

## **MK – NORTH MACEDONIA**

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### 1. Requirements for Deposit

If the patent application relates to microorganism which is not available to the public, and which cannot be described in the application in such a manner as to enable the invention to be performed by a person skilled in the art, shall be treated as described in sufficiently precise and complete way, if the microorganism has been deposited with a competent depositary institution with the requirements prescribed in the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure.

### 2. Time of Deposit

The microorganism has to be deposited with a competent depositary institution no later than the filing date of the patent application. Filing the evidence for deposit of the microorganism may of valid reasons to be filed additionally, in terms of 90 days following the date of filing the request for granting or from requested priority right or until the day of filing the request for premature proceeding the application in case of dispute.

### 3. Duration of Storage

The microorganism must be stored by the international depositary during the whole period of validity of the patent.

#### 4. Conditions for the Furnishing of Samples

##### (i) Time of Availability of Samples

Since the day of publishing a granted patent, deposited microorganisms shall be available to anyone, under the following conditions:

- (1) Request to be filed in two copies at the Office;
- (2) Upon request, the Office to confirm that a patent application was filed, in which applicant refer to the viable biological material or microorganism that has been deposited, as well that the person who has made a request has a right to ask release of the material;
- (3) The applicant to oblige himself at the Office and at the applicant of the patent applicant that he shall not make available to a third person the requested material before expiry of the period for which the patent is in force;
- (4) The person who has made the request to oblige himself at the Office and at the applicant of the patent application that he shall use the requested material exceptionally for experimental or research goals, since the procedure for granting a patent shall not be ended not matter of the results from the research, except when the request is based on the ground of issued enforce license.
- (5) The Office shall send to the authorized institution one copy of the request and certificate that the filed patent application for viable biological material or microorganism and that the applicant has a right to release sample of the material.

##### (ii) Restrictions Concerning the Furnishing of Samples

If the material is no longer available at the depositary authority, nor is transferred to other depositary authority, shall be considered that the invention is not described in sufficiently precise and complete way.

The Office shall not reject the patent application, if the following conditions are fulfilled:

- (1) If a depositor in term of 90 days from the day of receiving notification from a depositary authority that the deposited material became unavailable, shall deposit microorganism once more;
- (2) If a depositor during the second deposit shall file signed statement that the deposited material is the same as the one previously has been deposited;
- (3) If the Office in term of 90 days from the day of the repeated deposit, received copy of the certificate issued from the depositary authority for deposit of microorganism, which contain number of the patent application, or number of the patent to which deposit relates.

If the cause for unavailability of the material is no longer viable, it shall be deposited again at the same depositary authority, and if other cause exist, than the material may be deposited at the other depositary authority.

If the authorized institution at which the material has been deposited, shall lose the status of authorized institution or shall cease operating as an authorized institution for depositing microorganisms in relation to certain kind of microorganisms or in general, a depositor in terms of 6 months shall not be informed for the change, a term of 90 days for re-deposit shall begin from the day of publishing such change in the Official Gazette of the International Bureau.