of the subject-matter of the invention application with a request for the granting of an inventor's certificate pursuant to hitherto existing legislation shall remain unaffected.

#### § 82

(1) An inventor's certificate for an invention granted pursuant to the Act No. 84/1972 Coll. of Laws shall be valid for 15 years from the date of application filing.

(2) An organization that, pursuant to hitherto existing legislation, has the right to manage an invention or has been entrusted with such right, has the same rights as the patent owner.

(3) In the case of an invention created otherwise than under the conditions pursuant to section 28(a) of the Act No. 84/1972 Coll. of Laws, protected by an inventor's certificate granted pursuant to hitherto existing legislation, which has not been exploited by the organization that has the right to manage the invention or has been entrusted with this right, the inventor has the right at any time during the validity of the inventor's certificate to request from the Office its conversion into a patent (hereinafter referred to as "request for conversion"). The requester is obliged to pay an administrative fee (section 79(13)) for the request for conversion.

(4) The Office shall publish a request for conversion as well as a decision on the conversion in the Official Gazette. Anyone can file oppositions to the request for conversion within three months from the publication of the request.

(5) A patent granted upon a request for conversion is valid for 15 years from the date of filing the invention application; rights resulting from a patent granted upon a request for conversion shall arise from the date of publication of the request for conversion in the Official Gazette.

(6) If the invention protected by a copyright certificate has not been created under conditions pursuant to section 28(a) of the Act No. 84/1972 Coll. of Laws, the inventor has the right to exploit the invention in his business activities.

#### § 83

(1) The exploitation of an invention protected by an inventor's certificate, which in accordance with hitherto existing legislation began before January 1, 1991, or to which the right was granted before that date by virtue of a contract, does not constitute a violation of the rights of the patent owner. The inventor's right to remuneration for the exploitation of the invention pursuant to hitherto existing legislation shall not be affected by this.

(2) Claims for remuneration for the exploitation of an invention, as well as claims for reimbursement of reasonable costs associated with the drawing up of drawings, models or prototypes, remuneration for initiative participation in the development, testing or introduction of an invention and claims for remuneration for warnings about the possibility of using the invention arising before this Act comes into effect shall be settled in accordance with hitherto existing legislation.

(3) If, after the entry into effect of this Act, an invention protected by an inventor's certificate is exploited, to which an organization has a right corresponding to the right of the patent owner pursuant to section 82(2), the organization is obliged to pay the inventor remuneration pursuant to section 11.

#### § 84

(1) The applicant of the invention pursuant to section 82(1) and (2) of the Act No. 527/1990 Coll. of Laws is obliged to submit to the Office

- (a) a document confirming the granting of consent for the sale or production of the subject-matter of a patent granted abroad in any country and

(b) the decision on registration pursuant to special pieces of legislation,<sup>25)</sup> issued on the basis of an application filed within six months of the granting of consent for the sale or production of the subject-matter of the patent in any country.

(2) The applicant of the invention is obliged to submit the document and decision pursuant to subsection 1 to the Office within three months of their delivery, no later than 16 years after the date of the priority right.

(3) A failure to comply with the time limits specified in subsections 1 and 2 cannot be excused.

(4) The Office shall refuse the invention application pursuant to subsection 1 if

(a) the applicant fails to meet the conditions pursuant to subsections 1 and 2,

(b) the subject-matter of the patent granted abroad was placed on the market in the Czech and Slovak Federative Republic before filing the application pursuant to subsection 1.

(5) A patent granted pursuant to section 82(1) and (2) of the Act No. 527/1990 Coll. of Laws is valid for 16 years from the date of the creation of the priority right.

#### § 85

If the time limits under section 74(3) expire before July 1, 2002, an application for the granting of a certificate pursuant to section 74 can be filed until December 31, 2002, if the decision on the registration of a medicine or the decision on the registration of a preparation for plant protection pursuant to special pieces of legislation<sup>25)</sup> became final after January 1, 2000.

#### § 85a

##### **Transitional provisions for adjustments effective from January 1, 2018**

(1) Proceedings initiated and not finally completed by December 31, 2017, shall be completed pursuant to this Act in the version effective from January 1, 2018, unless otherwise provided in subsection 2.

(2) Determination proceedings initiated and not finally completed by December 31, 2017, shall be completed pursuant to this Act, in the version effective until December 31, 2017.

(3) The periods that began to run until December 31, 2017, shall run pursuant to this Act in the version effective until December 31, 2017, and their legal effects shall remain preserved.

(4) Rights and legal relationships resulting from patents granted until December 31, 2017 shall be assessed in accordance with this Act in the version effective as from January 1, 2018. The creation, change and termination of rights and legal relationships, as well as claims arising from them until December 31, 2017 shall be assessed in accordance with the legislation effective at the time of their creation.

#### § 85aa

##### **Transitional provisions for adjustments effective from January 14, 2019**

(1) Proceedings initiated and not finally completed by January 13, 2019 shall be completed pursuant to this Act in the version effective as from January 14, 2019.

(2) Rights and legal relationships resulting from patents granted until January 13, 2019 shall be assessed pursuant to this Act in the version effective as from January 14, 2019. The creation, change and termination of rights and legal relationships, as well as claims arising from them until January 13, 2019 shall be assessed in accordance with the legislation effective at the time of their creation.

#### § 85b

The legally binding acts of the European Union listed in the annex are being transposed by this Act.

#### § 86

##### **Repealing provision**

The following shall be repealed:

1. section 2 to 35, sections 78 to 82, section 84 of the Act No. 527/1990 Coll. of Laws on inventions, industrial designs and rationalization proposals as amended by Art. III of the Act No. 90/1993 Coll. of Laws of the Slovak Rep. and the Act No. 185/1994 Coll. of Laws of the Slovak Rep.

2. section 65(2), sections 66 to 71, section 75(2) and section 86 of the Act No. 527/1990 Coll. of Laws on inventions, industrial designs and rationalization proposals as amended to the extent regulating legal relationships and proceedings regarding inventions, patents and inventor's certificates;

3. title one of the Regulations of the Federal Inventions Office No. 550/1990 Coll. of Laws on proceedings in matters of inventions and industrial designs.

#### Art. II

##### **Repealed as of June 1, 2009**

#### Art. III

##### **Repealed as of January 1, 2008**

#### Art. IV

This Act shall take effect on November 1, 2001, with the exception of Part Four and Part Five, which shall take effect on July 1, 2002.

The Act No. 402/2002 Coll. of Laws of the Slovak Rep. took effect on August 1, 2002.

The Act No. 84/2007 Coll. of Laws of the Slovak Rep. took effect on March 1, 2007.

The Act No. 517/2007 Coll. of Laws of the Slovak Rep. took effect on January 1, 2007.

The Act No. 495/2008 Coll. of Laws of the Slovak Rep. took effect on February 1, 2009.

The Act No. 202/2009 Coll. of Laws of the Slovak Rep. took effect on June 1, 2009.

The Act No. 125/2016 Coll. of Laws of the Slovak Rep. took effect on July 1, 2016.

The Act No. 242/2017 Coll. of Laws of the Slovak Rep. took effect on January 1, 2018, except for Art. I point 12 section 23(4) and section 24(9), point 59 section 50, which took effect on January 1, 2019.

The Act No. 291/2018 Coll. of Laws of the Slovak Rep. took effect on January 14, 2019.

**Rudolf Schuster m. p.**

**Jozef Migaš m. p.**

**Mikuláš Dzurinda m. p.**

## **ANNEX LIST OF TRANSPOSED LEGALLY BINDING ACTS OF THE EUROPEAN UNION**

1. Directive 98/44/EC of the European Parliament and the Council of 6 July 1998 on the legal protection of biotechnological inventions (Special edition of the Official Journal of the European Union, chap. 13/vol. 20, Official Journal of the European Communities L 213, 30.7.1998).

2. Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights (Special edition of the Official Journal of the European Union, chap. 17/vol. 2, Official Journal of the European Communities L 157, 30.4.2004).

3. Directive 2004/27/EC of the European Parliament and of the Council of 31 March 2004 amending Directive 2001/83/EC on Community legislation relating to medicinal products for human use (Special edition of the Official Journal of the European Union, chap. 13/vol. 34; Official Journal of the European Communities L 136, 30.4.2004).

1) Patent Cooperation Treaty adopted in Washington on June 17, 1970, amended in 1979 and 1984 (Notice of the Federal Ministry of Foreign Affairs No. 296/1991 Coll. of Laws).

2) Act No. 202/2009 Coll. of Laws of the Slovak Rep. on the legal protection of plant varieties.

3) Convention relating to International Exhibitions, concluded in Paris on November 22, 1928 (published as No. 46/1932 Coll. of Laws and Regulations of the Czechoslovak state).

4) For example section 69, 479 and 487 of the Commercial Code, section 460 and 469 of the Civil Code, section 12 to 17 of Act No. 111/1990 Coll. of Laws on the state-owned enterprise, as amended.

5) Section 2(1) of the Commercial Code.

6) Paris Convention for the Protection of Industrial Property of March 20, 1883, as revised at Brussels on December 14, 1900, at Washington on June 2, 1911, at The Hague on November 6, 1925, at London on June 2, 1934, at Lisbon on October 31, 1958, and at Stockholm on July 14, 1967 (Regulations of the Minister of Foreign Affairs No. 64/1975 Coll. of Laws as amended by Regulations of the Minister of Foreign Affairs No. 81/1985 Coll. of Laws).

6a) Article 14 of Council Regulation (EC) No 2100/94 of 27 July 1994 on Community plant variety rights (Special edition of the Official Journal of the European Union, 03/ vol. 16 Official Journal of the European Communities L 227, 1.9.1994.).

7) Agreement establishing the World Trade Organization (notice of the Ministry of Foreign Affairs of the Slovak Republic No. 152/2000 Coll. of Laws of the Slovak Rep.).

8) Article 27 of the Convention on International Civil Aviation of December 7, 1944 (Regulations No. 147/1947 Coll. of Laws and Regulations of the Czechoslovak Rep.).

8a) Act No. 362/2011 Coll. of Laws of the Slovak Rep. on medicines and medical devices and on alterations of and additions to certain laws, as amended.

8b) Act No. 307/2016 Coll. of Laws of the Slovak Rep. on reminder proceedings and on additions to certain laws.

9) Sections 137 to 142 of the Civil Code.

9a) Act No. 495/2008 Coll. of Laws of the Slovak Rep. on the maintenance fee for a patent, on the maintenance fee for the European patent with effects for the Slovak Republic and on the maintenance fee for a supplementary protection certificate for medicinal products and plant protection products and on alterations of and additions to certain laws as amended.

10) Section 151d(4) of the Civil Code.

11) Sections 151a to 151md and section 552 of the Civil Code.

12) For example section 514 of the Commercial Code.

12a) Section 508 to 515 of the Commercial Code.

13) Act No. 136/2001 Coll. of Laws of the Slovak Rep. on the protection of economic competition and on alterations of and additions to the Act of the Slovak National Council No. 347/1990 Coll. of Laws on the organization of ministries and other central bodies of the state administration of the Slovak Republic, as amended.

13a) Art. 29 of Council Regulation (EC) No. 2100/94.

13b) Section 442a of the Civil Code.

13c) Section 25 of the Code of Contentious Civil Procedure.

13d) Section 206 of the Code of Contentious Civil Procedure.

14) Sections 324 to 345 of the Code of Contentious Civil Procedure.

14a) Section 340 of the Code of Contentious Civil Procedure.

14b) Art. 4 of the Paris Convention for the Protection of Industrial Property.

15) Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purpose of Patent Procedure and the Regulations under it (Regulations of the Minister of Foreign Affairs No. 212/1989 Coll. of Laws).

15a) Art. 15(5)(c) the first sentence of the Patent Cooperation Treaty.

15b) Agreement on the Visegrad Patent Institute (Notice of the Ministry of Foreign and European Affairs of the Slovak Republic No. 369/2015



Coll. of Laws of the Slovak Rep.).

15c) Section 52 and 113a of the Rules of Execution.

20) Act No. 215/2004 Coll. of Laws of the Slovak Rep. on the protection of classified information and on alterations of and additions to certain laws, as amended.

21) Act No. 71/1967 Coll. of Laws of the Slovak Rep. on administrative proceedings (Rules of Administrative Procedure).

21a) Art. 8(1)(a) subparagraph iv) and Art. 17(2) of the 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 (Official Journal of the European Communities L 198, 8.8.1996) as amended, Art. 8(1) of the Regulation (EC) No. 469/2009 of the European Parliament and of the Council of 6 May 2009 concerning the supplementary protection certificate for medicinal products (Codified version) (Official Journal of the European Union L 152, 16.6.2009) as amended.

22a) Regulation of the European Parliament and of the Council No. 1610/96 as amended.

Regulation of the European Parliament and of the Council No. 469/2009 as amended.

26) Act No. 586/2003 Coll. of Laws of the Slovak Rep. on the Bar and on alterations of Act No. 455/1991 Coll. of Laws of the Slovak Rep. on trade entrepreneurship (Trade Act), as amended, as amended.

26a) Act No. 344/2004 Coll. of Laws of the Slovak Rep. on patent attorneys, on alterations of Act No. 444/2002 Coll. of Laws of the Slovak Rep. on designs and of Act No. 55/1997 Coll. of Laws of the Slovak Rep. on trademarks as amended by Act No. 577/2001 Coll. of Laws of the Slovak Rep. and Act No. 14/2004 Coll. of Laws of the Slovak Rep., as amended.

27) Act of the National Council of the Slovak Republic No. 270/1995 Coll. of Laws of the Slovak Rep. on the state language of the Slovak Republic, as amended.

27a) Section 3(n) of the Act No. 305/2013 Coll. of Laws of the Slovak Rep. on the electronic form of the exercise of the powers of public authorities and on alterations of and additions to certain laws (the e-Government Act) as amended by Act No. 273/2015 Coll. of Laws of the Slovak Rep.

28) Act of the National Council of the Slovak Republic No. 145/1995 Coll. of Laws of the Slovak Rep. on administrative fees, as amended.

29) Act No. 305/2013 Coll. of Laws of the Slovak Rep., as amended.

30) Art. 2(2) of the Regulation (EU) No. 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (Official Journal of the European Union L 257, 28.8.2014) as amended.