

PT – PORTUGAL

Portuguese Institute of Industrial Property
Campo das Cebolas
1149-035
Lisbon
Portugal

Telephone: (351-21) 881 81 00
Telefax: (351-21) 886 98 59
E-mail: servico.publico@inpi.pt
Internet: <https://inpi.justica.gov.pt/>

1. Requirements for Deposit

- (1) If an invention concerns biological material that is not accessible to the public and cannot be described in the patent application in a way as to enable those skilled in the art, or that would allow the use of that type of material, the description shall only be considered sufficient for the purpose of obtaining the patent in case:
 - (a) The biological material has been deposited no later than the date of submission of the patent application at recognised deposit institutions, such as those international depositary authorities that have acquired such a status under the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure of 28 April 1977;
 - (b) the application includes pertinent information that the applicant holds with respect to the characteristics of the biological material that is deposited;
 - (c) the patent application mentions the depositary authority and the deposit number.

(Industrial Property Code, Decree Law No. 110/2018 of December 10th, Article 65(1)(a), (b) and (c))

2. Time of Deposit

The biological material must be deposited no later than the date of submission of the patent application in Portugal.

(Industrial Property Code, Article 65(1)(a))

3. Duration of Storage

In accordance to the Regulations under the Budapest Treaty (Rule 9)

4. Conditions for the Furnishing of Samples

- (2) Access to the deposited biological material shall be provided through the supply of a sample:
- (a) up to the first publication of the patent application, only to those persons who are entitled under national law;
 - (b) between the first publication of the patent application and the granting of the patent, to anyone requesting it or, if the depositor so requests, solely to an independent expert;
 - (c) following the granting of the patent and even in the event of termination of the patent due to invalidity or revocation, to anyone requesting it.
- (3) The sample shall only be supplied in case the person who requests it agrees to the following for the term during which the patent is in force:
- (a) not to supply third parties with any sample of a biological material that has been deposited or any material derived from it, and
 - (b) not to use any sample of the deposited material or material derived from it, except for experimental purposes, excepting express renunciation of the applicant or holder of the patent with respect to that commitment.
- (4) If the patent application is refused or withdrawn, the access to the deposited material may, at the request of the depositor, remain limited to an independent expert for 20 years counted from the date of submission of the patent, in which case the provisions of the previous number shall apply.

(Industrial Property Code, Article 65(2), (3) and (4))