

## **PATENT ACT**

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Zagreb May, 2018

**PATENT ACT**  
(UNOFFICIAL CLEAR TEXT)

**I. GENERAL PROVISIONS**

Article 1

(1) This Act shall regulate the system of protection of an invention by a patent and a consensual patent.

(2) The provisions of this Act shall apply *mutatis mutandis* to a consensual patent, unless expressly provided otherwise.

Article 1.a

This Act establishes a competent body and the tasks thereof relating to the implementation of the Regulation (EC) No. 469/09 of the European Parliament and of the Council of 6 May 2009, concerning the supplementary protection certificate for medicinal products intended for humans or animals, as amended (OJ L 152, 16.6.2009, containing all the amendments – hereinafter: the Regulation (EC) no. 469/2009), 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, as amended (OJ L 198, 8.8.1996, containing all the amendments – hereinafter: the Regulation (EC) No. 1610/1996), as well as the Regulation (EC) No. 816/2006 of the European Parliament and of the Council of 17 May 2006, on compulsory licensing of patents relating to the manufacture of pharmaceutical products for export to countries with public health problems, as amended (OJ L 157, 9.6.2006, containing all the amendments – hereinafter: the Regulation (EC) No. 816/2006.”.

Article 1.b

The expressions used in this Act, having a gender meaning, irrespective of whether they are used in the male or female gender, shall include equally the male and female gender.

Article 2

A patent is the exclusive right protecting a patent owner in the course of the economic exploitation of an invention.

Article 3

Foreign natural and legal persons not having a principal place of business, respectfully a domicile or habitual residence in the territory of the Republic of Croatia shall enjoy the protection provided by this Act, if it results from international treaties binding the Republic of Croatia, or from the application of the principle of reciprocity.

Article 4

1) A legal or a natural person not having a principle place of business, a domicile or a habitual residence in the territory of the Republic of Croatia, must be represented in the proceedings before the State Intellectual Property Office (hereinafter: the Office) by an authorized patent representative, pursuant to the provisions of this Act and special regulations. (2009.)

(2) By way of derogation from the provision set out in paragraph (1) of this Article, a

foreign legal or natural person may individually, without a representative, perform the following acts:

1. File patent applications,
2. Perform other acts relating to the establishment of the filing date of a patent application,
3. File true copies of the first patent application, when claiming priority right referred to in Article 23 of this Act,
4. Receive from the Office notifications relating to the procedures referred to in items 1 to 3 of paragraph (2) of this Article,
5. Pay the administrative fees and procedural charges in accordance with Article 16 of this Act.

(3) In the case of individually performing the acts, referred to in paragraph (2) of this Article, a foreign legal or natural person shall communicate to the Office the address for correspondence, which shall be in the territory of the Republic of Croatia.

(4) If a foreign legal or natural person fails to appoint a representative, or to communicate the address for correspondence to the Office, in accordance with the provision set out in paragraph (3) of this Article, the Office shall order it to appoint a representative or to communicate the address for correspondence within a period of three months by a conclusion.

(5) If a foreign legal or natural person fails to comply with the conclusion of the Office referred to in paragraph (4) of this Article, the Office shall reject its communication and shall provide for the legal service to be made by public announcement.

(6) By way of derogation from the provision set out in paragraph (1) of this Article, the administrative fees and procedural charges for the maintenance of a patent may be paid by any person.

## **II. SUBJECT MATTER OF THE PATENT PROTECTION**

### **PATENTABLE INVENTION**

#### **Article 5**

(1) A patent shall be granted for any invention, in any field of technology, which is new, which involves an inventive step and which is susceptible of industrial application.

(2) According to the conditions set out in paragraph (1) of this Article, a patent shall be granted even for an invention which concerns:

- 1) a product consisting of or containing biological material;
- 2) a process by means of which the biological material is produced, processed or used;
- 3) 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.

(3) The biological material referred to in paragraph (2) of this Article shall be any material containing genetic information and capable of reproducing itself or being reproduced in a biological system.

(4) According to conditions set out in paragraph (1) of this Article an invention which concerns plants or animals shall be considered patentable if the technical feasibility of the invention is not confined to a particular plant or animal variety and if the process for carrying out the invention is not essentially biological.

(5) A process for the production of plants and animals referred to in paragraph (4) of this Article is essentially biological, if it entirely consists of natural processes such as crossing or selection.

(6) The following in particular shall not be considered to be the inventions within the meaning of paragraph (1) of this Article:

1. discoveries, scientific theories and mathematical methods,
2. aesthetic creations,
3. rules, instructions or methods for performing mental activities, playing games or doing business,
4. presentations of information, and
5. computer programs.

(7) The provision of paragraph (6) of this Article shall exclude patentability of the subject-matter or activities referred to in that provision only to the extent to which a patent application or a patent relates to such subject-matter or activities as such.

## EXCLUSION FROM PATENTIBILITY

### Article 6

Excluded from patent protection shall be :

- 1) the inventions which concern animal breeds, and plant varieties, and essentially biological processes for the production of plants or animals, except for the inventions which concern non-biological and microbiological processes and products resulting from such processes, as provided for in Article (5), paragraph 4) of this Act; whereby a microbiological process shall mean, under this Act, any process involving or performed upon or resulting in microbiological material.
- 2) the human body, at the 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. An invention relating to 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, may constitute a patentable invention, even if the structure of that element is identical to that of a natural element. The industrial application of a sequence or a partial sequence of a gene must be disclosed in the patent application as originally filed.
- 3) the inventions which concern diagnostic or surgical methods or methods of treatment practiced directly on the human or animal body, except for the products, in particular substances or compositions used in such methods.

### Article 7

(1) Inventions shall be considered unpatentable where their commercial exploitation would be contrary to order public or morality, but not merely because such exploitation is prohibited by Act or other regulation

(2) The following, in particular, shall be considered as inventions referred to in paragraph (1):

1. processes for cloning human beings;
2. processes for modifying the germ line genetic identity of human beings;
3. uses of human embryos for industrial or commercial purposes; and
4. 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.

## NOVELTY OF AN INVENTION

### Article 8

- (1) An invention shall be new if it does not form part of the state of the art.
- (2) The state of the art shall comprise everything made available to the public on the world level by means of a written or oral description, by use, or in any other way, prior to the filing date of the patent application.
- (3) The state of the art shall also include the content of all patent applications as filed with the effect for the Republic of Croatia, the filing dates of which are earlier than the date of application referred to in paragraph (2) of this Article, and which were made available to the public only on, or after the date of filing the patent application, through the publication effected in the manner as provided in this Act.
- (4) The provisions laid down in paragraphs (1) to (3) of this Article shall not exclude the possibility for patent protection of substances or compositions forming part of the state of the art, and used in processes referred to in Article 6, paragraph (3) of this Act, provided that their use in the mentioned processes does not form part of the state of the art.
- (5) The provisions laid down in paragraphs (1) to (3) of this Article shall not exclude the possibility for patent protection of a substance or a composition as referred to in paragraph (4) of this Article, for a special use in the processes referred to in Article 6 paragraph (3) of this Act, provided that such use thereof does not form part of the state of the art.

## NON-PREJUDICIAL DISCLOSURE OF THE INVENTION

### Article 9

An invention shall also be considered to be new if not more than six months prior to the filing date of the patent application it has formed part of the state of the art due to or in consequence of:

- 1) an evident abuse in relation to the patent applicant or his legal predecessor, or
- 2) the display at an official or officially recognized international exhibition in compliance with the Convention on International Exhibitions signed in Paris on November 22, 1928, and last revised on November 30, 1972, provided that the applicant indicates in the patent application, at the time of its filing, that the invention has been so displayed, and not later than within 4 months as from the filing date of the application, submits a corresponding certificate to that effect.

## INVENTIVE STEP

### Article 10

- (1) An invention shall involve an inventive step if, having regard to the state of the art, it is not obvious to a person skilled in the art.
- (2) In deciding whether an invention involves an inventive step, the content of the applications referred to in Article 8, paragraph (3) of this Act shall not be taken into consideration.

## INDUSTRIAL APPLICABILITY

### Article 11

An invention shall be industrially applicable if its subject matter can be manufactured or used in any kind of industry, including agriculture.

## III. RIGHT TO THE ACQUISITION OF A PATENT

### PERSONS ENTITLED TO ACQUIRE A PATENT FOR AN INVENTION

#### Article 12

- (1) The right to a patent shall belong to the inventor or his successor in title.
- (2) If the invention has been created jointly by two or more inventors, the right to a patent shall belong jointly to the inventors or their successors in title.

## INVENTOR

### Article 13

- (1) An inventor shall be the person who has created an invention in the course of his creative work.
- (2) Any person who has contributed to the creation of an invention by providing only technical assistance shall not be considered to be the inventor.
- (3) The inventor shall have the moral right to be indicated as such in the patent application, in all the documents issued in relation to the grant of a patent, and in the Office Register of applications and Register of patents.
- (4) The inventor's moral right shall not be transferable.

## INVENTOR'S SUCCESSOR IN TITLE

### Article 14

- (1) The inventor's successor in title shall be a legal or a natural person entitled to acquire a patent by virtue of the Act, legal transaction or inheritance.
- (2) An employer shall be considered to be the inventor's successor in title where, by virtue of the applicable Act or the working contract, he has the right to acquire a patent for the invention created under the inventor's employment.

## IV. PATENT GRANTING PROCEDURE

### 1. *Common Procedural Provisions*

#### Article 15

- (1) The State Intellectual Property Office (hereinafter: the Office) shall carry out the administrative procedures for the grant of patents, consensual patents and Supplementary Protection Certificates, and shall perform other administrative and professional tasks concerning the protection of inventions.
- (2) The decisions issued by the Office cannot be appealed, but an administrative dispute can be instituted before the Administrative Court in Zagreb.
- (3) The procedure referred to in paragraph (2) of this Article is urgent

## FEES AND PROCEDURAL CHARGES

### Article 16

(1) The procedures provided for by this Act shall be subject to payment of the fees and procedural charges in accordance with special regulations.

### *2. Patent Application*

## INSTITUTION OF THE PATENT GRANTING PROCEDURE

### Article 17

(1) The patent granting procedure shall be instituted by filing a patent application to the Office.

(2) A patent application may be filed directly in writing, by post, or by electronic means.

(3) The manner of filing a patent application shall be defined by the Regulations (hereinafter: the Regulations) enacted, on the proposal of the Director General of the Office, by the Minister competent for the work of the Office.

## UNITY OF THE INVENTION

### Article 18

(1) A separate patent application shall be filed for each invention.

(2) By one patent application the patent grant for several inventions may be applied for, only if such inventions are so linked as to form a single inventive concept.

## LANGUAGE AND SCRIPT OF A PATENT APPLICATION

### Article 19

(1) A patent application shall be drafted in the Croatian language and in the Latin script.

(2) If the application has been drafted in a foreign language, a translation of the application into the Croatian language shall be filed with the Office.

## CONTENT OF A PATENT APPLICATION

### Article 20

(1) A patent application shall contain:

1. a request for the grant of a patent,
2. a description of the invention
3. one or more claims for the protection of the invention (hereinafter: claims),
4. any drawings referred to in the description or the claims, and
5. an abstract of the invention

(2) A request for the grant of a patent shall contain: an express indication that the grant of a patent is applied for, the title of the invention expressing the essence of the invention, and the indications concerning the applicant.

(3) A written declaration of the inventor in the case he does not want to be mentioned in the application shall be filed with the Office not later than within 4 months as from the filing date of the application.

(4) The patent application must disclose the invention in a manner sufficiently clear and precise for it to be carried out by a person skilled in the art.

(5) If the invention concerns viable biological material which cannot be disclosed in a manner enabling it to be carried out by a person skilled in the art, the application must be accompanied by the proof to the effect that the sample of such material has been deposited with the competent institution not later than on the filing date of the patent application.

(6) As competent institution referred to in paragraph (5) of this Article shall be considered an institution which complies with the requirements prescribed by the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure of April 28, 1977, and last revised on September 26, 1980.

(7) The claims shall define the subject matter the protection of which is applied for. They shall be clear and concise and fully supported by the description. Patent claims may be independent and dependent. Independent claims shall contain new and essential characteristics of an invention. Dependent claims shall contain specific characteristics of the invention as defined in an independent or other dependent claim.

(8) The abstract shall be a short summary of the essence of an invention serving exclusively for the purpose of technical information.

(9) The content, and the manner of drafting particular elements of the patent application and other details concerning the deposit of viable biological materials referred to in paragraph (5) of this Article shall be defined by the Regulations.

#### CONTENT OF A PATENT APPLICATION NECESSARY FOR THE FILING DATE TO BE ACCORDED

##### Article 21

The accordance of the filing date of the patent application shall require that on such a date the application contains:

1. an express indication that the grant of a patent is applied for,
2. the name, or the company name respectively, and the domicile or the principle place of business respectively of the applicant,
3. a part of the patent application, which, at first sight appears to be the description of the invention, even though such description does not comply with all the requirements prescribed by this Act and the Regulations.

##### *3. Priority Right*

##### Article 22

(1) If the same invention has been created by two or more inventors independently of each other, the priority in respect of right to the patent grant shall belong to the applicant whose patent application has the earliest filing date provided that this first application has been published in accordance with Article 35 of this Act.

(2) The priority shall be in effect as from the date of filing the application with the Office, except where the requirements for the grant of priority right referred to in Articles 23 and 24 of this Act have been complied with.



## REQUIREMENTS FOR THE GRANT OF PRIORITY RIGHT

## Article 23

(1) Any legal or natural person who has filed in any member State of the Paris Union for the Protection of Industrial Property (hereinafter: the Paris Union) or in any member of the World Trade Organization (hereinafter: the WTO) a correct application for any kind of the protection for inventions, or her/his successor in title, shall enjoy in the Republic of Croatia, a right of priority as from the date of filing the first application in a member State of the Paris Union, or in a member of the WTO, provided that the application for the same invention is filed with the Office within twelve months, and that the right of priority is claimed.

(2) The correct application referred to in paragraph (1) of this Article shall be considered to be an application the filing date of which is accorded in compliance with the national act of the member State of the Paris Union or the member of the WTO in which it was filed, or in compliance with the international treaty concluded among the member States, whatever may be the outcome thereof.

(3) A subsequent application in respect of the same subject-matter as a previous first application and filed in or for the same State shall be considered as the first application for the purposes of determining priority, provided that, at the date of filing the subsequent application, the previous application has been withdrawn, refused or rejected, without being open to public inspection and without leaving any rights outstanding, and has served as a basis for claiming priority. The previous application may not thereafter serve as a basis for claiming priority.

## PRIORITY CLAIM

## Article 24

The patent applicant intending to take advantage of the priority right referred to in Article 23 of this Act in the Republic of Croatia, shall file with the Office:

1. a priority claim containing essential data concerning the first application the priority of which is claimed (application number and filing date, a member State of the Paris Union or a member of the WTO in or for which the application was filed), not later than up to the expiration of a period of 2 months as from the date of filing the application in the Republic of Croatia, and

2. a copy of the first application certified by the competent authority of the member State of the Paris Union or a member of the WTO in or for which it was filed, not later than up to the expiration of a period of 3 months as from the filing date of the priority claim or of 4 months as from the date of filing the application in the Republic of Croatia, or 16 months from the earliest priority date claimed, whichever period expires first.

(2) If a patent application claiming priority of the first application is filed on the date, which is later than the date on which the priority period referred to in Article 23 paragraph (1) of this Act expired, but within a period of two months from the date of expiration of the priority right, the patent applicant may file a request for the restoration of the priority right.

(3) The request referred to in paragraph (2) of this Article may be filed within two months from the date of expiration of the priority period.

(4) The Office shall adopt a request for the restoration of the priority right, provided that the applicant:

1. State the reasons for the failure to comply with the priority period in spite of due

care required by the circumstances having been taken, and

2. Pay the administrative fees and procedural charges referred to in Article 16 of this Act.

(5) The Office shall previously notify the applicant of the reasons for which it intends to refuse a request for the restoration of the priority right, and shall invite him to file observations on such reasons within a period of two months from the day of receipt of the notification. On the reasoned request of the applicant, the Office may extend the time limit for filing observations for one month.

#### Article 24a

(1) A patent applicant may file a request for the correction or addition of a priority claim within a time limit of sixteen months from the priority date or, if the correction or addition would cause a change in the priority date, sixteen months from the priority date as so changed, whichever sixteen-month period expires first, provided that such a request is filed within four months from the filing date of the patent application.

(2) In addition to the request referred to in paragraph (1) of this Article, the applicant shall pay the administrative fees and procedural charges referred to in Article 16 of this Act. If the applicant fails to pay the administrative fees and procedural charges within the prescribed time limit, the request shall be rejected by a decision.

(3) If the priority date is changed due to the correction or addition of the priority claim, the time limits shall be counted from the priority date as changed.

(4) The request referred to in paragraph (1) of this Article shall not be filed after the applicant has filed a request for publication of the application in accordance with Article 35 paragraph (2) of this Act, unless such a request for publication is withdrawn before the technical preparations for publication of the application have been completed.

#### Article 24b

The requests referred to in Article 24 paragraph (2) and Article 24a paragraph (1) of this Act may not be filed after the patent applicant filed a request for the publication of an application in accordance with Article 35 paragraph (2) of this Act, unless such request for the publication is withdrawn before completion of the technical preparations for the publication of the application.

### MULTIPLE PRIORITY CLAIM

#### Article 25

The patent applicant may, subject to the requirements referred to in Article 24 of this Act, claim multiple priorities on the basis of several earlier applications filed in one or more of the member States of the Paris Union or members of the WTO.

### CHARACTERISTICS OF THE INVENTION TO WHICH THE PRIORITY CLAIM IS RELATED TO

#### Article 26

(1) The priority claim may relate only to such characteristics of the invention, which are contained in the first application or applications the priority of which is claimed.

(2) If certain characteristics of the invention for which priority is claimed do not appear among the claims formulated in the first application or applications respectively, a priority right shall be granted where the application elements as a whole specifically

disclose all such characteristics.

## DATE OF THE GRANTED PRIORITY RIGHT

### Article 27

The date of a granted priority shall count as the date of filing the patent application with the Office, for the purposes of the provisions referred to in Article 8, paragraphs (2) and (3) and Article 22 paragraph (1) of this Act.

## COMPUTATION OF TIME LIMITS IN THE CASE OF MULTIPLE PRIORITIES

### Article 28

If multiple priorities are claimed, the time limits, which, under this Act, run from the date of a granted priority, shall be computed as from the earliest date of the multiple priority right.

#### *4. Course of the Procedure as From the Receipt of the Patent Application up to the Publication Thereof*

## EXAMINATION OF A PATENT APPLICATION AFTER ITS RECEIPT

### Article 29

(1) Upon receipt of a patent application, the Office shall examine whether:

1. the application complies with the requirements for the accordance of the filing date referred to in Article 21 of this Act,
2. the administrative fee and procedural charges for filing the application have been paid in compliance with Article 16 of this Act,
3. the translation of the application in the Croatian language is filed, if the application has been drafted in a foreign language,
4. the drawings referred to in Article 20, paragraph (1), item 4, of this Act have been filed,
5. the applicant, referred to in Article 4 of this Act, who is a natural or a legal person not having a principal place of business, a domicile or a habitual residence in the territory of the Republic of Croatia is represented by an authorized patent representative.

(2) If the application does not comply with the requirements for the accordance of the filing date referred to in Article 21 of this Act, the Office shall order the applicant by a conclusion to correct the deficiencies expressly indicated in it, within a period of two months from the day of receipt of the conclusion.

(3) If the applicant does not comply with the conclusion of the Office within the time limit referred to in paragraph (2) of this Article, the patent application shall be rejected by a decision.

(4) If the applicant corrects the deficiencies within the time limit referred to in paragraph (2) of this Article, the Office shall inform him that the date of receipt of the required corrections shall be accorded as the filing date of the patent application.

(5) Where a patent application refers to drawings not included in the application, the Office shall order the applicant by a conclusion to file the drawings within a period of two months from the day of receipt of the conclusion, and if the applicant complies with the conclusion of the Office, it shall be considered that the filing date of the application is the date of receipt of the drawings by the Office. If the drawings are not

filed, it shall be considered that the applicant did not refer to them.

(6) The Office shall order by a written conclusion the applicant who has not paid the administrative fee and procedural charges or has not filed the translation of the patent application into the Croatian language, to correct the respective deficiencies within a period of two months from the day of receipt of the conclusion.

(7) At a reasoned request of the applicant, the Office may extend the time limits set out in this Article for a period considered to be justified, but not exceeding three months.

(8) If the applicant does not comply with the conclusion of the Office referred to in paragraph (6) of this Article, the patent application having been accorded the filing date shall be considered withdrawn, and the Office shall issue a decision on the suspension of the patent granting procedure.

## ENTRY OF THE PATENT APPLICATION INTO THE REGISTER OF PATENT APPLICATIONS

### Article 30

(1) A patent application to which the filing date has been accorded shall be entered into the Register of Patent Applications kept by the Office.

(2) The content of the register of patent applications and the manner of keeping it shall be defined by the Regulations.

## PRIORITY CERTIFICATE

### Article 31

(1) At the request of the applicant, the Office shall issue a certificate of the right of priority, acquired on the basis of the filing date of the patent application, and accorded in compliance with the provisions of Article 29 of this Act.

(2) The requirements for and the method of issuing the certificate referred to in paragraph (1) of this Article, as well as the content thereof shall be defined by the Regulations.

## DIVISION OF THE PATENT APPLICATION

### Article 32

(1) The applicant may on his own initiative, or upon a request by the Office, divide the subject-matter of the patent application having the accorded filing date (the original application) into two or more applications (a divisional application) and on the basis of each of them shall carry out a separate procedure, a decision to that effect being issued by the Office.

(2) The subject-matter of a divisional patent application shall not go beyond the content of the original application.

(3) The division of the original patent application shall be allowed up to the decision concerning a request for the grant of a patent.

(4) A divisional application shall maintain the filing date of the original application and, if having grounds therefore within the meaning of the provision of Article 23 of this Act, shall enjoy the priority thereof.

## AMENDMENTS OF THE PATENT APPLICATION

### Article 33

A patent application to which the filing date has been accorded shall not be subsequently amended by extending the subject-matter the protection of which is applied for.

## PRE-REQUISITES FOR THE PUBLICATION OF A PATENT APPLICATION

### Article 34

(1) The examination of pre-requisites for the publication of a patent application shall establish whether the application complies with the following requirements:

1. does it contain all the elements referred to in Article 20 of this Act as drafted in the prescribed manner, and necessary attachments prescribed by this Act,
2. whether the inventor is mentioned,
3. whether a proper priority claim has been filed within the meaning of Article 24 of this Act, if a priority right is claimed,

(2) If such examination establishes that the requirements referred to in paragraph (1) of this Article are not complied with, the Office shall order the applicant by a conclusion to correct the deficiencies, expressly indicated in it, within an appropriate time limit. This time limit shall not be less than two months and not more than three months from the day of receipt of the conclusion.

(3) On the reasoned request of the applicant the Office may extend the time limit referred to in paragraph (2) of this Article for a period, which it considers to be justified.

(4) If the applicant does not correct the deficiencies referred to in paragraph (1) of this Article within the prescribed time limit, the Office shall issue a decision on the rejection of the patent application.

(5) If the applicant does not comply with the conclusion referred to in paragraph (2) of this Article to correct the priority claim, the Office shall not grant the priority right.

### *5. Publication of a Patent Application*

## MANNER AND CONTENT OF THE PUBLICATION OF A PATENT APPLICATION

### Article 35

(1) A patent application complying, according to the examination, with all the requirements referred to in Article 34 of this Act, the decision to that effect being issued by the Office, shall be published in the Office official gazette after the expiration of 18 months as from its filing date, or from the date of granted priority respectively, whereby it becomes available to the public.

(2) The patent application referred to in paragraph (1) of this Article may be, at a request of the applicant, published even before the expiration of the said time limit, but not before the expiration of 3 months as from the date of its filing to the Office.

(3) A patent application published, or otherwise made available to the public in spite of the fact that it had been withdrawn or deemed to have been withdrawn, shall be treated as not forming part of the state of the art.

(4) The content of the publication of a patent application shall be defined by the Regulations.

*6. Course of the Procedure as from the Publication of the Patent Application up to the Grant of a Patent*

REQUEST FOR THE GRANT OF A PATENT

Article 36

(1) The applicant may, within 6 months as from the date of publication of a patent application in the Office official gazette, file:

1. a request for the grant of a patent on the basis of a substantive examination of a patent application, or
2. a request for the grant of a patent not including a substantive examination of a patent application (a consensual patent).

(2) If, within the prescribed time limit, one of the requests referred to in paragraph (1) of this Article has not been filed, or the administrative fee and the procedural charges have not been paid in compliance with Article 16 of this Act, the patent application shall be considered to be withdrawn, and the Office shall issue a decision on the suspension of the procedure for the grant of the patent.

(3) The content of the request referred to in paragraph (1) shall be defined by the Regulations.

GRANT OF A PATENT ON THE BASIS OF THE SUBSTANTIVE EXAMINATION OF A PATENT APPLICATION

Article 37

(1) The substantive examination of a patent application shall establish whether the invention complies with all the requirements for the grant of the patent, i. e. whether the subject-matter of the application:

1. is an invention which is not excluded from patent protection in compliance with Article 5, paragraph (6) and Articles 6 and 7 of this Act;
2. is an invention which is disclosed in the application in compliance with Article 20, paragraph (4) of this Act;
3. is an invention which complies with the rule on the unity of invention referred to in Article 18 of this Act;
4. is an invention which is new in compliance with Articles 8 and 9 of this Act, which includes an inventive step in compliance with Article 10 of this Act, and which is industrially applicable in compliance with Article 11 of this Act.

(2) The Office may carry out the substantive examination of a patent application referred to in paragraph (1) of this Article, completely or partially, through one of the national patent offices of other countries with which it has concluded a cooperation agreement.

(3) The applicant who has filed a patent application for the protection of the same invention also with one of the national patent offices of other countries may file with the Office the results of substantive examination carried out by those offices, translated into the Croatian language.

Articles from 38 to 40 deleted

## CONSENSUAL PATENT

### Article 41

A consensual patent shall be granted in respect of the invention the subject-matter of which is patentable in compliance with Article 5 paragraph (6) of this Act and is not excluded from patentability in compliance with Articles 6 and 7 of this Act, and which is industrially applicable in compliance with Article 11 of this Act.

### Article 42

(1) A request for the grant of a consensual patent referred to in Article 36, paragraph (1), item 2 of this Act shall be published in the Office official gazette within three months as from its filing date.

(2) The manner and the content of the publication referred to in paragraph (1) of this Article shall be laid down by the Regulations.

## OPPOSITION TO THE GRANT OF A CONSENSUAL PATENT

### Article 43

(1) After the publication of the request referred to in Article 42 of this Act, any legal or natural person may, within 6 months, file to the Office an opposition to the grant of a consensual patent, or a request for the substantive examination in compliance with Article 36, paragraph (1), item 1 of this Act.

(2) The opposition, or the request for the substantive examination referred to in paragraph (1) of this Article shall be accompanied by evidence on payment of the procedural charges for the opposition which shall be one third of the procedural charges for the substantive examination, or evidence of payment of the procedural charges for the substantive examination, in compliance with Article 16 of this Act.

(3) An opposition to the grant of a consensual patent shall contain:

1. an express indication of an opposition to the grant of a consensual patent,
2. indications concerning the person filling the opposition, namely his family name, given name and domicile, if a natural person is concerned, or a company name and its principle place of business, if a legal person is concerned,
3. the number of the consensual patent application,
4. reasons for the opposition,
5. indications concerning the applicant for a consensual patent,
6. the title of the invention,
7. indications concerning a representative, namely his family name, given name and domicile, if a natural person is concerned, or a company name and its principle place of business, if a legal person is concerned, if the opposition is filed through a representative, and a duly filed power of attorney,
8. the signature of the person filing the opposition or of a representative.

## PROCEDURE CONCERNING THE OPPOSITION TO THE GRANT OF A CONSENSUAL PATENT

### Article 44

If the opposition to the grant of a consensual patent, or a request for substantive

examination is filed, and the administrative fees and procedural charges are paid the Office shall immediately notify the consensual patent applicant thereof.

#### Article 45

(1) The applicant for a consensual patent may, within six months as from the receipt of the notification concerning opposition filed in compliance with Article 43, paragraph (1) of this Act, file a request for the grant of a patent on the basis of the substantive examination procedure in compliance with Article 36, paragraph (1), subparagraph 1 of this Act; he shall be required to pay the difference between the administrative fee for the opposition already paid and the administrative fee for the substantive examination.

(2) If the applicant for a consensual patent does not comply with paragraph (1) of this Article, the Office shall reject the patent application by a decision.

#### Article 46

Any natural or legal person may file a request for the substantive examination in compliance with Article 36, paragraph (1), item 1 of this Act, for the whole duration of a consensual patent, and it shall be carried out in compliance with Article 37, paragraph (1) of this Act, provided that the administrative fee and procedural charges have been paid in compliance with Article 16 of this Act.

### DECISION ON THE REFUSAL OF A PATENT

#### Article 47

(1) If it has been established that a patent application:

1. does not comply with all the requirements for the grant of a patent referred to in Article 37, paragraph (1) of this Act, or
2. does not comply with the requirements for the grant of a consensual patent referred to in Article 41 of this Act,

the Office shall, prior to issuing a decision on the refusal of a patent, notify the applicant in writing of the reasons for which the patent shall not be granted, and shall invite him to comment in writing on the specified reasons within a time limit which shall not be less than two months or more than four months from the day of receipt of the notification.

(2) On the reasoned request of the applicant the Office may extend the time limit referred to in paragraph (1) of this Article.

(3) If the patent applicant does not comply with the notification referred to in paragraph (1) of this Article, the Office shall issue a decision on the refusal of a patent.

### DECISION ON THE GRANT OF A PATENT

#### Article 48

(1) If it has been established that the patent application:

1. complies with all the requirements for the grant of a patent referred to in Article 37, paragraph (1) of this Act, or
2. complies with the requirements referred to in Article 41 for the grant of a consensual patent, and that an opposition to the grant of a consensual patent in compliance with Article 43 of this Act has not been filed,

the requirements for the grant of a patent have been complied with, and the Office shall



issue a decision to that effect.

(2) The Office shall notify the applicant of the content of the patent application on the basis of which it intends to grant a patent, and shall invite him to submit a written approval of the text provided within a period of two months from the day of receipt of the.

(3) If the applicant fails to comply with paragraph (2) of this Article, the Office shall issue a decision on the grant of a patent, as though the approval had been given.

(4) If the patent applicant submits in time a written declaration to the effect that he does not agree with the proposal referred to in paragraph (2) of this Article, he shall state the reasons therefor, and shall submit to the Office an amended text of the claims.

(5) If the Office accepts the applicant's reasons and amended claims referred to in paragraph (4) of this Article, it shall issue a decision on the grant of a patent according to the text of the claims proposed by the patent applicant.

(6) If the reasons stated by the applicant cannot be accepted, the Office shall notify the applicant thereof, and shall issue a decision on the grant of a patent according to the final text of the claims as submitted to approval.

(7) The Office shall issue a decision referred to in paragraphs (3) and (5) of this Article provided that the administrative fees and procedural charges for the maintenance of a patent, for printing of the publication thereof, and for the issuance of the patent certificate and patent specification have been paid in compliance with Article 16 of this Act.

## PATENT REGISTER

### Article 49

(1) The data specified in the decision on the grant of a patent shall be entered into the Patent Register kept by the Office, on the date of the decision.

(2) The data specified in the decision on the refusal of the request for the grant of a patent shall be entered into the Register of Patent Applications.

(3) The content and the manner of keeping the Patent Register shall be specified by the Regulations.

## PATENT CERTIFICATE

### Article 50

(1) The patent owner shall be issued a patent certificate as soon as possible as from the date of the decision on the grant of a patent and the consensual patent owner shall be issued a consensual patent certificate.

(2) The content and form of the certificates referred to in paragraph (1) of this Article shall be specified by the Regulations.

## PUBLICATION OF THE MENTION OF A PATENT GRANT

### Article 51

(1) The mention of the grant of the patent shall be published in the Office official gazette, in its first issue after the date of the decision on the grant thereof. The decision to grant the patent shall take effect on the date of such publication.

(2) The content of the publication referred to in paragraph (1) of this Article shall be defined by the Regulations.

## PATENT SPECIFICATION

### Article 52

(1) The patent owner shall be issued a Patent Specification as soon as possible after the date of the decision on the grant of a patent, which shall be, where a consensual patent is concerned, designated as the “Consensual Patent Specification”.

(2) The content and form of the Patent Specification and the Consensual Patent Specification referred to in paragraph (1) of this Article shall be specified by the Regulations.

## EXCERPT FROM THE REGISTER

### Article 53

(1) On the request of any natural or legal person the Office shall issue an excerpt from the Register of Patent Applications and the Register of Patents.

(2) The manner of issuing and the content of the excerpt shall be specified by the Regulations.

### Article 54 deleted

## *7. Information Services*

### Article 55

(1) The Office shall, at a request, make available to any legal and natural persons copies of patent applications published in its official gazette as well as copies of granted patents.

(2) Before the publication of a patent application in the official gazette, the Office may make available to any interested legal or natural person the following data: the number of the application, its filing date or in case the priority has been claimed, the number and the date, and the country in which or the organization with which the first application has been filed, the indications on the applicant and the title of the invention.

(3) The Office shall, at a request of an interested legal or natural person, provide other information services such as a search of patent documents in certain technical or technological fields.

(4) Scope and manner of providing these services as well as charges therefore, shall be specified by the Regulations.

## CORRECTION OF DEFICIENCIES IN THE DOCUMENTS

### Article 56

(1) Mistakes made in names or numbers, typing errors, linguistic errors and other obvious mistakes in documents, registers or publications shall be corrected at a request of the applicant or patent owner or ex officio.

(2) A request for the correction of the mistakes referred to in paragraph (1) of this Article shall be subject to payment of the administrative fee and procedural charges in cases where a mistake is not attributable to the Office.

(3) If a patent application has been published, all the amendments referred to in paragraph (1) shall be published in the official gazette of the Office.

(4) The manner of filing a request for the correction of mistakes shall be defined by the Regulations.

## 8. *Restitutio in Integrum*

### Article 57

(1) If the applicant or the owner of a patent has, despite due care required by the circumstances, failed to perform an act in the course of the procedure before the Office within the time limit prescribed by this Act or the regulation enacted by virtue of this Act, the direct result of which is a loss of rights conferred by the patent application or the patent, the Office shall authorize the *restitutio in integrum*, provided that the applicant:

1. files a proposal for the *restitutio in integrum* and completes the omitted acts within the prescribed time limit;
2. indicates the circumstances that prevented him from performing the omitted act in time;
3. pays the administrative fee and procedural charges in compliance with Article 16 of this Act.

(2) A proposal for the *restitutio in integrum* shall be filed within three months from the day on which the reason of failure ceased to exist. The proposal shall not be filed after the expiration of a period of one year from the date of failing to comply with a time limit.

(3) After the expiration of a period of one year from the date of failing to comply with the time limit, the proposal referred to in paragraph (1) of this Article shall not be filed. In the case of failing to comply with a time limit for payment of a renewal fee for the maintenance of a patent, the time limit laid down in Article 74, paragraph (3) of this Act shall be included in the one-year period.

(4) If a proposal for the *restitutio in integrum* does not meet the conditions referred to in paragraph (1) of this Article, the Office shall order the applicant by a conclusion to rectify the proposal within a period of two months from the receipt of the conclusion. If the applicant fails to comply with the conclusion within the prescribed time limit, and if a proposal for the *restitutio in integrum* is not filed in the prescribed time limit, the Office shall issue a decision on the rejection of the request for the *restitutio in integrum*.

(5) The Office shall, prior to issuing a decision on the proposal for the *restitutio in integrum*, notify the person filing the proposal of the reasons for which it intends to refuse the proposal, entirely or in part, and shall invite him to comment on those reasons within two months from the day of receipt of the notification.

(6) A proposal for the *restitutio in integrum* shall not be filed in connection with the failure to comply with a time limit for the following acts:

1. filing of the proposal referred to in paragraph (1) of this Article,
2. filing of the request for the extension of a time limit,
3. filing of the request referred to in Articles 24 and 24a of this Act,
4. filing of one of the requests referred to in Article 36 of this Act,
5. filing of the opposition referred to in Article 43, paragraph (1) of this Act,
6. filing of the request referred to in Article 57a of this Act,
7. furnishing of the translation referred to in Article 29, paragraph (1), item 3 and Article 103, paragraphs (2) and (3) of this Act, and Article 108e, paragraphs (2) and (4) of this Act

8. all the acts in the procedures before the Office, involving several parties,

(7) Any person who has in good faith exploited an invention or has made real and serious preparations for exploiting the invention which is the subject-matter of a published application may, in the period between the loss of rights referred to in paragraph (1) of this Article, and the publication of the fact concerning the acceptance of the proposal for the reinstatement of rights, continue such exploitation, without compensation for damages, for the purposes of his own business and needs related to it.

(8) The contents of the publication of indications concerning the restitutio in integrum shall be specified by the Regulations.”

### *9. Continued Processing*

#### Article 57a

(1) If the applicant for or the owner of a patent has failed to comply with a time limit for an act in a procedure before the Office and that failure has the direct consequence of causing a loss of rights conferred by a patent application or a patent, he may file a request for the continued processing with respect to the patent application or the patent. The Office shall authorize the continued processing, provided that the applicant:

1. Files a request for the continued processing, and performs all the omitted acts within the prescribed time limit, and

2. Pays the administrative fee and procedural charges in accordance with Article 16 of this Act.

(2) A request for the continued processing may be filed within two months from the day on which he learned about the legal consequences referred to in paragraph (1) of this Article.

(3) If the omitted acts have not been performed within the time limit referred to in paragraph (2) of this Article, the Office shall issue a decision on the rejection of a request for the continued processing.

(4) A request for the continued processing shall not be filed, if failure to comply with concerns the time limit:

1. Referred to in paragraph (2) of this Article,

2. For filing the request referred to in Articles 24 and 24a of this Act,

3. For filing the proposal referred to in Article 57 of this Act,

4. For all the acts in the procedures before the Office involving several parties.

(5) If the Office complied with the request referred to in paragraph (1) of this Article, the provisions of Article 57, paragraphs (7) and (8) of this Act shall apply mutatis mutandis.

## **V. EFFECTS OF A PATENT**

### **EXCLUSIVE RIGHTS ACQUIRED BY A PATENT**

#### Article 58

(1) The patent owner shall be entitled to exploit the protected invention.

(2) Any other person not having the patent owner’s consent shall be prohibited from:

1. making, offering for sale, selling, using, exporting or importing and stocking for such purposes, the product carried out according to the invention,

2. using the process which is the subject matter of the invention, or offering the use

thereof,

3. offering for sale, selling, using, exporting or importing and stocking for such purposes, the product which is obtained directly from a process which is the subject-matter of the invention.

(3) Any other person not having the patent owner's consent shall be also prohibited from offering and supplying the product (substance, composition, part of the apparatus) constituting an essential element of the invention, to persons not entitled to exploit the said invention, if the offerer or the supplier knows or should have known from the circumstances of the case that such product is intended for putting into function the invention of another person.

(4) The provisions referred to in paragraph (3) of this Article shall not apply if the offered or supplied product is a staple commercial product, except where the supplier or offerer induces other persons to commit acts referred to in paragraph (2) of this Article.

(5) In the absence of proof to the contrary, a product shall be considered as having been obtained by a protected process, if the product is new, or if it is likely that the product was obtained by a protected process, and that the patent owner has been unable, despite reasonable efforts, to determine the process actually used. The likelihood that the product was obtained by the protected process shall exist, in particular, where the protected process is the only process known.

## EXCLUSIVE RIGHTS RELATED TO PATENTS IN THE FIELD OF BIOTECHNOLOGY

### Article 59

(1) If a biological material possessing specific characteristics as a result of the invention is protected by a patent, the exclusive rights referred to in Article 58, paragraphs (2) and (3) of this Act shall extend to any biological material derived from that biological material through propagation or multiplication in an identical or divergent form and possessing those same characteristics.

(2) If a process that enables a biological material to be produced possessing specific characteristics as a result of the invention is protected by a patent, the exclusive rights referred to in Article 58, paragraphs (2) and (3) of this Act shall extend to biological material directly obtained through that process and to any other biological material derived from the directly obtained biological material through propagation or multiplication in an identical or divergent form and possessing those same characteristics.

(3) If a product containing or consisting of genetic information is protected by a patent, the exclusive rights referred to in Article 58, paragraphs (2) and (3) of this Act shall extend to all material, save as the human body, at the 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, in which the product is incorporated and in which the genetic information is contained and performs its function.

## RIGHTS CONFERRED BY A PATENT APPLICATION

### Article 60

(1) By the publication of the patent application in compliance with Article 35 of this Act, the patent applicant shall acquire temporary rights, on the basis of which reasonable compensation for damages may be claimed from any third party, which has

exploited the invention within the period from the date of publication of the patent application and the date of publication of a mention of the grant of the patent contrary to Articles 58 and 59 of this Act, in a manner, that could be prohibited after the grant of the patent.

(2) The patent application shall not have the effects set out in paragraph (1) of this Article when it has been refused, rejected, withdrawn, or deemed to be withdrawn.

## SCOPE OF THE EXCLUSIVE RIGHTS

### Article 61

(1) The scope of the patent owner's exclusive rights shall be determined by the claims which are finally accepted in the patent granting procedure, whereas the description and drawings shall serve to interpret patent claims. The terms of the claims shall not be confined to their strict literal wording neither shall the description and drawings be taken into account only for the purpose of clarifying vagueness in the claims. The claims shall neither be taken as guidelines indicating that the scope of the exclusive rights may extend to the matter which a person skilled in the art might take as the intended scope of protection.

(2) Within the time period from the date of publication of a patent application up to the patent grant, the scope of protection shall be determined by the claims contained in the patent application, published in compliance with this Act, however, the patent as finally granted or as amended in nullity proceedings in which it has been partially revoked, shall determine retroactively the rights conferred by the application, in so far as the scope of protection is not thereby extended.

## Va AMENDMENT OF A PATENT

### ENTRY OF CHANGES IN THE REGISTERS

#### Article 61a

(1) Upon the request by a party for the entry of changes in the register, the Office shall issue a decision on the entry in the Register of Patent Applications, or in the Register of Patents of the changes, which have occurred after the filing of the application, or following the entry of the decision on the grant of a patent.

(2) The changes referred to in paragraph (1) of this Article, as entered, shall be published in the official gazette of the Office.

(3) The procedure concerning the entry of changes in the Registers of the Office, and the publication thereof in the official gazette, as well as payment of the fees and procedural charges shall be laid down by the Ordinance and special regulations enacted pursuant to this Act.

## LICENSE CONTRACT AND TRANSFER OF RIGHTS

### Article 62

(1) The right to exploit the protected invention shall be assigned by a license contract.

(2) A patent may be the subject of a transfer, complete and partial.

(3) The license contract and the contract on the transfer of a patent shall be concluded under the conditions and in a manner as prescribed by the Act on Obligatory Relations.

(4) The conclusion of the license contract or the contract on the transfer of a joint patent shall require the consent of all the owners thereof.

(5) A licence and the transfer of rights shall have effect against third persons from the date of their entry in the register.

(6) The provisions of this Article shall also apply mutatis mutandis to the conclusion of licence contracts and contracts on the transfer of the rights conferred by a patent application, a consensual patent and a Supplementary Protection Certificate.

## RIGHTS IN REM AND LEVY OF EXECUTION

### Article 62a

(1) A patent may be the subject of the rights in rem and levy of execution.

(2) A right in rem shall be entered in the register upon the request of a lien creditor or a lien debtor. The granting of a right in rem shall have effect against third parties as of the date of its entry in the register.

(3) The court levying an execution ex officio shall inform the Office without delay of the execution levied upon a patent for the purpose of the entry of the levy of execution in the register. The entry of the levy of execution in the register shall be carried out at the expense of the execution creditor.

(4) The provisions of this Article shall also apply mutatis mutandis to the grant of the rights in rem and to the levy of execution upon the right conferred by a patent application, a consensual patent and a Supplementary Protection Certificate.

## BANKRUPTCY PROCEEDINGS

### Article 62b

Where a patent, or the right conferred by a patent application, a consensual patent or a Supplementary Protection Certificate forms part of a bankruptcy estate, the bankruptcy estate manager shall inform the Office ex officio of the institution of the bankruptcy proceedings for the purpose of the entry of the bankruptcy in the register.

## VI. LIMITATION OF THE EFFECT OF A PATENT

### EXCEPTIONS FROM THE EXCLUSIVE RIGHTS

#### Article 63

The patent owner's exclusive right of exploitation of the invention shall not apply to:

1. acts in which the invention is exploited for private and non-commercial purposes,
2. acts done for the purposes of research and development and for experiments relating to the subject-matter of the protected invention, including where such acts are necessary for obtaining registration or authorization for putting on the market a product being a human or a veterinary drug or a medical product,
3. direct and individual preparation of a medicine in a pharmacy on the basis of an individual medical prescription and acts relating to the medicine so prepared.

### RIGHT OF THE PRIOR USER

#### Article 64

(1) A patent shall have no effect against the person who had, prior to the filing date of the application, or prior to the date of granted priority exploited or manufactured, in good faith and within her/his economic activities, the product which is the subject-matter of the invention or, had made real and serious preparations for such exploitation

of the invention in the Republic of Croatia.

(2) The person referred to in paragraph (1) of this Article shall have the right to proceed, without the patent owner's consent, with the exploitation of the invention to the extent to which she/he had exploited it or had prepared its exploitation up to the filing date of the application for the said invention.

(3) The right referred to in paragraph (2) of this Article may be transferred or inherited only with the working process and production plant in which the exploitation of the invention has been prepared or has started.

## LIMITATION OF EFFECTS IN RESPECT OF PATENTS IN THE FIELD OF BIOTECHNOLOGY

### Article 65

(1) The exclusive rights deriving from the provision set out in Article 59 of the Act shall not extend to biological material obtained from the propagation or multiplication of biological material placed on the market in the territory of the Republic of Croatia, or upon the accession of the Republic of Croatia to the European Union respectively, on the market of any of the States of the European Union, or States Parties to the Agreement Creating the European Economic Area by the owner of the patent or with his consent, where the multiplication or propagation necessarily results from the application for which the biological material was marketed, provided that the material obtained is not subsequently used for other propagation or multiplication.

(2) By way of derogation from Article 59 of this Act the sale or other form of commercialization of plant propagating material to a farmer by the owner of the patent or with his consent for agricultural use implies authorization for the farmer to use the product of his harvest for propagation or multiplication by him on his own farm.

(3) By way of derogation from Article 59 of this Act, the sale or any other form of commercialization of breeding stock or other animal reproductive material to a farmer by the owner of the patent or with his consent implies authorization for the farmer to use the protected livestock for an agricultural purpose, including making the animal or other animal reproductive material available for the purposes of pursuing his agricultural activity but not sale within the framework or for the purpose of a commercial reproduction activity.

## EXHAUSTION OF THE PATENT OWNER'S EXCLUSIVE RIGHTS

### Article 66

(1) The placing on the market in the territory of the Republic of Croatia, or, after the accession of the Republic of Croatia into the full membership of the European Union, in the territory of any of the States of the European Union, or States Parties to the Agreement Creating the European Economic Area, of a product made according to the invention or a product directly obtained by a process which is the subject matter of an invention by the owner of a patent, or with his express authorization shall exhaust for the territory of the Republic of Croatia, the exclusive rights conferred by the patent in respect to such a product.

(2) The provisions of paragraph (1) of this Article shall also apply *mutatis mutandis* to the exclusive rights conferred by the Supplementary Protection Certificate.



## VEHICLES IN THE INTERNATIONAL TRAFFIC

## Article 67

The use of the products made according to the protected invention in the construction or equipment of a vessel, aircraft or land vehicle belonging to any of the member States of the Paris Union or the WTO members shall not be considered to be the patent infringement where such transport means finds itself temporarily or accidentally in the territory of the Republic of Croatia, provided that the built-in product serves exclusively for the purposes of the said transport means.

**VII COMPULSORY LICENSE***1. Common Provisions*COMPETENCE AND PROCEDURE FOR THE GRANT OF A COMPULSORY  
LICENCE

## Article 67a

- (1) The Commercial Court in Zagreb shall be competent to grant compulsory licences.
  - (2) The procedure for the grant of a compulsory licence shall be instituted by a legal action against the owner of a patent or a holder of a Supplementary Protection Certificate, containing an application for the grant of a compulsory licence. In the notice of legal action, the plaintiff shall indicate all the facts and present all the evidence, on which the application is based. The court shall decide on the grant of a compulsory licence by a judgment.
  - (3) The decisions of the court issued in the procedures for the grant of a compulsory licence may be appealed in accordance with the rules laid down in the Act on Civil Proceedings.
  - (4) In the absence of proof to the contrary, it shall be considered that, in the procedure for the grant of a compulsory licence, the owner of a patent or the holder of a Supplementary Protection Certificate is the person who is entered as such in the Register of Patents.
  - (5) The Act on Civil Proceedings shall apply to particular matters relating to the procedure for the grant of a compulsory licence, not regulated by this Act.
2. Compulsory licences in the cases of insufficient exploitation of a patent, national emergencies, the need for protection from unfair market competition, exploitation of another patent or protected plant variety, and cross-licensing.

## GRANT OF A COMPULSORY LICENSE

## Article 68

- (1) The competent court in the Republic of Croatia may grant a compulsory license for lack or insufficiency of exploitation of a patent to any person filing a request for the grant of a compulsory license, or to the Government of the Republic of Croatia, if the patent owner has not exploited the invention protected by a patent in the territory of the Republic of Croatia on reasonable terms or has not made effective and serious preparations for its exploitation.
- (2) A request for the grant of a compulsory license based on paragraph (1) of this Article can be filed after the expiration of a period of four years as of the filing date of a patent application, or after the expiration of three years as of the date on which the

patent was granted.

(3) A compulsory license cannot be granted if the patent owner provides legitimate reasons to justify non-exploitation or insufficiency of exploitation of the protected invention.

(4) On a reasoned request, the court may grant a compulsory license in respect of a first patent to the owner of a patent or to the owner of a plant variety right who cannot use his patent (second patent) or his plant variety right without infringing the first patent, provided that the invention claimed in the second patent or a protected plant variety involves an important technical advance of considerable economic significance in relation to the invention claimed in the first patent. The competent court may take any measure it regards as useful to verify the existence of such a situation.

(5) In the case of a compulsory license as provided in paragraph 4 of this Article, the owner of the first patent shall be entitled to a cross license on reasonable terms to use the invention protected by the second patent or protected plant variety.

(6) The court may grant a compulsory license if the exploitation of the patented invention is necessary in situations of extreme urgency (national security, public interest protection in the field of health, food supplying, environmental protection and improvement, specific commercial interest) or when it is necessary to remedy a practice determined after judicial or administrative process to be anticompetitive.

(7) In the case of semi-conductor technology, a compulsory license may be granted only in the cases set out in paragraph 6 of this Article.

(8) A compulsory license may be granted only if a person filing a request has made efforts to obtain authorization from the patent owner on reasonable commercial terms and conditions and if such efforts have not been successful within a reasonable period of time. The court may derogate from these conditions in the situations set out in paragraph (6) of this Article. The right holder shall be informed of the granting of a compulsory license as soon as reasonably possible.

## CONDITIONS APPLICABLE TO THE GRANT OF A COMPULSORY LICENSE

### Article 69

(1) A Compulsory license shall be non-exclusive, and its scope and duration shall be exclusively limited to the purpose for which it was authorized.

(2) A compulsory license shall be transferred only with the production plant or the part thereof respectively, in which the invention it is granted for has been exploited.

(3) A compulsory license shall be granted predominantly for the purposes of supplying the domestic market unless it is necessary to correct a practice determined after judicial or administrative process to be anti-competitive.

(4) The competent authority shall, on a reasoned request of an interested person, cancel a compulsory license, subject to adequate protection of the legitimate interests of the persons so authorized, if and when the circumstances, which led to its authorization, cease to exist and are unlikely to recur.

(5) The patent owner has the right to remuneration, taking into account the economic value of the authorization and need to correct anti-competitive practice.

(6) A compulsory license according to Article 68 paragraph (4) of this Act shall be non-transferable except with a transfer of the second patent or the protected plant variety.

3. *Compulsory licences for patents relating to the manufacture of pharmaceutical products intended for export to countries having public health problems*

GRANTING OF A COMPULSORY LICENCE

Article 69a

(1) The court referred to in Article 67a paragraph 1 of this Act may grant, to any person instituting a legal action claiming the grant of a compulsory license in accordance with the provisions of the Regulation (EC) No. 816/2006, a compulsory license for a patent or a Supplementary Protection Certificate, required for the manufacture and sale of a pharmaceutical product, where such a product is intended for export to importing countries with public health problems.

(2) In relation to compulsory licenses relating to the manufacture of pharmaceutical products for export to countries with public health problems, the terms within the meaning of this Act shall have the same meaning as those used in the Regulation (EC) No. 816/2006.

(3) With an application for the grant of a compulsory license referred to in paragraph (1) of this Article, the applicant shall communicate the number of the granted patent or the Supplementary Protection Certificate for the invention which is the subject matter of the compulsory license, and the website address referred to in Article 10.6 of the Regulation (EC) No. 816/2006.

(4) The provisions of this Act relating to compulsory licenses and the provisions of the Act on Civil Proceedings shall apply *mutatis mutandis* to particular matters relating to the procedure for the grant of a compulsory license, not regulated by the Regulation (EC) No. 816/2006.

Adoption of an Application for the Grant of a Compulsory License

Article 69b

(1) If in the examination procedure concerning an application for the grant of a compulsory license it has been established that the application complies with all the requirements prescribed by the Regulation (EC) No. 816/2006, and the requirements prescribed by this Act and the Act on Civil Proceedings, the court shall issue a decision on the adoption of the application.

(2) In its decision, the court shall indicate in detail specific conditions set out in Article 10 paragraphs 2 to 9 of the Regulation (EC) No. 818/2006, to be fulfilled by the licensee.

(3) Indication of the grant of a compulsory license shall be entered in the Register of Patents or the Register of Supplementary Protection Certificates and published in the official gazette of the Office.

(4) The court shall notify the Council for TRIPS through the intermediary of the Office of its final decisions relating to the grant of a compulsory license, the conditions under which it was granted, as well as of its termination and review, indicating the data prescribed by Article 12 of the Regulation (EC) No. 816/2006. A copy of this notification shall be communicated by the Office to customs authorities and to the authority competent for medicines and medicinal products in the Republic of Croatia.

## REFUSAL OF AN APPLICATION FOR THE GRANT OF A COMPULSORY LICENCE

### Article 69c

The court referred to in Article 67a paragraph (1) of this Act shall refuse an application for the grant of a compulsory license by a decision, if it fails to comply with the requirements set out in the Regulation (EC) No. 816/2006, and the requirements prescribed by this Act.

## TERMINATION OR MODIFICATION OF A COMPULSORY LICENCE

### Article 69d

(1) The right holder or the licensee may institute a legal action claiming from the court to terminate a compulsory licence, if it has established that the counter party has failed to respect a decision on the grant of a compulsory license. In its decision to terminate the compulsory license, the court shall specify the time period within which the licensee shall arrange for any product in his possession, custody, power or control to be redirected at his expense to the countries in need referred to in Article 69a of this Act, or otherwise disposed of, in consultation with the right holder.

(2) When notified by the importing country that the amount of pharmaceutical product has become insufficient to meet its needs, the licensee may institute a legal action, claiming the modification of the licence conditions, for the purpose of permitting the manufacture and export of additional quantities of the product to the extent necessary to meet the needs of the importing country concerned. In such cases the court shall apply expeditious proceedings. If the additional quantity of the product requested does not exceed 25%, the provisions of Article 69a paragraph (8) of this Act shall not apply.

## VIII. DURATION, MAINTENANCE AND CESSATION OF EFFECT OF A PATENT

### TERM OF A PATENT

#### Article 70

(1) The term of a patent shall be 20 years counting from the filing date of the application.

(2) The term of a consensual patent shall be 10 years counting from the filing date of the application.

Articles from 71 to 73 deleted

## ANNUAL FEES AND PROCEDURAL CHARGES FOR THE MAINTENANCE OF A PATENT

### Article 74

(1) The maintenance of rights conferred by an application and a granted patent shall be subject to payment of an annual administrative fee and procedural charges, in the manner prescribed by regulation enacted by virtue of this Act.

(2) The annual fee and procedural charges referred to in paragraph (1) of this Article shall be payable for the third and every subsequent year, counting from the application

filing date.

(3) If the patent owner fails to pay the administrative fee and procedural charges in compliance with the preceding paragraph, he may pay them in the grace period of 6 months, provided that he also pays an additional administrative fee and additional procedural charges.

(4) The Office shall remind the patent owner of nonpayment of an annual administrative fee and procedural charges for the maintenance of a patent and consequences thereof, and on the possibility of payment according to paragraph (3) of this Article.

#### PRE-TERM LAPSE OF A PATENT DUE TO THE NON-PAYMENT OF ANNUAL MAINTENANCE FEES AND PROCEDURAL CHARGES

##### Article 75

If the patent owner does not pay a prescribed administrative fee and procedural charges for the maintenance of a patent, the patent shall lapse on the day following the day on which the time limit for the payment referred to in Article 74 of this Act has expired.

#### PRE-TERM TERMINATION OF A PATENT DUE TO THE SURRENDER THEREOF

##### Article 76

(1) The patent owner may surrender a patent in its entirety or in part by a written declaration on the surrender thereof, certified by the public notary. The declaration on surrender shall take effect on the day following the day of its communication to the Office.

(2) If a particular right on behalf of third persons has been entered into the register, the patent owner may not surrender a patent without a prior certified written consent of those persons.

(3) The surrender of a patent shall be entered into the register, and published in the official gazette of the Office.

Article 77 deleted

#### INHERITANCE OF THE PATENT OWNER'S CAPACITY

##### Article 78

(1) A patent shall terminate on the day of the patent owner's death, or on the day of the loss of the capacity of the legal person respectively, unless transferred to heirs, respectively successors in title.

(2) The provisions of this Article shall apply mutatis mutandis to a patent applicant.

### IX. DECLARATION OF NULLITY OF A PATENT

#### REASONS FOR THE DECLARATION OF NULLITY OF A PATENT

##### Article 79

A patent may be declared null and void at any time, on the proposal of any natural or

legal person or a State Attorney, if the patent has been granted:

1. for a subject matter which may not, within the meaning of Article 5, paragraph (6) and Articles 6 and 7 of this Act, be protected by a patent,
2. for an invention which, on the filing date of the patent application or on the date of the granted priority respectively, was not new or did not include an inventive step,
3. for an invention which is not industrially applicable,
4. for an invention which is not disclosed in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art,
5. for a subject-matter extending beyond the content of the patent application as filed or, if the patent was granted on a divisional application or on a new application filed under Article 89 of this Act, beyond the content of the earlier application as filed;
6. on behalf of a person not entitled to the patent protection for the invention.

#### PROPOSAL FOR THE DECLARATION OF NULLITY OF A PATENT

##### Article 80

- (1) The procedure concerning the declaration of nullity of a patent shall begin by filing the proposal with the Office.
- (2) The proposal referred to in paragraph (1) of this Article shall contain the data concerning the applicant, the owner of a patent, the number of the decision, and the registration number of the patent, the reasons for the proposal of the declaration of nullity of the patent supported by necessary evidence.

#### PROCEDURE CONCERNING THE PROPOSAL FOR THE DECLARATION OF NULLITY OF A PATENT

##### Article 81

- (1) If the proposal for the declaration of nullity of a patent is not drafted in compliance with the provision referred to in Article 80, paragraph (2), of this Act, or if the administrative fee and procedural charges have not been paid in compliance with Article 16 of this Act, the Office shall order the applicant by a conclusion to correct such deficiencies within a period of two months from the day of receipt of the conclusion.
- (2) If the applicant does not correct the proposal within the time limit specified in paragraph (1) of this Article, the Office shall reject the proposal by a decision.
- (3) The Office shall communicate the correct proposal to the patent owner and shall invite him to submit his response within a period which shall not be less than 30 days and shall not exceed 60 days, as from the day of the receipt thereof.
- (4) In the course of the procedure concerning the declaration of nullity of a patent, the Office shall invite the parties as many times as necessary to submit, within the period referred to in paragraph (3) of this Article, their comments on the submissions of the other party. At the same time the Office shall invite the applicant to file, where necessary, the description, claims and drawings as amended, provided that the subject matter of the protection does not extend beyond the content of a patent as granted.
- (5) Before taking a decision to maintain a patent as amended, the Office shall inform the parties that it intends to maintain the patent as amended in the procedure for the declaration of nullity, and shall invite them to file their reasoned observations within a period referred to in paragraph (3) of this Article, if they disapprove of the text in which it intends to maintain the patent. If the parties disapprove of such text, the procedure for the declaration of nullity may be continued.

(6) If the parties approve of the text in which the Office intends to maintain the patent or if they fail to reply to the invitation referred to in paragraph (5) of this Article, the Office shall order the owner of the patent by a conclusion to pay the administrative fee and procedural charges for printing a new patent specification within a period of 2 months from the receipt of the conclusion”. If the fee and procedural charges are not paid in due time, the patent shall be declared null and void within the limits of the proposal.

(7) Upon a reasoned request, the Office may extend the time limits referred to in this Article for a period it considers to be justified, but which shall not exceed 60 days.

(8) The Office may hold oral proceedings, if it considers it necessary in order to establish the facts essential for its decision.

(9) If a proposal for the declaration of nullity of a consensual patent is filed, and where the supporting evidence referred to in Article 80, paragraph (2) of this Act is sufficient for likelihood that the consensual patent does not comply with the requirements referred to in Article 41 of this Act, a reply to the invitation referred to in paragraph (3) of this Article shall also contain a request for the substantive examination.

#### CONTINUATION OF THE PROCEEDINGS FOR THE DECLARATION OF NULLITY OF A PATENT BY THE OFFICE OF ITS OWN MOTION

##### Article 82

(1) If the person having filed the proposal for the declaration of nullity of a patent withdraws the proposal in the course of the procedure, the Office may continue the proceedings of its own motion.

(2) The same applies where the patent owner has surrendered the patent or the patent has lapsed.

#### DECISION CONCERNING THE PROPOSAL FOR THE DECLARATION OF NULLITY OF A PATENT

##### Article 83

(1) On the basis of the results of the procedure, the Office shall issue a decision on the declaration of nullity of a patent, entirely or partially, taking into consideration the amendments of a patent made by the owner in the procedure concerning a proposal for the declaration of nullity of a patent, or the decision on the refusal of the proposal.

(2) The patent application and the patent granted thereon shall not have from the outset, the effects specified in Articles 58 to 60 of this Act to the extent that the patent has been declared null and void.

##### Article 84 deleted

### **X. CANCELLATION OF THE DECISION ON THE GRANT OF A PATENT**

#### REASONS FOR THE CANCELLATION OF THE DECISION ON THE GRANT OF A PATENT

##### Article 85

The decision on the grant of a patent may be cancelled in effect for the future prior to the expiration of the term of a patent, if it is established:

1. that the viable biological material deposited in the authorized institution in compliance with the provision referred to in Article 20, paragraph (6) of this Act no longer exists or that the said material is no longer available to the public,
2. that its availability to the public through the authorized institution in which it has been deposited was discontinued in the period longer than it is prescribed.

#### PROPOSAL AND PROCEDURE CONCERNING THE CANCELLATION OF THE DECISION ON THE GRANT OF A PATENT

##### Article 86

- (1) The procedure concerning the cancellation of the decision on the grant of a patent shall begin by filing a proposal with the Office.
- (2) The provisions of this Act relating to the content of the proposal and to the procedure concerning the declaration of nullity of a patent shall apply *mutatis mutandis* on both, the content of the proposal and the procedure concerning the cancellation of the decision on the grant of a patent.

#### DECISION ON THE PROPOSAL CONCERNING THE CANCELLATION OF THE DECISION ON THE GRANT OF A PATENT

##### Article 87

- (1) On the basis of the results of the procedure the Office shall issue a decision on the cancellation of the decision on the grant of a patent, or the decision refusing the proposal as unfounded.
- (2) The decision on the cancellation of the decision on the grant of a patent shall have legal effect as from the date on which the Office has established that the viable biological material no longer exists, or is no longer available to the public for other reasons, or that the discontinuance of availability of the viable biological material to the public has taken place within a period longer than the prescribed one.

### **Xa SUPPLEMENTARY PROTECTION CERTIFICATE**

#### Common Provisions on the Procedure for the Grant of a Supplementary Protection Certificate

##### Article 87a

- (1) If a basic patent has been granted for a product which is a component part of a medicine intended for humans or animals, the Office may grant a Supplementary Protection Certificate in accordance with the Regulation (EC) No. 469/2009.
- (2) If a basic patent has been granted for a product which is a component part of a plant protection product, the Office may grant a Supplementary Protection Certificate in accordance with the Regulation (EC) No. 1610/1996.
- (3) In relation to Supplementary Protection Certificates, the terms within the meaning of this Act shall have the same meaning as those used in the Regulations (EC) No. 469/2009 and 1610/1996.
- (4) The provisions of this Act, with the exception of Articles 57 and 57a in the case of failing to comply with the time limits provided for in Article 7 of the Regulation (EC) No. 469/2009 and Article 7 of the Regulation (EC) No. 1610/1996, shall apply *mutatis mutandis* to particular matters of the procedure relating to Supplementary Protection Certificates, not regulated by the Regulations (EC) No. 469/2009 and No. 1610/1996.



## A Register

### Article 87b

- (1) The Office shall keep a Register of Applications for Supplementary Protection Certificates, which shall also include requests for an extension of the duration of Certificates and the Register of Supplementary Protection Certificates.
- (2) The content and the manner of keeping the Registers referred to in paragraph (1) of this Article shall be defined in more detail by the Ordinance (Regulations).
- (3) The provisions of this Act relating to the Register of Patents and the Register of Patent Applications shall apply mutatis mutandis to the Registers referred to in paragraph (1) of this Article.

## DURATION OF THE CERTIFICATE

### An Application for a Supplementary Protection Certificate

#### Article 87c

- (1) An application for a Supplementary Protection Certificate shall be filed with the Office in accordance with the provisions of Article 7 paragraphs (1) and (2) of the Regulation (EC) No. 469/2009 and Article 7 of the Regulation (EC) No. 1610/96.
- (2) In addition to the content prescribed by Article 8 paragraph (1) of the Regulation (EC) No. 469/2009 and Article 8 paragraph (1) of the Regulation (EC) No. 1610/96, an application for a Supplementary Protection Certificate shall also contain the name of the product for which the grant of the Certificate has been applied for.
- (3) With an application for a Supplementary Protection Certificate the applicant shall file evidence as to payment of the administrative fee and procedural charges for the grant of the Certificate.
- (4) The application referred to in paragraph (1) of this Article shall be filed on the form, the content of which shall be defined in more detail by the Ordinance.

### Content of an Application for a Supplementary Protection Certificate Required for the Accordance of the Filing Date

#### Article 87d

- (1) The accordancy of the filing date of the application for a Supplementary Protection Certificate shall require that on that date the application contains at least:
  1. an express indication of the fact that the Certificate is applied for;
  2. data on the identity of the applicant;
  3. the number of the basic patent and the title of the invention;
  4. the number and date of the first authorization to place the product on the market, in accordance with Article 3 item (b) of the Regulation (EC) No. 469/2009 and Article 3 item 1(b) of the Regulation (EC) No. 1610/96, and indication of the number and date of the first authorization, if the authorization as filed is not the first authorization to place the product on the market.
- (2) The application which is accorded a filing date shall be entered in the Register of Applications for Supplementary Protection Certificates and shall be available to the public.

Examination of the Application for the Supplementary Protection Certificate upon Its Receipt

Article 87e

(1) In the examination procedure carried out upon the application for a Certificate the Office shall establish:

1. whether the application complies with the requirements for the accordance of the filing date referred to in Article 87d of this Act;
2. whether the administrative fee and procedural charges for filing the application have been paid.

(2) If the application fails to comply with the requirements referred to in Article 87d of this Act, the Office shall order the applicant by a conclusion to correct the deficiencies as indicated in it, within a period of two months from the day of receipt of the conclusion.

(3) If the applicant fails to comply with the conclusion of the Office within the time limit referred to in paragraph (2) of this Article, the application shall be rejected by a decision.

(4) If the applicant corrects the deficiencies within the time limit referred to in paragraph (2) of this Article, the Office shall inform him that the date of receipt of the required corrections shall be accorded as the filing date of the correct application for a Certificate.

(5) The Office shall order by a written conclusion the applicant who has not paid the administrative fee and procedural charges to do this within a period of two months from the day of receipt of the conclusion. If the applicant fails to pay the fees and procedural charges within a prescribed time limit, the application shall be rejected by a decision.

(6) Upon a reasoned request of the applicant, the Office may extend the time limits prescribed by this Article for a period which it considers to be justified, but not exceeding three months.

(7) The application for a Certificate which complies with the requirements referred to in paragraph (1) of this Article shall be published in the official gazette of the Office in accordance with the provisions of Article 9 paragraph (2) of the Regulation (EC) No. 469/2009 and Article 9 paragraph (2) of the Regulation (EC) No. 1610/96.

A Decision on an Application for a Supplementary Protection Certificate

Article 87f

(1) If, in the further course of the examination procedure, it has been established that the application complies with all the requirements prescribed by the Regulations (EC) No. 469/2009 and No. 1610/96, and the requirements prescribed by this Act, the Office shall issue a decision on the grant of a Certificate, also specifying the duration of the Certificate.

(2) The Office shall issue the decision referred to in paragraph (2) of this Article provided that the administrative fees and procedural charges for the maintenance, printing and publication of a Certificate have been paid.

(3) If in the examination procedure it has been established that the application fails to comply with the requirements referred to in paragraph (1) of this Article, the Office shall issue a decision on the refusal of the application for a Certificate.

(4) Prior to issuing a decision on the refusal of the application for a Certificate, the Office shall inform the applicant of the reasons for which it shall not grant the

Certificate, and shall invite him to file observations on such reasons in writing within two months from the day of receipt of the information.

(5) Upon a reasoned request of the applicant, the Office may extend the time limit referred to in paragraph (2) of this Article for a period which it considers to be justified, but not exceeding three months.

(6) The indications contained in a decision on the grant of a certificate shall be entered in the Register of Supplementary Protection Certificates and published in the official gazette of the Office in accordance with the provisions of Article 9 of the Regulation (EC) No. 469/2009 and Article 9 of the Regulation (EC) No. 1610/96.

(7) The indications concerning the grant of a Supplementary Protection Certificate as well as indications concerning its refusal shall be published in the official gazette of the Office in accordance with the provisions of Article 11 of the Regulation (EC) No. 469/2009 and Article 11 of the Regulation (EC) No. 1610/96..

### Content of the Certificate

#### Article 87g

The Certificate shall contain the following indications:

1. the number of the Certificate,
2. the name and address of the holder of the Certificate,
3. the name of the product for which the Certificate is granted
4. the number of the basic patent
5. the title of the invention
6. the number and date of the first authorization to place the product on the market in accordance with Article 3 item (b) of the Regulation (EC) No. 469/2009 and Article 3 item 1(b) of the Regulation (EC) No. 1610/96,
7. the number and date of the first authorization, if the authorization as filed is not the first authorization to place the product on the market,
8. the duration of the Certificate.

### A Request for an Extension of the Duration of a Supplementary Protection Certificate

#### Article 87h

(1) A request for an extension of the duration of a Supplementary Protection Certificate shall be filed with the Office in accordance with the provisions of Article 7 paragraphs (3) to (5) of the Regulation (EC) No. 469/2009.

(2) With the request referred to in paragraph (1) of this Article the applicant shall file evidence as to payment of the administrative fee and procedural charges for the extension of the duration of the Certificate. If the applicant fails to pay the fees and procedural charges, the request shall be rejected by a decision.

(3) The request referred to in paragraph (1) of this Article shall be filed on the form the content of which shall be defined in more detail by the Ordinance.

### Examination of a Request for an Extension of the Duration of a Certificate

#### Article 87i

(1) If, in the course of the examination procedure concerning a request for an extension of the duration of a Certificate it has been established that the request complies with all the requirements prescribed by the Regulation (EC) No. 469/2009 and the

requirements prescribed by this Act, the Office shall issue a decision on the extension of the Certificate in accordance with the provision of Article 13 paragraph (3) of the Regulation (EC) No. 469/2009.

(2) If the request fails to comply with the requirements referred to in paragraph (1) of this Article, the Office shall order the applicant by a conclusion to correct the deficiencies as indicated in it, within a period of two months from the day of receipt of the conclusion.

(3) If the applicant fails to comply with the conclusion, the request shall be rejected by a decision.

(4) Upon a reasoned request of the applicant, the Office may extend the time limit referred to in paragraph (2) of this Article for a period which it considers to be justified, but not exceeding three months.

(5) If a request for an extension of a Certificate has been filed simultaneously with an application for a Supplementary Protection Certificate or in the course of the Certificate granting procedure, the Office shall decide on the request for an extension by a decision concerning an application for a Supplementary Protection Certificate.

(6) If a request for an extension of an already granted Certificate has been filed, and the procedure for the declaration of invalidity of the Certificate or for the lapse thereof have been initiated, the Office shall stay the procedure until a decision on the proposal for the declaration of invalidity of a Supplementary Protection Certificate, or a decision on the lapse thereof becomes final, respectively. In the case where the mentioned decisions become final, the request for an extension of a Certificate shall be considered withdrawn.

(7) The data on the extension of a Certificate shall be entered in the Register of Supplementary Protection Certificates.

(8) The data on the extension of a Supplementary Protection Certificate as well as the data on the refusal thereof shall be published in the official gazette of the Office in accordance with the provisions of Article 11 of the Regulation (EC) No. 469/2009 and Article 11 of the Regulation (EC) No. 1610/96.

## SUBJECT MATTER AND EFFECTS OF PROTECTION

### Publication

#### Article 87j

The content of the publication of data relating to the granting procedure and the duration of a Supplementary Protection Certificate, as prescribed by the Regulations (EC) Nos. 469/2009 and 1610/96 shall be defined in more detail by the Ordinance.

### Maintenance of a Supplementary Protection Certificate

#### Article 87k

(1) The annual fee for the maintenance of the Certificate shall be paid to the Office for each year of its duration.

(2) The annual fee referred to in paragraph (1) of this Article shall cover a 12 month period, starting to run on the date of expiration of the basic patent and shall be paid for each year separately.

(3) If the last period of the duration of the Certificate is shorter than twelve months, the annual fee shall be paid in advance in the amount which is proportionate to the duration of the Certificate, together with the payment of the total amount of the annual

fee for the last complete year.

(4) If the holder of the Certificate fails to pay the annual fee in accordance with paragraphs (2) and (3) of this Article, he may pay it in the grace period of six months, provided that he also pays administrative and procedural surcharges.

(5) The Office shall inform the holder of the failure to pay the annual fee for the maintenance of the Certificate and of the consequences of the failure to pay them, as well as of the payment possibility referred to in paragraph (4) of this Article.

#### Relation to a Consensual Patent

##### Article 87l

The provisions of Articles 87a to 87k shall not apply to a consensual patent.

Articles from 88 to 94 deleted

## **XI.a PROTECTION OF RIGHTS IN THE CASE OF INFRINGEMENT**

### PERSONS ENTITLED TO CLAIM THE PROTECTION OF RIGHTS

#### Article 95

The protection of the rights under this Act may be claimed by a right holder, or a person authorized by her/him pursuant to the general provisions on representation, and, apart from her/him by the holder of the exclusive licence, to the extent that he has acquired the right of exploitation of an invention on the basis of a legal transaction or Act.

### CLAIM TO ESTABLISH THE RIGHT TO THE GRANT OF A PATENT

#### Article 95a

(1) If a patent application is filed by a person not entitled to the grant of a patent for an invention, the inventor or his successor in title, respectively, may institute a legal action claiming establishment of his right to the grant of a patent for the invention.

(2) If a patent application is filed by a person who is not entitled to it and who is one of several persons having jointly created the invention, other inventors or their successors in title, respectively, may claim establishment of their rights to the grant of a joint patent.

(3) The legal actions referred to in paragraphs (1) and (2) of this Article may be filed up to the decision on the grant of a patent.

(4) The inventor or his successor in title, respectively, whose entitlement to the grant of a patent for an invention has been established by a final court decision may:

- resume the procedure for the grant of a patent within 3 months from the day on which the court decision becomes final, or

- file a new patent application for the same invention claiming the accordance of the filing date and priority date, if any, of the application filed by the person not entitled to it.

(5) The inventor whose entitlement to the grant of a patent for the invention has been established by a final court decision may, at any time, claim from the Office to enter his name into the patent application and all the documents issued for a patent, as well as into the appropriate Office registers. The entry of the inventor's name may also be

claimed by his successor in title.

### CLAIM DUE TO INFRINGEMENT OF THE RIGHT OF THE INVENTOR TO BE MENTIONED AS SUCH

#### Article 95b

- (1) If the person who is not the inventor is mentioned as such in the patent application and/or documents relating to a patent and/or the registers of the Office, or if the inventor is not mentioned, the inventor may institute a legal action claiming the mention of his name.
- (2) If the person who is not the inventor is mentioned as such in the patent application and/or documents relating to a patent and/or the registers of the Office, a legal action shall be instituted against such person, and if the inventor is not mentioned, a legal action shall be instituted against the Office.
- (3) The right to the claim referred to in paragraph (1) of this Article shall also belong to the inventor of a joint invention.
- (4) The claim referred to in paragraph (1) of this Article shall not be subject to the statute of limitations and shall not be inherited.

### CLAIMS FOR ESTABLISHMENT AND TERMINATION OF INFRINGEMENT

#### Article 95c

- (1) The patent owner may institute a legal action against any person who has infringed a patent by performing without authorization any of the acts referred to in Article 58, paragraphs (2) and (3) and Article 59 of this Act, claiming establishment of the infringement.
- (2) The patent owner may institute a legal action against any person who has infringed a patent by performing without authorization any of the acts referred to in Article 58, paragraphs (2) and (3) and Article 59 of this Act, claiming termination of the infringement and prohibition of such and similar future infringements.
- (3) The patent owner may institute a legal action against any person who has by performing any of the acts without authorization caused a serious threat that his patent might be infringed, claiming desistance from the act concerned and prohibition of the infringement of the patent.
- (4) The claims referred to in paragraphs (1), (2) and (3) of this Article may also be made against a person who in the course of her/his economic activities renders services used in the acts infringing a patent or threatening to infringe it.

### CLAIM FOR SEIZURE AND DESTRUCTION OF OBJECTS

#### Article 95d

- (1) The patent owner may institute a legal action against any person who has infringed a patent by performing without authorization any of the acts referred to in Article 58, paragraphs (2) and (3) and Article 59 of this Act, claiming that the products resulting from or acquired by the infringement of a patent, and the objects (implements and tools) predominantly used in the manufacture of the products infringing the patent be removed from the market, seized or destroyed at the expense of that person.
- (2) The court shall order the measures referred to in paragraph (1) of this Article against the defendant, unless there are special reasons for not deciding so.
- (3) When ordering the measure referred to in paragraph (1) of this Article, the court

shall take due care that they are proportionate to the nature and seriousness of the infringement.

#### CLAIM FOR DAMAGES, USUAL COMPENSATION AND UNJUST ENRICHMENT

##### Article 95e

(1) The patent owner may take a legal action against any person who has caused him damage by performing without authorization any of the acts referred to in Article 58, paragraphs (2) and (3) and Article 59 of this Act, claiming damages pursuant to the general rules on legal redress laid down in the Obligations Act.

(2) The patent owner may institute a legal action against any person who has performed without authorization any of the acts referred to in Article 58, paragraphs (2) and (3) and Article 59 of this Act, claiming payment of remuneration in the amount that he would have claimed, given the circumstances, in the licence agreement, if concluded.

(3) The patent owner may take a legal action against any person who has infringed a patent by performing without authorization any of the acts referred to in Article 58, paragraphs (2) and (3) and Article 59 of this Act, without having basis for it in any legal transaction, court decision or the Act, and has benefited from it, claiming the recovery or compensation of such benefits pursuant to the general rules on unjust enrichment laid down in the Obligations Act.

(4) The claims referred to in paragraphs (1), (2) and (3) shall not be mutually excluding. When deciding on the claims referred to in paragraphs (1), (2) or (3), filed cumulatively, the court shall observe the general principles laid down in the Obligations Act.

#### CLAIM FOR DAMAGES DUE TO INFRINGEMENT OF THE RIGHTS CONFERRED BY A PATENT APPLICATION OR A CONSENSUAL PATENT APPLICATION

##### Article 95f

(1) The patent applicant may institute a legal action against any person who has within the period from the date of publication of the patent application and the date of publication of the mention of the grant of the patent infringed the provisional rights conferred by a patent application by performing without authorization any of the acts referred to in Article 58, paragraphs (2) and (3) and Article 59 of this Act, claiming damages pursuant to the general rules on legal redress laid down in the Obligations Act.

(2) The right to the claim referred to in paragraph (1) of this Article shall also belong to the owner of a consensual patent, provided that he attaches to the notice of legal action evidence that he has filed with the Office a request for the grant of a patent on the basis of a substantive examination of the patent application.

(3) Upon the request of the court or any of the parties to the procedure, referred to in paragraphs (1) and (2) of this Article, the Office shall promptly accept the application concerned and shall subject it to expeditious proceedings.

## CLAIM FOR PUBLICATION OF THE JUDGEMENT

## Article 95g

The owner of a patent may claim that the final judgment even partially upholding the claim for protection of the patent in the case of infringement is published in the means of public communication at the expense of the defendant. The court shall decide, within the limits of the claim, on the means of public communication in which the judgment shall be published, and whether it shall be published entirely or partially. If the court decides that only a part of the judgment shall be published, it shall order, within the limits of the claim, that at least the dispositive part of it and, if necessary, the part of the judgement specifying the infringement concerned and the person having committed it is published.

## BURDEN OF PROOF

## Article 95h

In the civil proceedings concerning the infringement of the patent protected process for obtaining a new substance, any equal substance or any substance of equal composition shall be considered as resulting from the protected process, until proven to the contrary by the person obtaining such a substance or composition.

## CLAIM FOR PROVISION OF INFORMATION

## Article 95i

(1) The owner of a patent who has instituted civil proceedings for the protection of the patent in the case of infringement may claim the provision of information on the origin and distribution channels of the goods infringing his patent.

(2) The claim referred to in Article 1 may be made in the form of a legal action or a provisional measure against:

- a person who has been sued in the civil proceedings referred to in paragraph (1) of this Article;
- a person who is within her/his economic activities in possession of the goods suspected of infringing a patent;
- a person who provides, within her/his economic activities, services suspected of infringing a patent;
- persons who provide, within their economic activities, services used in the activities suspected of infringing a patent;
- a person who is indicated by any of the mentioned persons as being involved in the manufacture or distribution of the goods or the provision of the services suspected of infringing a patent;

(3) The claim referred to in Article 1 may also be included in a gradual legal action as the first claim, provided that a person acting as a counter party to the defendant is included in the main claim.

(4) The claim for information on the origin of the goods and distribution channels of the goods and services referred to in paragraph (1) of this Article may include in particular:

- information on the names and addresses of the producers, distributors, suppliers and other previous holders of the goods and providers of the services, respectively, as well as the intended wholesalers and retailers;



- information on the quantities produced, delivered, received or ordered, as well as the price obtained for the goods or services concerned.

(5) The person required to provide the information referred to in this Article may refuse to provide such information on the same grounds as those allowing the refusal to present evidence as a witness pursuant to the provisions of the Act on Civil Proceedings. If the person concerned refuses to provide information without justified reasons, she/he shall be responsible for the damage incurred, pursuant to the provisions of the Obligations Act.

(6) The provisions of this Article shall be without prejudice to the provisions on the manner of use of confidential information in civil and criminal proceedings, the provisions regulating the responsibility for misuse of the right to acquire information, and the provisions regulating the processing and protection of personal data.

(7) The provisions of this Article shall be without prejudice to the provisions of Article 91.1 of this Act regulating the taking of evidence.

## PROVISIONAL MEASURES DUE TO INFRINGEMENT OF A PATENT

### Article 95j

(1) Upon the request of the owner of a patent who makes it likely that her/his patent has been infringed or threatened to be infringed, the court may order any provisional measure comprising termination or prevention of the infringement, and in particular:

- order the opposing party to cease or desist from, respectively, the acts infringing a patent; the court may also issue such order against an intermediary whose services are being used by a third party to infringe a patent;
- order the seizure or removal from the market of the goods resulted from or acquired by the infringement of a patent, and objects (implements and tools) predominantly used in the creation of the goods infringing a patent.

(2) Upon the request of the owner of a patent who makes it likely that his patent has been infringed on a commercial scale for the purpose of acquiring commercial or economic benefit, and that such infringement has threatened to cause him irreparable damage, the court may, in addition to the provisional measures referred to in paragraph (1) of this Article, order the seizure of the movable and immovable property of the opposing party, not directly related to the infringement, including the blocking of his bank accounts and other assets.

(3) For the purpose of ordering and executing the provisional measure referred to in paragraph (2) of this Article, the court may require from the opposing party or other relevant persons disposing with it, the communication of the banking, financial and other economic information, or the access to other relevant information and documents. The court shall ensure the protection of confidentiality of such information, and prohibit any misuse thereof.

(4) The provisional measure referred to in paragraph (1) of this Article may be ordered without informing the opposing party thereof, if the applicant for measures makes it likely that otherwise the provisional measure would not be effective, or that irreparable damage is threatened to occur. The provisional measure referred to in paragraph (2) of this Article may be ordered without informing the opposing party thereof, if the applicant for measures makes it likely that otherwise the provisional measure would not be effective, or that, taking into consideration a very serious circumstances of the infringement, this would be necessary. If a provisional measure is ordered without informing the opposing party thereof, the court shall communicate a decision on the provisional measure to the opposing party, promptly upon its enforcement.

(5) In the decision ordering a provisional measure the court shall specify the duration of such measure, and, if the measure has been ordered before the institution of a legal action, the period, within which the applicant for measures shall institute a legal action to justify the measure, which shall not be less than 20 working days and not more than 31 calendar days, from the date of communication of the decision to the applicant for measures, whichever expires later.

(6) The provisions of the Execution Act shall apply to matters, not regulated by this Article.

(7) The provisions of this Article shall be without prejudice to the possibility to order provisional measures pursuant to other provisions of this Act, and the provisions of the Execution Act.

## PROVISIONAL MEASURES COMPRISING THE PRESERVATION OF EVIDENCE

### Article 95k

(1) Upon the request of the owner of a patent who makes it likely that his patent has been infringed, or threatened to be infringed, the court may order a provisional measure comprising the preservation of evidence.

(2) By the provisional measure referred to in paragraph (1) of this Article, the court may order in particular:

- preparation of a detailed description of the goods made likely to infringe a patent, with or without taking of samples;
- seizure of the goods made likely to infringe a patent;
- seizure of the materials and implements used in the production and distribution of the goods made likely to infringe a patent and the documentation relating thereto.

(3) The provisional measure referred to in this Article may be ordered even without informing the opposing party thereof, if the applicant for measures makes it likely that there is a risk of evidence being destroyed or irreparable damage of incurring, or that otherwise the provisional measure would not be effective. If a provisional measure is ordered without informing the opposing party thereof, the court shall communicate a decision on the provisional measure to the opposing party, promptly upon its enforcement.

(4) In the decision ordering a provisional measure the court shall specify the duration of the measure, and, if the measure has been ordered before the institution of a legal action, the period, within which the applicant for measures shall institute a legal action to justify the measure, which shall not be less than 20 working days and not more than 31 calendar days from the date of communication of the decision to the applicant for measures, whichever expires later.

(5) The provisions of the Execution Act shall apply to matters, not regulated by this Article.

(6) The provisions of this Article shall be without prejudice to the possibility of the court to order provisional measures comprising the preservation of evidence pursuant to the provisions of the Act on Civil Proceedings.

## TAKING OF EVIDENCE IN THE COURSE OF THE CIVIL PROCEEDINGS

### Article 95l

(1) Where a party to the civil proceedings invokes evidence claiming that it lies with the opposing party or under its control, the court shall invite the opposing party to

present such evidence within a specified time limit.

(2) Where the owner of a patent as a plaintiff in a legal action claims that the infringement of a patent has been committed on a commercial scale for the purpose of acquiring commercial or economic benefit, and has made it likely during the proceedings, and where he specifies in the proceedings banking, financial or similar economic documents, papers or the like evidence, claiming that they lie with the opposing party or under its control, the court shall invite the opposing party to present such evidence within a specified time limit.

(3) Where the party, which is invited to present evidence, denies that the evidence lies with it or under its control, the court may take evidence to establish such a fact.

(4) The provisions of the Act on Civil Proceedings relating to the right of refusal to present evidence as a witness shall apply mutatis mutandis to the right of the party to refuse to present evidence.

(5) The court shall, taking into consideration all the circumstances of the case, decide at its own discretion, on the importance of the fact that the party having the evidence refuses to comply with the court's decision ordering it to present evidence, or denies, contrary to the court's opinion, that the evidence lies with it.

(6) Against the decision of the court referred to in paragraphs (1) and (2) of this Article a separate appeal shall not be allowed.

## EXPEDITIOUS PROCEEDINGS AND APPLICATION OF THE PROVISIONS OF OTHER ACTS

### Article 95m

(1) A procedure concerning the infringement of the rights under this Act shall be expeditious.

(2) The provisions of the Act on Civil Proceedings, and the Execution Act, respectively, shall apply to the procedures concerning the infringement of a patent.

(3) Upon the request of the court or any of the parties to the procedure concerning the infringement of a patent, the Office or the Board of Appeal, respectively, shall promptly accept a request for the declaration of nullity of the decision on the grant of a patent, filed before or during the civil action, and shall subject it to the expeditious proceedings. The court shall, taking into consideration the circumstances of the case, decide whether it shall stay the proceedings up to the final decision on the request for the declaration of nullity of the decision on the grant of a patent, or not.

### Article 96 deleted

## MISDEMEANORS

### Article 97

(1) Any legal person shall be punished for a misdemeanor by a fine amounting from 20.000,00 up to 100.000,00 kunas if it contrary to the provisions of this Act:

1. makes, offers for sale, sells, or imports and stocks for such purposes a product which is manufactured according to the protected invention (Article 58, paragraph (2), item 1, and Article 59),

2. uses or offers for use a process which is the subject-matter of the protected invention (Article 58, paragraph (2), item 2, and Article 59),

3. offers for sale, sells, uses, exports or imports and stocks for such purposes a product

which is obtained directly from the process which is the subject-matter of the protected invention (Article 58, paragraph (2), item 3, and Article 59),

4. offering or delivering a product which constitutes the essential element of the protected invention to persons not entitled to use such invention (Article 58, paragraph (3), and Article 59).

(2) Any natural person shall be punished for a misdemeanor referred to in paragraph (1) of this Article by a fine amounting from 2.000,00 up to 10.000.00 kunas.

(3) A responsible person in the legal entity shall also be punished for a misdemeanor referred to in paragraph (1) of this Article by a fine amounting from 5.000,00 up to 10.000,00 kunas.

(4) A natural person – a craftsman or other self-employed person, respectively, shall be punished for the misdemeanor, referred to in paragraph (1) of this Article, by a fine amounting from HRK 5 000.00 to 50 000.00, where the misdemeanor has been committed in the performance of her/his activities as a craftsman or other self-employed person, respectively.

(5) Articles intended or used for the commitment of the misdemeanor referred to in paragraphs (1), (2), (3) and (4) of this Article shall be seized and destroyed, the final decision to that effect being issued by the judicial authority.

#### Article 98

(1) The commitment of misdemeanors referred to in Article 97 of this Act shall, in addition to a fine, be subject to the pronouncement of the protective measure ordering the seizure of products resulting from or acquired by the commitment of misdemeanors, and of objects (tools and implements) predominantly used in the manufacture of products infringing a patent, irrespective of whether they are the property of the infringer or not.

(2) The decision referred to in paragraph (1) of this Article may comprise the ordering of the destruction of the seized articles and objects.

## **XII. EXTENDED EUROPEAN PATENT**

### EXTENSION OF THE EFFECTS OF EUROPEAN PATENTS

#### Article 99

(1) A European patent application and a European patent extending to the Republic of Croatia shall, subject to the provisions of this Chapter, have the effect of and be subject to the same conditions as a national patent application and a national patent under this Act.

(2) Under this Act,

1. "European patent application" means an application for a European patent filed under the European Patent Convention (hereinafter: EPC), as well as an international application filed under the Patent Cooperation Treaty (hereinafter: PCT) for which the European Patent Office (hereinafter: EPO) acts as designated or elected Office and in which the Republic of Croatia is designated;

2. "extended European patent" means a European patent granted by the EPO on a European patent application in respect of which extension to the Republic of Croatia has been requested;

3. "national patent application" means a patent application filed to the Office under this Act;

4. "national patent" means a patent granted on a national patent application.

## REQUEST FOR EXTENSION

## Article 100

- (1) A European patent application and a European patent granted on such application shall be extended to the Republic of Croatia at the request of the applicant. The request for extension shall be deemed to be filed with any European patent application filed on or after the date on which the Cooperation Agreement between the Government of the Republic of Croatia and the European Patent Organization enters into force.
- (2) The Office shall publish any request for extension as soon as possible after it has been informed by the EPO that the prescribed extension fee has been paid, but not before the expiry of 18 months from the filing date or, if priority has been claimed, the earliest priority date.
- (3) The request for extension may be withdrawn at any time. It shall be deemed withdrawn where the prescribed extension fee has not been paid in time or where the European patent application has been finally refused, withdrawn or deemed withdrawn. The Office shall publish this as soon as possible if the request for extension has already been published by it in accordance with paragraph (2) of this Article.
- (4) The manner and the content of the publication according to paragraphs (2) and (3) of this Article shall be provided by a special regulation enacted by this Act.

## EXTENSION FEE

## Article 101

- (1) The extension fee under Article 100, paragraph (2) of this Act shall be paid to the EPO within the applicable time-limits provided under the EPC for the payment of the designation fee.
- (2) The extension fee may still be validly paid within the period of grace specified in EPC, for the payment of designation fees, provided that a surcharge of 50% is paid within this period.
- (3) For the payment of extension fees the EPO rules relating to fees shall apply *mutatis mutandis*. Extension fees validly paid shall not be refunded.

## EFFECTS OF EUROPEAN PATENT APPLICATIONS

## Article 102

- (1) A European patent application which has been accorded a filing date shall be equivalent to a regular national patent application, where appropriate with the priority claimed for the European patent application, whatever its outcome may be.
- (2) A published European patent application shall provisionally confer the protection as conferred by a published national patent application under Article 60 of this Act as from the date on which a translation of the published European patent application into the Croatian language has been communicated by the applicant to the person using the invention in the Republic of Croatia.
- (3) The European patent application shall be deemed not to have had ab initio the effects referred to in paragraph (2) of this Article, where the request for extension has been withdrawn or is deemed withdrawn.

## EFFECTS OF EXTENDED EUROPEAN PATENTS

## Article 103

- (1) An extended European patent shall, subject to paragraphs (2) to (6) of this Article, confer from the date of publication of the mention of its grant by the EPO the same rights as would be conferred by a national patent granted under this Act.
- (2) Within three months from the date on which the mention of the grant of the European patent has been published, the owner of the patent shall communicate to the Office a request for the entry of the extended European patent into the Register of Patents, a specification of the European patent as published in the Official Journal of EPO, a translation of such patent specification in the Croatian language, and shall pay the prescribed administrative fee and procedural charges for publication and printing of the translation of the specification of the European patent in the Croatian language, in accordance with special regulation.
- (3) If, as a result of an opposition filed with the EPO, the European patent is maintained with amended claims, the owner of the patent shall, within three months from the date on which the mention of the decision to maintain the European patent as amended was published, furnish to the Office a translation in Croatian language of the amended claims and pay the prescribed administrative fee and procedural charges for publication in the official gazette of the Office.
- (4) Where the text of claims contains reference signs used in the drawings, such drawings shall be attached to the translation referred to in paragraphs (2) and (3) of this Article.
- (5) The Office shall publish in its official gazette mention of any translation duly filed under paragraph (2) or (3) of this Article as soon as possible. The content of the publication shall be provided by the Regulations.
- (6) If the translation specified in paragraph (2) or (3) of this Article is not filed in the prescribed time-limit or the prescribed administrative fee and procedural charges are not paid in due time, the extended European patent shall be deemed to be void *ab initio*. Article 122 EPC shall apply *mutatis mutandis*.
- (7) An extended European patent and the European patent application on which it is based shall be deemed not to have had *ab initio* the effects specified in paragraph (1) of this Article and Article 102, paragraph (2) of this Act to the extent that the patent has been revoked in opposition proceedings before the EPO.
- (8) The Office shall issue a decision on the entry of the extended European patent into the Register of Patents referred to in Article 49 of this Act.

AUTHENTIC TEXT OF EUROPEAN PATENT APPLICATIONS  
OR EUROPEAN PATENTS

## Article 104

- (1) The text of a European patent application or a European patent in the language of the proceedings before the EPO shall be the authentic text in any proceedings in the Republic of Croatia.
- (2) Where the translation in Croatian language confers protection which is narrower than that conferred by the extended European patent application or the extended European patent a translation as provided for under Articles 102 and 103 shall be regarded as authentic, except in revocation proceedings.
- (3) An applicant for a European patent or the owner of an extended European patent may file, at any time, a corrected translation. The corrected translation of the claims of

a published European patent application shall not have any legal effects until it has been communicated to the person using the invention in the Republic of Croatia. The corrected translation of the specification of an extended European patent shall not have any legal effects until mention of it has been published by the Office as soon as possible after payment of the administrative fee and procedural charges prescribed for the publication.

(4) Any person who, in good faith, uses or has made effective and serious preparations for using an invention, the use of which would not constitute infringement of the application or patent in the original translation may, after the corrected translation takes effect, continue such use in the course of his business or for the needs thereof without payment.

## RIGHTS OF EARLIER DATE

### Article 105

(1) A European patent application for which the extension fee has been paid and an extended European patent shall have with regard to a national patent application and a national patent the same prior art effect as a national patent application and a national patent.

(2) A national patent application and a national patent shall have with regard to an extended European patent the same prior art effect as they have with regard to a national patent.

## SIMULTANEOUS PROTECTION

### Article 106

Where an extended European patent and a national patent having the same filing date or, where priority has been claimed, the same priority date have been granted to the same person or his successor in title, the national patent shall have no effect to the extent that it covers the same invention as the extended European patent as from the date on which the time limit for filing an opposition to the European patent has expired without an opposition having been filed or as from the date on which the opposition procedure has resulted in a final decision maintaining the European patent.

## RENEWAL FEES FOR EXTENDED EUROPEAN PATENTS

### Article 107

(1) Renewal fees for an extended European patent shall be paid to the Office for the years following the year in which the mention of the grant of the European patent was published.

(2) Article 141, paragraph (2), EPC shall apply *mutatis mutandis*.

## APPLICABILITY OF THE EPC

### Article 108

The provisions of the EPC and its Implementing Regulations shall not apply unless otherwise provided in the provisions of this Act.

## **XII.a EUROPEAN PATENT**

### **EFFECT OF EUROPEAN PATENTS IN THE REPUBLIC OF CROATIA**

#### **Article 108a**

(1) A European patent application and a European patent shall, subject to the provisions of this Chapter, have the effect of and be subject to the same conditions as a national patent application and a national patent under this Act.

(2) Pursuant to this Act:

1. European patent application means an application for a European patent filed under the European Patent Convention (hereinafter: EPC), as well as an international patent application filed under the Patent Cooperation Treaty (hereinafter: PCT) for which the European Patent Office (hereinafter: EPO) acts as the designated or elected Office and in which the Republic of Croatia is designated;

2. European patent means a European patent granted by the EPO on a European patent application in accordance with EPC, and designating the Republic of Croatia;

3. national patent application means a patent application filed with the Office under this Act;

4. national patent means a patent granted on the basis of a national patent application.

### **FILING OF THE EUROPEAN PATENT APPLICATION**

#### **Article 108b**

(1) A European patent application may be filed:

(a) with the European Patent Office or

(b) with the Office

(2) A European patent application filed with the Office shall have the same effect as if it has been filed on the same date with the European Patent Office, provided that it has been transmitted by the Office to the EPO in due time.

(3) A European divisional patent application shall be filed directly with the EPO.

(4) If the Office finds at first sight that a possible confidential invention of interest for the Republic of Croatia is concerned, it shall not transmit the European patent application to the EPO in accordance with paragraph (2) of this Article, but shall act in accordance with special regulations on confidential inventions.

(5) The European patent application, which is to be filed with the Office in accordance with the provisions of this Article, may be filed in any of the languages referred to in Article 14, paragraphs 1 and 2 EPC.

### **FEES AND PROCEDURAL CHARGES FOR EUROPEAN PATENT APPLICATIONS**

#### **Article 108c**

The fees and procedural charges payable in respect of European patent applications shall be paid in accordance with the provisions of the EPC and regulations to the EPC.

### **EFFECTS OF EUROPEAN PATENT APPLICATIONS**

#### **Article 108d**

(1) A European patent application which has been accorded a filing date and designating the Republic of Croatia shall be equivalent to a regular national patent



application, where appropriate, with the priority claimed for the European patent application, whatever its outcome may be.

(2) A published European patent application shall provisionally confer protection as conferred by a published national patent application under Article 60 of this Act, from the date on which the applicant has communicated a translation of the claims of a published European patent application into the Croatian language to the person using the invention in the Republic of Croatia.

(3) The European patent application shall be deemed not to have had ab initio the effects referred to in paragraph (2) of this Article, if it has been withdrawn, deemed to be withdrawn, finally refused or if the designation of the Republic of Croatia has been withdrawn or is deemed withdrawn.

## EFFECTS OF EUROPEAN PATENTS

### Article 108e

(1) A European patent designating the Republic of Croatia shall, subject to the conditions laid down in this Article, confer from the date of publication of the mention of its grant by the EPO the same rights as would be conferred by a national patent granted under this Act.

(2) Within three months from the date on which the mention of the grant of the European patent has been published, the owner of the patent shall furnish the Office with a request for entry of the European patent into the Register of Patents, a specification of the European patent as published in the Official Journal of EPO, a translation of such specification in the Croatian language and shall pay the administrative fee and procedural charges for publication and printing of the translation of the specification of the European patent in the Croatian language, in accordance with special regulation.

(3) The Office shall issue a decision on the entry of a European patent in the Register of Patents referred to in Article 49 of this Act.

(4) If, as a result of an opposition filed with the EPO, the European patent is maintained with the amended claims, or as a result of a request for limitation referred to in Article 105a EPC the European patent is limited by the amendment of the claims, the owner of the patent shall furnish the Office with a translation of the amended claims in the Croatian language, and shall pay the prescribed administrative fee and procedural charges for publication in the official gazette of the Office, within three months from the date of publication of the EPO decision concerned.

(5) Where the text of claims contains reference signs used in the drawings, such drawings shall be attached to the translation referred to in paragraphs (2) and (4) of this Article.

(6) The Office shall publish as soon as possible the mention of any translation duly filed under paragraph (2) or (4) of this Article in its official gazette. The content of the publication shall be prescribed by the Ordinance.

(7) If the translation referred to in paragraph (2) or (4) of this Article is not filed in the prescribed time-limit or the prescribed administrative fee and procedural charges for publication are not paid within the period referred to in paragraph (2) or (4) of this Article, the European patent shall be deemed to be void ab initio for the Republic of Croatia. Article 122 EPC relating to the restitutio in integrum (EPC) shall apply mutatis mutandis.

(8) A European patent and the European patent application on which it is based shall be deemed not to have had ab initio the effects specified in paragraph (1) of this Article

and Article 108d, paragraph (2) of this Act, to the extent that the patent has been revoked in the opposition proceedings, or revoked or limited in the procedure concerning the request referred to in Article 105a EPC before the EPO.

#### AUTHENTIC TEXT OF EUROPEAN PATENT APPLICATIONS OR EUROPEAN PATENTS

##### Article 108f

(1) The text of a European patent application or a European patent established in the language of the proceedings before the EPO shall be the authentic text in any proceedings in the Republic of Croatia.

(2) Where the translation in the Croatian language confers protection narrower than that conferred by a European patent application or a European patent, such translation shall be regarded as authentic, except in the procedures concerning the declaration of a patent null and void.

(3) An applicant for or the owner of a European patent may file a corrected translation at any time. The corrected translation of the claims of a published European patent application shall not have any legal effects in the Republic of Croatia until it has been communicated to the person using the invention in the Republic of Croatia. The corrected translation of the specification of a European patent designating the Republic of Croatia shall not have any legal effect, until the Office has published the mention of the correction, as soon as possible after payment of the administrative fee and procedural charges prescribed for the publication.

(4) Any person who, in good faith, uses or has made effective and serious preparations for using an invention, the use of which would not constitute infringement of a European patent application or a European patent in the original translation may, after the corrected translation takes effect, continue such use in the course of his business or for the needs thereof without payment.

#### RIGHTS OF EARLIER DATE

##### Article 108g

(1) In the Republic of Croatia, a European patent application and a European patent designating the Republic of Croatia shall have, with regard to a national patent application and a national patent, the same state of the art effect as a national patent application and a national patent.

(2) In the Republic of Croatia, a national patent application and a national patent shall have, with regard to a European patent designating the Republic of Croatia, the same state of the art effect as they have with regard to a national patent.

#### SIMULTANEOUS PROTECTION

##### Article 108h

Where a European patent designating the Republic of Croatia and a national patent having the same filing date or, where priority has been claimed, the same priority date, has been granted to the same person or his successor in title, the national patent shall have no effect to the extent that it covers the same invention as the European patent designating the Republic of Croatia from the date on which the time limit for filing an opposition to the European patent has expired without an opposition having been filed, or from the date on which the opposition procedure has resulted in a final decision

maintaining the European patent.

## CONVERSION INTO A NATIONAL PATENT APPLICATION

### Article 108i

(1) The Office shall carry out a procedure for the grant of a national patent upon the request of an applicant for or the owner of a European patent in the following cases:

(a) where the European patent application is deemed to be withdrawn under Article 77, paragraph 3 EPC, or

(b) where the translation of a European patent application has not been filed in due time in accordance with the provision of Article 14, paragraph 2 EPC and Article 90, paragraph 3 EPC.

(2) In the case referred to in paragraph (1) item (a) of this Article, a request for conversion shall be filed with the Office. The Office shall, subject to the provisions on national security, transmit the request directly to the central industrial property offices of the Contracting States specified therein.

(3) In the cases referred to in paragraph (1) item (b) of this Article, a request for conversion shall be filed with the EPO, which shall transmit it to the Office, if the Republic of Croatia is specified therein.

(4) The request shall be deemed as filed after the conversion fee and procedural charges have been paid. The effects of the European patent application referred to in Article 66 EPC shall lapse if the request for conversion is not filed in due time.

(5) Within two months from filing of the request for conversion of a European patent application to a national patent application, the applicant shall pay the prescribed administrative fee and procedural charges for conversion and publication in accordance with special regulations, and shall file with the Office the translation of the original text of the European patent application into the Croatian language. Mention of the conversion shall be published in the official gazette of the Office. If the administrative fee and procedural charges have not been paid in due time, or if the translation of the original text of the European patent application into the Croatian language is not filed in due time, the request for conversion shall be deemed not to be filed, concerning which the Office shall issue a corresponding decision.

## RENEWAL FEES FOR EUROPEAN PATENTS

### Article 108j

(1) Renewal fees for European patents shall be paid to the Office for the years following the year in which the mention of the grant of the European patent was published in accordance with special regulations.

(2) Article 141, paragraph 2 EPC shall apply *mutatis mutandis*.

## DISPOSITIONS OF EUROPEAN PATENT APPLICATIONS AND EUROPEAN PATENTS

### Article 108k

The provisions of this Act on the transfer, licence, right in rem, execution, bankruptcy and compulsory licences shall apply to European patent applications and European patents with effect in the territory of the Republic of Croatia.

## PROTECTION AGAINST INFRINGEMENT

### Article 108l

The provisions of this Act on the protection of patents in the case of infringement shall apply to European patent applications and European patents designating the Republic of Croatia.

## DECLARATION OF NULLITY OF THE EUROPEAN PATENT

### Article 108m

(1) Subject to the provisions of Article 139 EPC, and Articles 78 and 79 of this Act, respectively, a European patent may be declared null and void in the procedure before the Office in accordance with the provisions of this Act, with the effect for the Republic of Croatia.

(2) If a request for the declaration of nullity of a European patent is filed with the Office after the initiation of the opposition procedure before the EPO referred to in Article 99 EPC or the procedure concerning a request for limitation or revocation referred to in Article 105a EPC, the Office shall stay the procedure concerning a request for the declaration of nullity up to the termination of the mentioned procedures before the EPO.

## APPLICATION OF EPC

### Article 108n

EPC shall apply to the European patent applications and European patents, which have, in accordance with the provisions of EPC and this Act, effect in the Republic of Croatia.

## TRANSLATIONS IN ACCORDANCE WITH THE AGREEMENT ON THE APPLICATION OF ARTICLE 65 EPC

### Article 108o

(1) The provisions of Article 108e, paragraphs (2), to 5 of this Act, providing for that the owner of a European patent shall furnish the Office with a translation of a patent specification and amended claims into the Croatian language, shall apply up to the entry into force of the Agreement on the application of Article 65 EPC of 17 October 2000.

(2) After the entry into force of the Agreement referred to in paragraph (1) of this Article, the owner of a patent shall furnish the Office with:

1. a patent specification in the English language, or a translation of such specification into the English language, if the patent has been granted in the language of the proceedings other than the English language, and a translation of the claims into the Croatian language filed in due time and subject to payment of the prescribed administrative fee and procedural charges for publication laid down in Article 108e, paragraph (2) of this Act;
2. a translation of the amended claims into the English and Croatian languages, if the European patent has been maintained with amended claims, filed in due time and subject to payment of the prescribed administrative fee and procedural charges for publication laid down in Article 108e, paragraph (3) of this Act.

(3) In the case of a dispute relating to a European patent, the patent owner, at his own

expense, shall furnish, at the request of a person allegedly infringing a patent, or at the request of the competent court or quasi-judicial authority conducting a legal proceedings a full translation of a patent specification into the Croatian language.

(4) The translation referred to in paragraph (3) of this Act shall be considered as authentic text in any proceedings in the Republic of Croatia, except in the nullity proceedings, if the translation in the Croatian language confers protection narrower than that conferred by the European patent in the language of the proceedings.

### **XIII. INTERNATIONAL APPLICATION UNDER THE PATENT COOPERATION TREATY**

#### **INTERNATIONAL APPLICATION**

##### **Article 109**

(1) An international application shall be an application filed in compliance with the PCT. Any reference to the PCT in this Chapter of the Act shall be, at the same time, considered to be the reference to the Regulations under the Patent Cooperation Treaty.

(2) To an international application filed with the Office as the receiving office, or in which the Office is indicated as a designated or elected office, the provisions of the PCT, this Act, and a regulation enacted by virtue of this Act shall apply.

#### **INTERNATIONAL APPLICATION FILED WITH THE OFFICE AS THE RECEIVING OFFICE**

##### **Article 110**

(1) An international application may be filed with the Office as the receiving office if the applicant is a Croatian national, or any natural person domiciled in the Republic of Croatia or a legal person having its principal place of business in the Republic of Croatia.

(2) The filing of the international application referred to in paragraph (1) of this Article shall be, in compliance with Article 16 of this Act, subject to the payment of the prescribed administrative fee and procedural charges for its transmittal to the International Bureau, within one month as from the date of receipt of the international application.

#### **INTERNATIONAL APPLICATION FILED WITH THE OFFICE AS THE DESIGNATED OR ELECTED OFFICE**

##### **Article 111**

(1) An international application in which the Republic of Croatia is designated or elected, in compliance with the provisions of the PCT, for the grant of a national patent, shall, under the provision of payment of the administrative fee and procedural charges, be filed with the Office in the Croatian language not later than up to the expiration of a 31-month period, counting from the international filing date or priority date respectively, if priority is claimed in the international application in compliance with Article 8 of the PCT.

(2) The international application filed with the Office as a designated or elected office shall be published in the official gazette of the Office in a manner provided for in Article 35 of this Act.

(3) The provisional protection i provided for under the provision of Article 60 of this

Act for the international applications referred to in paragraph (1) of this Article shall be effective as of the date of the publication of the translation in the Croatian language.

(4) In respect of international applications referred to in paragraph (1) of this Article, the time limit within which one of the requests referred to in Article 36 of this Act may be filed shall run as from the date of the publication in the official gazette of the Office.

(5) An international application published under Article 21 of the PCT shall not be considered prior art under Article 8, paragraph (3) of this Act until the conditions of paragraph (1) above have been met.

#### **XIV. TRANSITIONAL AND FINAL PROVISIONS**

##### **PATENTS GRANTED UP TO THE APPLICATION OF THIS ACT**

###### **Article 112**

(1) The patents entered into the Office patent register up to the date determined for the application of this Act shall remain in effect and the provisions of this Act shall apply to them.

(2) The owner of the patent protecting the invention of the medicine for humans and animals or the invention relating to the application of substances or compositions in the treatment of humans and animals, for which the application was filed up to December 31, 1992, or the priority for such application was claimed up to December 31, 1992, may, in the procedure concerning the infringement of a patent, claim through an action only a remuneration, and that, for the period after January 1, 1993.

##### **PENDING PROCEDURES**

###### **Article 113**

(1) All patent granting procedures, procedures concerning proposals for the declaration of a patent null and void, and the procedures concerning proposals for the cancellation of the decision on the patent grant, pending up to the day the application of this Act starts, shall be carried out according to the regulations, which were in force up to the day the application of this Act starts.

(2) The procedures concerning the infringement of a patent or rights conferred by a patent application pending up to the day the application of this Act starts, shall be carried out according to the regulations which were in force up to the day the application of this Act starts.

##### **TRANSLATIONS ACCORDING TO THE AGREEMENT ON THE APPLICATION OF ARTICLE 65 EPC**

###### **Article 114**

(1) The provisions of Article 103, paragraphs (2) and (3) of this Act, providing for the obligation of the owner of the extended European patent to furnish the translation in Croatian language of the specification and amended claims, shall apply until the entry into force of the Agreement on the Application of Article 65 of EPC, dated 17 October 2000.

(2) After the entry into force of the Agreement referred to in paragraph 1, the owner of a patent shall furnish to the Office the following:

1. a patent specification in English language or, a translation in English language of the

specification, and the translation in Croatian language of claims, where a patent has been granted in a language of the proceedings other than English, within the time limit and subject to payment of the prescribed administrative fee and procedural charges for publication as provided for under Article 103, paragraph (2) of this Act;

2. a translation in the English and Croatian language of the amended claims, where the extended European patent is maintained with amended claims, within the time limit and subject to payment of the prescribed administrative fee and procedural charges for publication as provided for under Article 103, paragraph (3) of this Act.

(3) In the case of a dispute relating to the extended European patent the owner shall, on his own expense, furnish a full translation in Croatian language of the specification, on the request of an alleged infringer, or the competent court or other judicial authority in the course of legal proceedings.

(4) The translation referred to in paragraph (3) of this Act shall be regarded as authentic in any proceedings in the Republic of Croatia, except in revocation proceedings, where the translation in Croatian language confers the protection which is narrower than that conferred by the extended European patent in the language of proceedings.

## REGULATIONS

### Article 115

The Regulations defining the matters referred to in: Article 17, paragraph (2); Article 20, paragraph (9); Article 21; Article 30, paragraph (2); Article 31, paragraph (2); Article 35, paragraph (4); Article 36, paragraph (3); Article 39, paragraph (4); Article 42, paragraph (2); Article 43, paragraph (3); Article 49, paragraph (3); Article 50, paragraph (2); Article 51, paragraph (2); Article 52, paragraph (2); Article 53, paragraph (2); Article 54, paragraph (3); Article 55, paragraph (4); Article 57, paragraph (7); Article 71, paragraph (9); Article 73, paragraph (2); Article 74, paragraph (1); Article 103, paragraph (5), and Article 109, paragraph (2), shall be enacted by the Minister competent for the work of the Office, upon a proposal by the Director General of the Office, not later than up to the day the application of this Act starts.

## DEFERRED APPLICATION OF PARTICULAR PROVISIONS OF THE ACT

### Article 117

(1) The application of the provisions laid down in Articles 71 – 73 and Article 84 of this Act shall start on March 1, 2010.

(2) The provisions laid down in Articles 99 – 108 and Article 114 of this Act shall apply as from the entry into force of the Cooperation Agreement between the Government of the Republic of Croatia and the European Patent Organization in the field of patents, in compliance with the provisions of the Act Ratifying the Cooperation Agreement between the Government of the Republic of Croatia and the European Patent Organization in the field of patents (“Official Gazette” of the Republic of Croatia – International Treaties, No. 14/2003).

## ENTRY INTO FORCE AND APPLICATION OF THE ACT

### Article 118

This Act shall enter into force on the eighth day as from the date of publication thereof

in “Narodne novine” - the Official Gazette of the Republic of Croatia, and shall be applied as from January 1, 2004.



FINAL PROVISIONS OF THE ACT ON AMENDMENTS  
TO THE PATENT ACT\*  
(NN 87/05)

Article 10

This Act shall enter into force on the day of its publication in the “Official Gazette”, while Article 5 has been applied as from 1 January 2004.

TRANSITIONAL AND FINAL PROVISIONS OF THE ACT ON AMENDMENTS  
TO THE PATENT ACT\*\*  
(NN 76/07)

Article 48

(1) The administrative disputes instituted before the Administrative Court before 1 June 2008 shall be completed before the Administrative court in accordance with the provisions, which were in force up to that date.

(2) A party, which instituted a legal action before the Administrative Court before 1 June 2008, in accordance with the provisions which were in force up to that date, may require from the Administrative Court to stay the proceedings, provided that it has filed within 30 days from that date an appeal based on the same grounds and with the same statement of reasons as are those contained in the legal action, where an appeal against such administrative decision is admissible pursuant to the provisions of this Act. The administrative decision issued on such appeal in the second instance, may be subject to an administrative dispute pursuant to the provisions of the Act on Administrative Disputes.

SPECIAL PROTECTION CONFERRED BY A PATENT OR A SUPPLEMENTARY  
PROTECTION CERTIFICATE IN A MEMBER STATE OF THE EUROPEAN  
UNION

Article 49

(1) If, before the day of the accession of the Republic of Croatia into the full membership of the European Union, a patent or a Supplementary Protection Certificate for a medicinal product intended for humans or animals has been acquired in any of the Member States of the European Union, at the time when a patent or a Supplementary Protection Certificate could not be acquired for such medicinal product in the Republic of Croatia, the owner of such a patent or a Supplementary Protection Certificate may prohibit export from the Republic of Croatia for the purpose of offering for sale, selling, using, or stocking for such purposes, of the product carried out according to such a patent, to the Member States of the European Union in which the patent or the Supplementary Protection Certificate concerned is in force, even if such a product is manufactured or placed on the market for the first time in the territory of the Republic of Croatia by the owner of the patent or the holder of the Supplementary Protection Certificate acquired in the Member State of the European Union concerned before the accession of the Republic of Croatia to the European Union, or with his/her express authorization.

(2) The manner of information of the competent customs authorities concerning the intended export referred to in paragraph (1) of this Article shall be regulated by special regulation.

DEFERRED APPLICATION OF THE PROVISIONS ON A SUPPLEMENTARY  
PROTECTION CERTIFICATE AND SPECIAL RIGHTS IN THE TRANSITIONAL  
PERIOD

Article 50

The owner of the basic patent in the Republic of Croatia, granted for a medicinal product intended for humans or animals or a plant protection product, respectively, for which the authorization to place it on the market is granted by a competent authority in

any of the States of the European Union, on the day of the accession of the Republic of Croatia into the full membership of the European Union, or, in the Republic of Croatia, after 1 January 2008, may apply for a Supplementary Protection Certificate in the Republic of Croatia, within 6 months as of the day of the accession of the Republic of Croatia into the full membership of the European Union.

#### Article 51

On the date of the entry into force of Article 47 of this Act, the provisions of Articles 99 to 108 of the Patent Act (“Official Gazette” 173/2003 and 87/2005) shall cease to have effect. All the procedures instituted in accordance with such provisions shall be completed in accordance with them.

#### Article 52

- (1) The procedures concerning the protection of a patent in the case of infringement, pending on the day of the entry into force of this Act, shall be completed in accordance with the provisions, which were in force up to the entry into force of this Act.
- (2) The provisions of Articles 10 to 14 of this Act shall not apply to any procedures relating to the grant of a patent, declaration of a patent null and void, and revocation of the decision on the grant of a patent, which have been instituted and not completed up to the entry into force of this Act.

#### Article 53

- (1) The Ordinance referred to in Article 115 of the Patent Act (“Official Gazette” 173/2003 and 87/2005) shall be aligned with the provisions of this Act, on a proposal given by the Director General of the Office, by the Minister responsible for the work of the Office, not later than within 3 months from the entry into force of this Act.
- (2) The Ordinance referred to in Article 36 of this Act shall be enacted, on a proposal given by the Director General of the Office, by the Minister responsible for the work of the Office, not later than up to 1 June 2008.
- (3) The Rules of Procedure referred to in Article 36 of this Act shall be enacted not later than up to 1 June 2008.

#### Article 54

The Legislation Committee of the Croatian Parliament shall hereby be authorized to prepare and publish a revised version of the Patent Act.

#### Article 55

This Act shall enter into force on the eighth day following the day of its publication in the “Official Gazette”, with the exception of Article 4, and Articles 32 to 39 thereof, which shall enter into force on 1 June 2008, Articles 31 and 49 thereof, which shall enter into force on the day of the acceptance of the Republic of Croatia into the European Union, and Article 47 thereof, which shall enter into force on the day of the entry into force of the EPC in the Republic of Croatia.

TRANSITIONAL AND FINAL PROVISIONS OF THE ACT ON AMENDMENTS  
TO THE PATENT ACT\*\*\*  
(NN 30/09)

SPECIAL RIGHTS IN TRANSITIONAL PERIOD

Article 16

The owner of the basic patent in the Republic of Croatia, granted for the product as a medicinal product intended for humans or animals, or the product as a plant protection product, respectively, for which the authorization to place it on the market is granted by a competent authority in any of the Member States of the European Union, on the day of the accession of the Republic of Croatia to the European Union, or, in the Republic of Croatia, after 1 January 2003, may apply for a Supplementary Protection Certificate in the Republic of Croatia, within 6 months as of the day of the accession of the Republic of Croatia to the European Union.

Article 17

The Agreement on the application of Article 65 EPC (London Agreement) shall apply to all European patents and extended European patents granted after 1 May 2008, irrespective of whether they have been granted after the first instance procedure or opposition procedure or appeal procedure, and the mention of the grant or amendment of which have been published by the EPO.

Article 18

In the Act on Amendments to the Patent Act (OG 76/07), Article 50 and the heading above it shall cease to have effect.

Article 19

This Act shall enter into force on the eighth day following the day of its publication in the "Official Gazette".

FINAL PROVISIONS OF THE ACT ON AMENDMENTS  
TO THE PATENT ACT\*\*\*\*  
(NN 128/10)

Article 9

This Act shall enter into force on the eight day following the day of its publication in the Official Gazette.

TRANSITIONAL AND FINAL PROVISIONS OF THE ACT ON AMENDMENTS  
TO THE PATENT ACT\*\*\*\*\*  
(NN 49/11)

Article 24

The Minister responsible for the work of the Office shall, on a proposal given by the Director General of the Office, harmonize the Regulations referred to in Article 115 of the Patent Act (“Official Gazette” Nos. 173/03, 87/05, 76/07 and 128/10) with the provisions of this Act not later than within a period of two months from the day of the entry into force of this Act.

Article 25

This Act shall enter into force on the eight day following the day of the publication thereof in the “Official Gazette”.

TRANSITIONAL AND FINAL PROVISIONS OF THE ACT ON AMENDMENTS  
TO THE PATENT ACT\*\*\*\*\*  
(NN 76/13)

Article 22

The Minister competent for the work of the Office shall, on a proposal given by the Director General of the Office, harmonize the Ordinance referred to in Article 115 of the Patent Act (“Official Gazette” Nos. 173/2003, 87/2005, 76/2007, 30/2009, 128/10 and 49/2011) with the provisions of this Act, within a period of eight days from the date of its entry into force.

Article 23

This Act shall enter into force on the eight day of its publication in the “Official Gazette”, with the exception of the provisions of Articles 1, 3, 4 to 19 and Article 22, which shall enter into force on the day of the acceptance of the Republic of Croatia to the European Union.

TRANSITIONAL AND FINAL PROVISIONS OF THE ACT ON AMENDMENTS  
TO THE PATENT ACT\*\*\*\*\*  
(NN 46/18)

Article 7

The Minister responsible for supervision of the work of the State Intellectual Property Office shall harmonise the Patent Regulations (»Official Gazette«, No. 117/07, 3/11, 66/11, 145/12, 85/13 and 43/17) with the provisions of this Act within 30 days from the day of the entry into force of this Act.

Article 8

(1) Administrative procedures instituted by the provisions of the Patent Act (»Official Gazette«, No. 173/03, 54/05, 87/05, 76/07, 30/09, 128/10, 49/11 and 76/13) where the State Intellectual Property Office as the first instance authority issued the decision until the day of the entry into force of this Act shall be completed in accordance with the provisions of that Act and the regulations issued pursuant to that Act.

(2) Boards of Appeal in the field of industrial property rights established and appointed on the basis of the Patents Act (»Official Gazette«, No. 173/03, 54/05, 87/05, 76/07, 30/09, 128/10, 49/11 and 76/13) shall continue to operate in accordance with the provisions of that Act and the regulations issued pursuant to that Act until all the administrative procedures referred to in paragraph (1) of this Article are completed by reaching final decisions, after which they shall cease to operate.

(3) If, because of dismissal of the president or members of the Boards of Appeal referred to in paragraph (2) of this Article, it is not possible to determine the Board of Appeal to decide on an appeal, the procedure of electing or appointing the president or necessary number of members of the Boards of Appeal can exceptionally be conducted in accordance with the provisions of the Patents Act (»Official Gazette«, No. 173/03, 54/05, 87/05, 76/07, 30/09, 128/10, 49/11 and 76/13), for the needs of resolving the case referred to in paragraph (1) of this Article.

Article 9

This Act shall enter into force on the eighth day following the day of its publication in the »Official Gazette«.