

MD – REPUBLIC OF MOLDOVA

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1. Requirements for Deposit

(1) The patent application shall disclose the invention in a manner sufficiently scientifically and technically clear, complete and correct for it to be carried out by a person skilled in the art.

(2) Where the invention refers to biologically reproducible material which is not available to the public, the conditions referred to in paragraph (1) shall only be fulfilled if the applicant proves with a document that, prior to the filing date of the patent application or the acknowledged priority, the biological material has been deposited with an international depositary authority or a depositary institution designated by the Government.

Law on the Protection of Inventions No. 50-XVI of 7 March 2008 (hereinafter “Law”),
(*Art. 36*)

If the invention concerns reproducible biological material, the patent application may contain, where appropriate, an attestation certifying the deposit of that biological material with a depositary institution, in accordance with Article 36 paragraph (2), submitted at the time of filing of the patent application or within 3 months following the filing date of the latter.

(*Law, Art. 33(4)*)

If the invention concerns reproducible biological material which is not available to the public and which cannot be described in the patent application in such a manner as to enable the invention to be carried out by a person skilled in the art, the patent application shall contain an attestation certifying the deposit of that biological material with the National Collection of Nonpathogenic Microorganisms, the Regulations of which is approved by the Government Decision No. 56 of January 26, 2004, (Official Gazette of the Republic of Moldova, 2004, No. 22-25, Art. 184) or with a depositary institution having the status of international depositary authority.

Regulations on the Procedure of Filing and Examination of a Patent Application and of Grant of a Patent, approved by Government Decision of the Republic of Moldova No. 528 of 1 September 2009 (hereinafter “Implementing Regulations”), Rule 49

The document certifying the deposit of reproducible biological material with a national depositary institution designated by the Government or with an international depositary institution shall contain:

- a) the name and the address of the officially recognized national or international collection with which the microorganism was deposited;
- b) the date (year, month, day) of deposit of the microorganism with the officially recognized national or international collection;
- c) the denomination of the microorganism;
- d) the number of deposit of the biological material;
- e) the biochemical, morphological and taxonomic characteristics of the microorganism deposited.

(Implementing Regulations, Rule 156)

Where the biological material has been deposited by a person other than the applicant, a document shall be annexed to the patent application providing evidence that the latter has authorized the applicant to refer to the deposited biological material in the application and has given his consent to the deposited material being made available to the public.

(Implementing Regulations, Rule 157)

2. Time of Deposit

Where the invention refers to biologically reproducible material which is not available to the public, the conditions referred to in paragraph (1) shall only be fulfilled if the applicant proves with a document that, prior to the filing date of the patent application or the acknowledged priority, the biological material has been deposited with an international depositary authority or a depositary institution designated by the Government.

(Law, Art. 36(2))

3. Duration of Storage

No provision is provided in the national legislation. The provision of Rule 9.1 of the Implementing Regulations under the Budapest Treaty is applied.

4. Conditions for the Furnishing of Samples

The availability of deposited biological material shall be effected by the issue of a sample of the biological material:

- 1) prior to the publication of the patent application:
 - a) at the request of the AGEPI, if such sample is necessary for the patenting procedure or if the patent application is in a litigation before AGEPI;
 - b) to the applicant, upon his request;
 - c) to any authority or any natural or legal person authorized by the applicant;
 - d) to any person having the right to inspect the files under Article 96, paragraph (2), of the Law;
- 2) between the publication of the application and the grant of the patent – to any requester or, at the request of the applicant – only to an independent expert;
- 3) after the grant of the patent even in the case of revocation or cancellation thereof, to any requester.

(Implementing Regulations, Rule 50)

The sample shall be available only if the requester has undertaken throughout the existence of a patent application or a valid patent:

- a) not to make the sample or any biological material derived therefrom available to any third party;
- b) to use that sample or any biological material derived therefrom for experimental purposes only, unless the applicant for an owner of a patent expressly waives such an undertaking.

(Implementing Regulations, Rule 51)

Where the patent application is refused or withdrawn, the availability of deposited biological material may be limited upon request to an independent expert for a period of 20 years from the filing date of the patent application. In such a case, the provisions of Rule 51 of the Implementing Regulations shall apply.

(Implementing Regulations, Rule 52)

The requests of the applicant referred to in Rule 50, paragraph 1), letter b), and in Rule 52 of the Implementing Regulations shall only be filed before completion of the technical preparations for publication of the patent application.

(Implementing Regulations, Rule 53)

If biological material deposited ceases to be available from the recognized depository institution, a new deposit of that material is necessary to be made in accordance with the requirements established by Article 4 of the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, to which the Republic

of Moldova has adhered by the Decree of the President of the Republic of Moldova No. 229 of December 30, 1993. The document confirming the new deposit of biological material shall be forwarded to AGEPI within four months of the date of the new deposit. Any new deposit shall be accompanied by a statement signed by the depositor certifying that the newly deposited biological material is the same as the originally deposited.

(Implementing Regulations, Rule 54)