



Republika e Kosovës
Republika Kosovo - Republic of Kosovo
Kuvendi - Skupština - Assembly

Law No. 04/L-029

ON PATENTS

Assembly of Republic of Kosovo;

Based on Article 65 (1) of the Constitution of the Republic of Kosovo,

Approves

LAW ON PATENTS

CHAPTER I
GENERAL PROVISIONS

Article 1

Aim

This Law defines the provisions and procedures for registration of patent, the rights deriving from the registration and application of these rights.

Article 2

Limitations

1. Terms used in this Law shall have the following meaning:

1.1. **Ministry** - the Ministry of Trade and Industry;

1.2. **Minister** - Minister of Trade and Industry;

1.3. **Office of Industrial Property (OIP)** -the Office of Industrial Property of the Republic of Kosovo within the Ministry of Trade and Industry;

1.4. **Paris Convention** - the Convention for Protection of Industrial Property of March 20, 1883, as amended in Brussels on December 14, 1900 in Washington on June 2, 1911, in The Hague on November 6, 1925, in London on June 2, 1934, in Lisbon on October 31, 1958, and in Stockholm on July 14, 1967, and as amended on September 28, 1979;

1.5. **Paris Union** - the Union established by the Paris Convention;

1.6. **WTO** - the World Trade Organization;

1.7. **TRIPS** - an Agreement on Trade -Related Aspects of Intellectual Property Rights (Annex 1C of the Marrakech Agreement Establishing the World Trade Organization, signed in agreement of Morocco on 15 April 1994);

1.8. **Patent Cooperation Treaty** - the Patent Cooperation Treaty, done in Washington on June 19, 1970, amended on September 28, 1979, modified on February 3, 1984, and October 3, 2001;

1.9. **Budapest Treaty** - the Budapest Treaty on the International Recognition of the deposit of microorganisms for the purposes of patent procedures, done at Budapest on April 28, 1977, and amended on September 26, 1980;

1.10. **Bio-technology Invention** - inventions dealing with a product, which comprises or contains biological material, or process by which the biological material is produced, processed or used;

1.11. **Biological Material** - any material that consists of genetic information and has the skills of self-re-production or to get reproduced in a biological system;

1.12. **Plant Variety** - any plant grouped under a single type of botanical classification less known, grouping which, whether if fully met the conditions for plant acceptance, can be:

1.12.1. determined by the expression of characteristics which results from genotype set or combination of genotypes;

1.12.2. distinguished from any other plant grouping by expressing at least one of the above mentioned characteristics, and

1.12.3. considered as a unit in connection with the suitability to be multiplied in a constant manner.

1.13. **The process for manufacturing plants or animals** - the process is essentially biological, if composed entirely of natural phenomena such as crossing or selection.

1.14. **Microbiological process** - any process involving is performed or is the result of microbiological material.

1.15. **Exclusive Licence** – the licence granted only to one licensee and that deprives the owner’s right on an industrial property object to use it, as well as to license it to other persons;

1.16. **Non-exclusive licence** – the licence that does not deprive the owner’s right on an industrial property object to use or to license it to other persons;

1.17. **Supplementary certificate** – certificate on additional protection of pharmaceutical products and plant products;

1.18. **Priority certificate** – certificate with which it is certified the right of priority to apply for a patent.

Article 3

The right to apply

1. Application for patent may be deposited by any person or by any other organ that is equal with legal person. Application may be deposited even by two or more joint applicants.

2. Natural and legal persons who are not citizens of the Republic of Kosovo or who have not registered based business in Kosovo, have equal rights in the protection of patent invention same as natural and legal persons who have permanent residence in Kosovo.

3. Foreigners may practice the rights under this law, in proceedings in front of Industrial Property Office only through authorized representatives under Article 128 of this Law.

CHAPTER II

INDUSTRIAL PROPERTY OFFICE

Article 4

Organization

1. Industrial Property Office of the Republic of Kosovo, is the independent administrative state body, established by law in the Ministry of Trade and Industry - hereinafter the

Office and is responsible for the legal protection of inventions, trademarks, industrial designs, names of origins, geographical indications and topographies of integrated circuits and other issues arising from international agreements to which the signatories is the Republic of Kosovo. The office is independent in its activities.

2. Organization and functioning of the Office is regulated by a sub-legal act.

Article 5

Responsibilities of the Office

1. The Office shall be in particular responsible for:

1.1. performing the procedures concerning the granting patents, supplementary protection certificates for inventions, registration of the trademarks, industrial designs, topographies of integrated circuits, designations of origin and geographical indications;

1.2. keeping and maintaining registers of the objects of the industrial property representatives;

1.3. publication of an official gazette, entitled Official Bulletin for Industrial Property in Kosovo, which provides the information on the application and the rights granted to the Industrial Property;

1.4. providing the services of information concerning Industrial Property objects;

1.5. conducting examinations for representatives authorized in the field of Industrial Property rights;

1.6. preparing the proposals for adoption of legal and sub-legal acts, initiating ratification of international agreements in the field of industrial property rights;

1.7. representing the Republic of Kosovo in international organizations for industrial property.

1.8. performing any other tasks falling under its competence.

Article 6

Review of the decisions made by the office

1. Against office decision is allowed to file an appeal within the time limit of fifteen (15) days from the day when the decision was received.

2. The appeal shall be addressed to the commission, to decide and inform the party.

3. Commission for review of the appeals is established by the decision of the Minister.
4. Against decision of the commission a claim may be submitted in the competent court within the time limit of thirty (30) days.
5. Competences mandate and work of the commission shall be regulated by sub-legal act.

CHAPTER III

SUBJECT MATTER OF THE PATENT PROTECTION

Article 7

Patentable Invention

1. A patent shall be granted for any invention, in any field of technology that is new, involves an inventive step and is susceptible in the industry.
2. Inventions, according to paragraph 1 of this Article, shall not be considered:
 - 2.1. discoveries, scientific theories and mathematical methods;
 - 2.2. aesthetic creations;
 - 2.3. schemes, rules and methods for performing mental acts, playing games or doing business, and programs for computers;
 - 2.4. presentations of information.
3. Subject matters or activities referred to in paragraph 2 sub-paragraph 2.3 of this Article shall be excluded from patentability to the extent to which the application for a patent or patent related to those subject matters or activities as such.

Article 8

Patentability of biotechnological inventions

1. If the requirements referred to in paragraph 1 of Article 7 of this Law are fulfilled, a patent shall be granted for an invention which concerns:
 - 1.1. a product consisting of or containing biological material;
 - 1.2. a process by means of which the biological material is produced, processed or used;

1.3. 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;

1.4. Plants or animal variety if the technical feasibility of the invention is not confined to a particular plant or animal variety.

Article 9 **Exclusion from Patentability**

1. A patent shall not be granted in respect of:

1.1. inventions, the commercial exploitation of which would be contrary to ordre public or moral; such exploitation shall be deemed to be contrary to them, even if it is not prohibited by Law;

1.2. plants or animal variety, or biologic essential procedures for producing of plants or animal; this provision shall not apply to the micro-biologic procedure or their product;

1.3. methods for treatment of the human or animal body by surgery or therapy and diagnostic methods practiced on the human or animal body; this provision shall not apply to products, in particular substances or compositions, for use in any of these methods;

1.4. substance that are result of internal nuclear transformations for the military purposes.

2. Under sub-paragraph 1.1 of paragraph 1 of this Article, a patent shall not be granted in respect of biotechnological inventions which, in particular, concern the following:

2.1. processes for cloning human beings;

2.2. processes for modifying the germ line genetic identity of human beings;

2.3. uses of human embryos for industrial or commercial purposes; and

2.4. processes for the genetic modification 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.

Article 10
The human body and its elements

1. 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 does not constitute patentable inventions.
2. 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.
3. The industrial application of a sequence or a partial sequence of a gene must be disclosed in the patent application as originally filed.

Article 11
Novelty

1. An invention shall be considered to be new if it does not form part of the state of the art.
2. The state of the art shall 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. Additionally, the content of national patent applications as filed and, after the accession of the Republic of Kosovo to the Patent Cooperation Treaty and the European Patent Convention, the content of all international and European patent applications with the effect for the Republic of Kosovo, the filing dates of which are earlier than the date of application referred to in paragraph 2 of this Article, and which were published on or after that date, shall be considered as comprised in the state of the art.
4. Paragraphs 2 and 3 of this Article shall not exclude the patentability of any substance or composition, comprised in the state of the art, for use in the methods referred to in sub-paragraph 1.3 of paragraph 1 of Article 9 of this Law, provided that its use for any such method does not form part of the state of the art.
5. Paragraphs 2 and 3 of this Article shall also not exclude the patentability of any substance or composition referred to in paragraph 4 of this Article for any specific use in a method referred to in sub-paragraph 1.3 of paragraph 1 of Article 9 of this Law, provided that such use does not form part of the state of the art.

Article 12
Non-prejudicial invention Disclosures

1. For the application of Article 11 of this Law, a disclosure of the invention shall not be taken into consideration if it occurred no earlier than six (6) months preceding the filing of the patent application and if it was due to, or in consequence of:

1.1. An evident abuse in relation to the applicant or his legal predecessor, or the fact that the applicant or his legal predecessor has displayed the invention at an official, or officially recognized, international exhibition falling within the terms of the Convention on international exhibitions, 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 four (4) months as from the filing date of the application, submits a corresponding certificate to that effect.

Article 13
Inventive Step

1. An invention shall be considered as involving 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 paragraph 3 of Article 11 of this Law shall not be taken into consideration.

Article 14
Applicability in Industry

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

CHAPTER IV
SECRET INVENTIONS

Article 15
Secret Invention and the Competent Authority

1. An invention made by a national of the Republic of Kosovo may be considered to be a secret invention, if it concerns state interests such as national defence or the security of the State.

2. The competent authority for secret inventions shall be the Security Council of the Republic of Kosovo (hereinafter Competent Authority), that by special acts determines particular criteria and procedures for secret inventions.

3. A secret invention shall constitute a State secret.

Article 16 **Procedure in respect of secret patent Application**

1. The Applications in regard to inventions set as in paragraph 1 of Article 15 of this Law, shall be forwarded to the Competent Authority by the Office.

2. If the Office establishes, when examining the patent application that it concerns a secret invention, according to the specific criteria defined by the Competent Authority set in paragraph 2 of Article 15 of this Law, it shall forward the application at the Competent Authority.

3. The application forwarded at the Competent Authority, shall save the submitting date defined by the Office.

4. If the Competent Authority, when examining the patent application considers that the invention does not constitute a secret, the application shall be returned to the Office.

5. If the competent authority decides that a secret invention is concerned, it shall issue a decision to that effect and shall enter it in the register of patents for secret inventions kept by it.

6. If the authority considers that the invention is not secret, the procedure shall be carried out by the Office and in accordance with this Law.

Article 17 **Exploitation and Compensation**

1. The authority competent shall have the exclusive right to use a secret invention.

2. The inventor shall be entitled to a one-time compensation for the protected secret invention, regardless of whether or not the invention is used.

3. The amount of the compensation referred to in paragraph 2 of this Article shall be determined in proportion to the market value of the invention.

4. In case an agreement is not reached, the inventor may request the competent court to determine the amount of the compensation.

Article 18
Procedure after the Grant of a Patent for a secret Invention

1. If the authority competent for national defence establishes that the invention has ceased to be secret, it shall forward the file concerning the invention to the Office.
2. The Office shall, at the request of the applicant, initiate or resume the patent granting proceedings for the invention which is not secret anymore.

Article 19
Protection Abroad

Domestic legal and natural persons may seek protection of secret invention abroad only with the authorization of the authority competent for national security.

CHAPTER V
THE RIGHT TO A PATENT

Article 20
The right to a Patent

1. The right to a patent shall belong to the inventor or his successor in title.
2. If two (2) or more inventors have created the invention jointly, the right to a patent shall belong jointly to the inventors or their successors in title.
3. Notwithstanding paragraph 1 of this Article, when an invention is made in the Republic of Kosovo in execution of a commission or an employment contract, the right to the patent shall belong to the person having commissioned the work or to the employer, unless it is foreseen otherwise by the contract.
4. When provisions of paragraph 3 of this Article apply to an invention made in execution of an employment contract in the Republic of Kosovo, the employee being the inventor shall have the right to the remuneration taking into account the economic value of the invention. In the absence of agreement between the parties to fix the remuneration, it shall be fixed by the competent court.
5. The applicant shall be considered to have the right to a patent unless otherwise was decided in court proceedings.
6. The right to a patent may be transferred.

Article 21
Inventor

An inventor shall be the person who has created an invention in the course of his creative work. Any person who has contributed to the creation of an invention by providing only technical assistance shall not be considered to be the inventor. The Office shall not verify the accuracy of the data on the inventor.

Article 22
Moral right of the Inventor

1. 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 Register of applications in the Office and Register of patents.
2. The inventor's moral right shall not be transferable.

CHAPTER VI
EFFECTS OF A PATENT

Article 23
Exclusive rights conferred by a Patent

1. A patent shall confer on its owner the following exclusive rights:
 - 1.1. where the subject matter of a patent is a product, to prevent third parties not having the owner's consent from the acts of: making, offering for sale, selling, using, exporting or importing and stocking for such purposes product carried out according to the invention;
 - 1.2. where the subject matter of a patent is a process, to prevent third parties not having the owner's consent from the act of making, offering for sale, selling, using, exporting or importing or stocking for such purposes the product obtained directly by that process.
2. The patent owner shall have the right to prevent third parties not having his consent from offering and supplying the product (substance, composition, part of the apparatus) constituting an essential element of the protected 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.

3. The provisions referred to in paragraph 2 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 1 of this Article.

Article 24

Exclusive rights acquired by a Patent in the field of Biotechnology

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 23, paragraphs 2 and 3 of this Law 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 23 paragraphs 2 and 3 of this Law 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 23 paragraphs 2 and 3 of this Law shall extend to all material, save as the human body and the various stages of its formation and development or 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.

Article 25

Scope of Protection

1. The scope of the patent protection 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.

2. The content of the patent claims shall not be confined to their strict literal wording. The description and drawings shall be taken into account only for the purpose of clarifying vagueness in the patent claims.

3. The patent claims shall not be taken as guideline 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.

CHAPTER VII

LIMITATIONS OF THE EFFECT OF THE PATENT

Article 26

Exceptions from the exclusive Right

1. The rights conferred by the patent shall not apply to:
 - 1.1. acts in which the invention is exploited for private and non-commercial purposes;
 - 1.2. 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;
 - 1.3. 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;
 - 1.4. The use of the patented invention in the construction or operation of aircraft or land vehicles of other countries member States of the Paris Union or the WTO members, or of accessories to such aircraft or land vehicles, when those aircraft or land vehicles temporarily or accidentally enter the territory of the Republic of Kosovo.

Article 27

Right of the prior User

1. Patent shall have no effect against the person who before the filing date of application or before the date of recognition of the right of application priority, within her/his economic activities, had exploited or produced the product which is subject-matter of the invention, or had made real and serious preparations for exploitation of the invention in the Republic of Kosovo.
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.

Article 28
Limitations of the effects of the Patents in the field of Biotechnology

1. The exclusive rights deriving from the provision set out in Article 24 of the Law 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 Kosovo or upon the accession of the Republic of Kosovo to the European Union respectively, on the market of any of the States of the European, 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. Notwithstanding the Article 24 of this Law 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. Notwithstanding the Article 24 of this Law, 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.

Article 29
Exhaustion of exclusive Rights

1. The rights conferred by a patent shall not extend to acts concerning a product made according to the invention or a product directly obtained by a process which is the subject matter of a patent after that product has been put on the market in the Republic of Kosovo by the owner of the patent or with his express consent, unless there are legitimate grounds for the owner to oppose further commercialization of the product.
2. The provisions of paragraph 1 of this Article shall also apply with the necessary changes to the exclusive rights conferred by the Supplementary Certificate.

CHAPTER VIII
PATENT AS AN OBJECT OF PROPERTY

Article 30
Transfer of the Right

1. A patent can be transferred to other persons.
2. The transfer of the patent shall be made in writing and at the request of one of the parties, shall be entered in the corresponding Register of the Office and published.
3. The transfer of the patent rights shall only have effect against third parties after the entry in the register. Nevertheless, before it is so entered, the licence shall have effect against third parties who knew of it.
4. The provisions of this Article shall also apply with the necessary changes to the contract on the transfer of the patent as well as of the rights conferred by a Supplementary Certificate.

Article 31
Licensing

1. A patent may be licensed for the whole or part of the territory of the Republic of Kosovo.
2. A licence may be exclusive or non -exclusive.
3. Without prejudice to any legal proceedings based on the law of contract, the holder may invoke the rights conferred by the patent against a licensee who contravenes any provision in his licensing contract with regard to its duration, the form in which the patent may be used, the range of products for which the licence is granted and the quality of products manufactured by the licensee.
4. The licence shall, at the request of one of the parties, be entered in the corresponding Register and published.
5. The licence shall only have effect against third parties after the entry in the register. Nevertheless, before it is so entered, the licence shall have effect against third parties who knew of it.
6. The provisions of this article shall also apply with the necessary changes to the termination of licence contracts of the patent application as well as of the rights conferred by a Supplementary Certificate.

Article 32
Lien

1. A patent may be given as security or be the subject of lien.
2. On request of one of the parties, the rights mentioned in paragraph 1 of this Article shall be entered in the corresponding Register and published.
3. The rights mentioned in paragraph 1 of this Article shall only have effect against third parties after the entry in the register. Nevertheless, before they are so entered, they shall have effect against third parties who knew of it.
4. The provisions of this article shall also apply with the necessary changes to the grant of the lien upon the patent application as well as upon the right conferred by a Supplementary Certificate.

Article 33
Levy of Execution

1. A patent may be levied in execution.
2. The court levying the execution shall ex officio promptly inform the Office of the execution levied upon a patent for the purpose of its entry in the corresponding Register and publication.
3. The provisions of this article shall also apply with the necessary changes to the levy of execution upon the patent application, as well as upon the right conferred by a Supplementary Certificate.

Article 34
Bankruptcy

Where a patent, or the patent application, or a Supplementary 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 corresponding Register.

CHAPTER IX COMPULSORY LICENCES

Article 35 Procedure for the Grant of a Compulsory Licence

1. Grant of the compulsory License shall be done through the Court procedure.
2. The procedure for the grant of a compulsory licence shall be instituted by a lawsuit against the owner of a patent or a holder of a Supplementary Certificate, containing an application for the grant of a compulsory licence. In the notice of lawsuit, 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. In absence of proof, the application for the compulsory license will be denied and all the patent rights to the person name to who is registered the patent at the Patent Register.

Article 36 Grant of a Compulsory License

1. The Court may grant a compulsory license for lack or insufficiency of exploitation of a patent to any person proving that is able to exploit the invention and files a request for the grant of a compulsory license, or to the Government of the Republic of Kosovo, if the patent owner has not exploited the invention protected by a patent in the territory of the Republic of Kosovo 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 (4) years as of the filing date of a patent application, or after the expiration of three (3) 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 or the 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.

5. The court may take any measure it regards as useful to verify the existence of such a situation.
6. 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.
7. 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.
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 7 of this Article. The right holder shall be informed of the granting of a compulsory license as soon as reasonably possible.

Article 37 **Conditions Applicable to the grant of a compulsory License**

1. A Compulsory license shall be non -exclusive, and its scope and duration of the use 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 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 court, on a 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 license.
6. A compulsory license according to Article 36 paragraph 4 of this Law shall be non-transferable except with a transfer of the second patent or the protected plant variety.

Article 38

Compulsory licences for Patents of pharmaceutical products intended for export to countries having public health Problems

1. The court may grant to any person filing an application pursuant to the provisions of this Law, a compulsory licence for a patent and/or issue a Supplementary Certificate required for the manufacture and sale of pharmaceutical products, when such products are intended for export to importing countries having public health problems. When deciding on the grant of a compulsory licence the court shall take into consideration in particular, the need to implement the Decision adopted by the WTO General Council on 30 August 2003 on the implementation of paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health - hereinafter: the Decision of 14 November 2001.
2. The pharmaceutical product referred to in paragraph 1 of this Article shall be any product of the pharmaceutical industry, including medicinal products for human use, comprising any substance or combination of substances intended for treating or preventing disease in human beings, and any substance or combination of substances, which may be administered to human beings with a view to restoring, correcting or modifying physiological functions in humans, or to making a medicinal diagnosis, including active ingredients and diagnostic kits *ex vivo*.
3. The importing country referred to in paragraph 1 of this Article shall be any country to which the pharmaceutical product is to be exported. The importing country may be:
 - 3.1. any least-developed country appearing as such in the United Nations countries list;
 - 3.2. any member of the WTO, other than the least-developed country members referred to in sub-paragraph 3.1 of this paragraph that has made a notification to the Council for TRIPS of its intention to use the system as an importer, including whether it will use the system in whole or in a limited way;
 - 3.3. any country that is not a member of the WTO, but is listed in the OECD Development Assistance Committee's list of low-income countries with a lowest incomes, and has made a notification to the Office of its intention to use the system as an importer, including whether it will use the system in whole or in a limited way;
 - 3.4. any WTO member that has made a declaration that it will not use the system as an importing WTO member is not an eligible importing country.
4. Importing countries, which are not WTO members, and are least developed or developing countries, eligible under paragraph 3 of this Article shall comply with additional requirements.
5. The importing country shall notify pursuant to the Decision directly to the Office.

6. The importing country shall state in the notification that it will use the system to address public health problems, and not for industrial or commercial objectives, and that it will adopt the measures referred to in paragraph 4 of the Decision.

7. The court may, upon the request of a right holder or by the Office, terminate a compulsory license, if the importing country has failed to comply with its obligations referred to in paragraph 2 of this Article.

Article 39

Competence and procedure for the grant of a compulsory licence for the pharmaceutical product patents intended for export to the countries that with public health Problems

1. The claim for the grant of a compulsory license shall be instituted before the court pursuant to the provisions of Article 35 of this Law, if in the territory of the Republic of Kosovo there is a patent or a Supplementary Certificate the effects of which cover the intended manufacturing and sale activity for export purposes.

2. The claim filed at the court shall contain:

2.1. information concerning the application for compulsory licences filed in other countries for the same product with details of the quantities and importing countries concerned, information regarding the applicant for compulsory licence and his representative if there is any;

2.2. chemical name of the pharmaceutical product, which has intention to manufacture with compulsory license;

2.3. the quantity of the pharmaceutical product, which the applicant intends to manufacture under the compulsory licence;

2.4. the importing country;

2.5. evidence of prior negotiations with the right holder or the owner of it pursuant to the provisions of paragraph 5 of this Article;

2.6. evidence of a specific request from an authorized representative of the importing country, or a non-governmental organization acting with the formal authorization of one or more importing countries, or UN bodies or other international health organization acting with the formal authorization of one or more importing countries, indicating the quantity of the product required

3. When reviewing the claim for the grant of a compulsory license, the court shall verify in particular the following:

- 3.1. whether each importing country cited in the application, which is a WTO member, has made a notification to the WTO pursuant to the Decision, or whether each importing country cited in the application, which is not a WTO member, has made a notification to the Office pursuant to the provisions of this Article in respect of each of the products covered by the application;
 - 3.2. if the quantity of the product cited in the application does not exceed that notified to the WTO and the Office, respectively, by an importing country;
 - 3.3. if, taking into account other compulsory licenses granted elsewhere, the total amount of the product authorized to be produced for any importing country does not significantly exceed the amount notified by that country to the WTO, and the Office respectively.
4. The information referred to in paragraph 3 of this Article shall be provided and presented in a claim by the subject requesting the grant of a compulsory licence.
 5. A compulsory license may be granted only if the applicant has made efforts to obtain authorization from the patent owner for the exploitation of the protected invention on reasonable commercial terms and conditions, and if such efforts have not been successful within the reasonable term. This provision shall not apply in situations of national emergency or other circumstances of extreme urgency, or in cases of public non-commercial use, pursuant to the TRIPS Agreement.

Article 40

Conditions for the Grant of a Compulsory Licence for the pharmaceutical product patents intended for the export to the countries having problems with public Health

1. A compulsory license for the pharmaceutical products patents intended for the export to the countries having problems with public health, shall be granted as a non-exclusive license, and its scope and duration, which shall be cited in a decision on its grant, shall be exclusively limited to the purpose for which it has been granted. The quantity of products to be manufactured under such licence shall not exceed the quantity necessary to satisfy the needs of the importing country, or importing countries cited in a legal action, taking into account the quantity of the products manufactured under compulsory licenses granted elsewhere.
2. A compulsory license shall be transferred only with the production plant in which the invention, it is granted for, has been exploited.
3. Court with a decision shall specify the acts, which the applicant is entitled to perform, and which are necessary for the purpose of manufacturing the products intended for export and distribution in the country or countries cited in the application. No manufactured product or imported under a compulsory license shall be offered for sale or put on the market in any country other than that cited in the application, except where an

importing country avails itself of the possibilities under the Decision to export to fellow members of a regional trade agreement that share the same public health problems.

4. The court with a decision shall order that the products made under such license shall be clearly identified, through specific labelling or marking, as being produced under a compulsory licence. The products shall be distinguished from those made by the right holder through special packaging, special colouring or shaping, provided that such distinction is feasible, and does not have a significant impact on price. The packaging and any associated literature shall bear an indication that the product is subject to a compulsory license, giving the name of the competent court which granted it, the file number and specifying clearly that the product is intended exclusively for export to and distribution in the exporting country or countries. Details of the product characteristics shall be made available to the customs authorities.

5. The court with a decision shall order that before shipment to the importing country the licensee shall post on a web site with the following information:

5.1. the quantities of products being supplied under the licence to the importing countries;

5.2. the distinguishing features of the product concerned.

6. If a product covered by a compulsory licence granted in the Republic of Kosovo, is patented in the importing country cited in the application, the product shall only be exported if this country has issued a compulsory licence for the import, sale or distribution of the product concerned.

7. The court with a decision shall order the applicant to pay remuneration to the right holder, as determined by the court:

7.1. in the cases of extraordinary national circumstances or other circumstances of extreme urgency or in cases of public non-commercial use under the TRIPS Agreement, the remuneration shall be a maximum of 4% of the total price to be paid by the importing country or on its behalf;

7.2. in all other cases, the remuneration-payment shall be determined taking into account the economic value of the use authorized under the license to the importing country or countries concerned, as well as humanitarian or non-commercial circumstances relating to the issue of the license.

8. When the court decision on the grant of a compulsory license has become final, the court upon a claim for the preservation of evidence filed by the right holder, inspects books and other records kept by the licensee, for the sole purpose of checking whether all the obligations contained in the court decision on the grant of a compulsory license, and in particular those relating to the final destination of the products, have been complied with. The documents shall contain a proof of exportation of the product, in the form of a declaration of exportation certified by the customs authority, and a proof of importation.

9. The license conditions shall be without prejudice to the method of distribution in the importing country.

Article 41

Refusal of an Application for the grant of a compulsory Licence

The court by a decision shall refuse an application for the grant of a compulsory license if the conditions laid down in this Law have not been met.

Article 42

Termination or modification of a Compulsory Licence

1. The right holder or the licensee may initiate a procedure at the court, 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 38 of this Law, 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 39 paragraph 3 of this Law shall not apply.

Article 43

Notifications

1. The court shall notify the Council for TRIPS through the intermediary of the Office on the decision for the grant of compulsory license, and of the license conditions, as well as of its termination or modification.

2. The information provided shall include in particular:

2.1. the name and address of the licensee;

2.2. the product concerned;

2.3. the quantity to be supplied;

2.4. the importing country;

2.5. the duration of the licence;

2.6. the website address referred to in Article 40, paragraph 5 of this Law.

Article 44 **Prohibition of Importation**

1. The import into the Republic of Kosovo of products manufactured under a compulsory license granted pursuant to the provisions of this Law for the purposes of release for free circulation, re-export, placing under suspensive procedures or placing in a free zone or free warehouse shall be prohibited.

2. Paragraph 1 of this Article shall not apply in the case of re-export of the product to the importing country cited in the application and identified in the packaging and documentation associated with the product, or placing under a transit warehouse or customs procedure, transit or in a free zone or free warehouse for the purpose of re-export to that importing country.

Article 45 **Actions by customs Authorities**

1. If there are sufficient grounds for suspecting that products manufactured under a compulsory license granted pursuant to the provisions of this Law are being imported in the Republic of Kosovo contrary to the provisions of paragraph 1 of Article 44 of this Law, the competent customs authorities shall detain the products concerned for checking, as long as necessary, but not more than ten (10) working days. If special circumstances apply, the customs authorities may decide on the extension of the detention period by a maximum of ten (10) working days.

2. The customs authorities shall inform without delay the right holder and the manufacturer or the exporter of the products concerned, about the detention referred to in paragraph 1 of this Article, and shall invite him to furnish information and evidence on the products concerned.

3. If in the detention period the customs authorities establish violation of the compulsory license, contrary to the prohibition referred to in Article 44 paragraph 1 of this Law, it shall seize the products and put them out of circulation in accordance with the customs regulations.

4. The procedure of detention and seizure of the goods shall be carried out at the expense of the importer in accordance with the customs regulations. The importer and any other

person who attempted illicit importation shall be severally responsible for the recovery of the expenses concerned.

5. If established that the importation of the products detained in accordance with the provisions of this article would not violate the prohibition referred to in Article 44 paragraph 1 of this Law, the customs authorities shall release the products in the territory of the Republic of Kosovo, provided that the customs regulations have been complied with.

6. The customs authorities shall notify the Office, in accordance with the provisions of this article, of any seizures and destruction of the products, customs authority shall inform the office.

Article 46 **Import of small quantity**

The provisions of Articles 44 and 45 of this Law shall not apply to import of small quantities of products within the limits laid down in respect of relief from customs duty, contained in traveler's personal luggage intended for personal and non-commercial use.

CHAPTER X **PATENT GRANTING PROCEDURE**

Article 47 **Registers**

1. The Office shall keep the Register of Patent Applications, the Register of Patents, the Register of Supplementary Certificates and the Register of Authorized Representatives.

2. The content of the registers referred to in paragraph 1 of this Article as well as the manner of keeping those registers shall be defined by sub-legal act.

3. The registers to in paragraph 1 of this Article are public.

Article 48 **Fees**

1. For the acquisition and maintenance of a patent and a Supplementary Protection Certificate fees shall be paid within time limits laid down by this Law. Fees amount and types shall be defined by a sub-legal act.

2. If the fees are not paid in the course of the patent granting procedure, the patent application shall be deemed to be withdrawn, while in the case of non-payment of fees for the maintenance of a patent, the latter shall lapse.

Article 49 **Patent Application**

1. The procedures on patent recognition starts with application for the patent submitted to the Office.
2. The instruction on the application submission shall be defined by a sub-legal act.
3. Application shall be filed in official languages of the Republic of Kosovo, unless otherwise provided by this Law or an international treaty which is binding on the Republic of Kosovo.

Article 50 **Content of the Application**

1. A patent application shall contain:
 - 1.1. a request for the grant of a patent;
 - 1.2. a description of the invention;
 - 1.3. one or more patent claims;
 - 1.4. any drawings referred to in the description of patent or patent claims;
 - 1.5. an abstract of the invention.
2. The application shall also contain:
 - 2.1. a power of attorney, if the application has been filed by a representative;
 - 2.2. the translation in the official languages of the Republic of Kosovo of the application which has been filed in a foreign language, not latter than six (6) months from the submitting date, which is defined by the Office;
 - 2.3. evidence for payment of the filing fee.

Article 51
Application submitting Date

1. The date of filing of a patent application shall be the date on which the documents filed by the applicant contain:

1.1. an express indication that the grant of a patent is sought;

1.2. information identifying the applicant or allowing the applicant to be contacted, and

1.3. a description of the invention, even though such description does not comply with all the requirements prescribed by this Law and sub-legal act.

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

Article 52
Priority Certificate

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 determined in compliance with the provisions of Article 51 of this Law.

2. The requirements, procedure of issuing the certificate referred to in paragraph 1 of this Article, as well as the content thereof shall be defined by the sub-legal act.

Article 53
Unity of the Inventions

1. A separate patent application shall be filed for every invention.

2. With a patent application patent application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept, and through it is made a unity of the invention.

3. Where a group of inventions is claimed in a patent application, the requirement of unity of shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those features, which define a contribution which each of the claimed inventions considered as a whole makes over the prior art.

4. The determination whether a group of inventions is so linked as to form a single general inventive concept shall be made without regard to whether the inventions are claimed in separate claims or as alternatives within a single claim.

Article 54 **Request for the grant of a patent**

1. A request for the grant of a patent shall be filed on a form drawn up by the Office and shall contain:

1.1. a request for the grant of a patent;

1.2. the title of the invention, which shall clearly and concisely state the technical designation of the invention and shall exclude all fancy names.

2. 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 two (2) months as from the filing date of the application.

3. The content and the manner of drafting particular elements of the patent application and other attachments to the application shall be defined by the sub-legal act.

Article 55 **Disclosure of the Invention**

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

2. If an invention involves the use of or concerns biological material which is not available to the public and which cannot be described in the patent application in such a manner as to enable the invention to be carried out by a person skilled in the art, the 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.

3. As competent institution referred to in paragraph 2 of this Article shall be considered an institution which complies with the requirements prescribed by the Budapest Treaty.

Article 56 **Patent Claims**

1. Patent claims shall define the matter for which protection is sought. They shall be clear and concise and be supported by the description.

2. Patent claims may be independent and dependent. Independent patent claims shall contain new and essential characteristics of an invention. Dependent patent claims shall contain specific characteristics of the invention as defined in an independent or other dependent claim.

Article 57 **Abstract**

The abstract shall serve the purpose for technical information only and it may not take into account for any other purpose, in particular to interpret the scope of the protection sought or applying Article 11, paragraph 3 of this Law.

Article 58 **Division of the patent Application**

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.
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 63 of this Law, shall enjoy the priority there of.

Article 59 **Amendments to the patent Application**

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.

Article 60 **Entry of changes in the Registers**

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 referred to in Article 47 of this Law of the

changes in respect of a right or the owner of a right, 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 Bulletin of the Office.

3. The procedure concerning the entry of changes in the Registers of the Office, and the publication thereof in the bulletin of the office, as well as payment of the fees shall be laid down by the sub-legal act.

Article 61 **Correction of deficiencies in the Documents**

1. Linguistic and technical the documents filed with the Office may be corrected on the basis of a written request of the patent applicant or patent owner respectively, or on the notification of the Office, with payment according to Article 48 of this Law.

2. In decisions of the Office, only linguistic errors and technical mistakes may be corrected.

Article 62 **Priority of the earlier Application**

1. If two or more persons have made an invention 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 date of filing.

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 Article 63 of this Law have been complied with.

Article 63 **Priority Right**

1. Any legal or natural person or her/his successor in title who has duly filed an application for a patent, in any Member State party to the Paris Convention for the Protection of Industrial Property (hereinafter: the Paris Union) or the World Trade Organization (hereinafter: WTO), shall enjoy, for the purpose of filing the application in the Republic of Kosovo in respect of the same invention, a right of priority during a period of twelve (12) months from the date of filing of the first application, provided that the right of priority is claimed.

2. The duly filed 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 law 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 the outcome of the application may be.

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, abandoned or refused, without being open to public and has not produced legal effects. The previous application may not thereafter serve as a basis for claiming a right of priority.

4. The patent applicant desiring to take advantage of the right of priority referred to in paragraph 1 of this Article shall file with the Office:

4.1 Claim for the recognition of priority right 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 two (2) months as from the date of filing the application in the Republic of Kosovo, and

4.2. 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 ninety (90) days as from the filing date of the priority claim or four (4) months as from the date of filing the application in the Republic of Kosovo, or sixteen (16) months from the earliest priority date claimed, whichever period expires first.

Article 64 **Multiple priority right Claim**

1. The patent applicant may, subject to the requirements referred to in Article 63 of this Law, 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.

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

Article 65
Elements of the invention regarding the patent claim on priority right

1. If one or more priority rights are claimed, the right shall cover only those elements of the invention which are included in the first application or applications whose priority is claimed.
2. If certain elements of the invention for which priority is claimed do not appear among the patent claims formulated in the previous application, priority may nonetheless be granted, provided that the documents of the previous application as a whole specifically disclose such elements.

Article 66
Effect of priority Right

The date of the priority right shall be considered the date of filing the patent application with the Office for the purposes of Article 11 paragraphs 2 and 3 and Article 62, paragraph 1 of this Law.

Article 67
Restoration of the priority Right

1. Where a patent application which could have claimed the priority rights of an earlier application has a filing date which is later than the date on which the priority period expired based on Article 63 paragraph 1 of this Law, the applicant may request the restoration of the priority right.
2. The request referred to in paragraph 1 of this Article may be filed within two (2) months from the date of expiration of the priority right period.
3. The Office shall adopt a request for the restoration of the priority right, provided that the applicant:
 - 3.1. states the reasons for the failure to comply with the priority period in spite of due care required by the circumstances having been taken, and
 - 3.2. pays the fees referred to in Article 48 of this Law.
4. In case the application does not meet the provisions to in paragraph 3 of this Article, the Office shall though issued decision refuse a request for the restoration of the priority right.
5. The request referred to in paragraph 1 of this Article shall not be filed after the applicant has filed a request for publication in accordance with paragraph 2 of Article 75

of this Law, unless such a request for publication is withdrawn before the technical preparations for publication have been completed.

Article 68
Correction or addition of the priority right Request

1. A patent applicant may file a request for the correction or addition of a priority claim within a time limit of sixteen (16) months from the priority date or, if the correction or addition would cause a change in the priority date, sixteen (16) months from the priority date as so changed, whichever sixteen (16) month period expires first, provided that such a request is filed within four (4) months from the filing date of the patent application.
2. On correction or filed of a request referred to in paragraph 1 of this Article, the applicant shall pay the defined fees. If the applicant fails to pay the fees, the request shall be considered as not filed.
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 in accordance with paragraph 2 of Article 75 of this Law, unless such a request for publication is withdrawn before the technical preparations for publication have been completed.

Article 69
Determination of the application filing Date

1. The Office shall, when determining the application filing date, examine whether the requirements of Article 51 of this Law are met.
2. If the application does not contain all items referred to in Article 51 of this Law and the date of filing cannot be determined, the Office shall invite the applicant to correct the deficiencies indicated in the invitation, within a time limit of two (2) months as from the day of receipt of the invitation.
3. If the applicant does not comply with the office invitation within the time limit referred to in paragraph 2 of this Article, the patent application shall be rejected with decision.
4. If the applicant corrects the deficiencies within the time limit referred to in paragraph 2 of this Article, the Office shall issue a notification whereby the date of receipt of the required corrections shall be determined as the filing date of the patent application, and it shall enter the application into the Register of Patent Applications kept by the Office.

Article 70
Formal Examination of Application

1. Once the application has been accorded a date of filing, the Office shall examine whether:

1.1. the administrative fee for filing is paid in compliance with Article 48 of this Law;

1.2. the translation of the application in the official languages of the Republic of Kosovo is filed, if the application has been filed in a foreign language;

1.3. the applicant who is a foreign natural or a legal person is represented by authorized representative entered in the Register;

1.4. does it contain all the elements referred to in Article 50 of this Law as drafted in the prescribed manner, and necessary attachments prescribed by this Law;

1.5. the inventor is mentioned;

1.6. a proper priority claim has been filed within the meaning of paragraph 4 of Article 63 of this Law, if a priority right is claimed.

2. If the examination establishes that the requirements referred to in paragraph 1 of this Article are not complied with, the Office shall invite the applicant to correct the deficiencies expressly indicated in the invitation within the time limit of two (2) months as from the day of receipt of the invitation.

3. On 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 (3) months.

4. If the applicant does not correct the deficiencies referred to in paragraph 1, sub - paragraphs 1.1, 1.2, 1.3, 1.4, 1.5 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 respond the invitation referred to in paragraph 1 sub-paragraph 1.6 of this Article, the Office shall not recognize the priority right.

6. Office has the right to require applicants filing of additional documents necessary for examining the application, by notification in writing and set a deadline for disposing of them when it deems necessary.

7. In accordance with paragraph 6 of this Article, the Office makes a decision to grant or not to patent.

Article 71
Examination of drawings or missing parts of the Description

1. Where during the examining the Office verifies that a part of the description or drawing is missing from the application, the Office shall promptly notify the applicant to supplement the application with the parts of the description or drawings that are missing within two (2) months from the receipt of the invitation.
2. Where a missing part of the description or a missing drawing is filed with the Office within the time limit prescribed in paragraph 1 of this Article, that part of the description or that drawing shall be included in the application, and the date of filing shall be the date on which the Office has received that part of the description or that drawing. Contrary to it, it will be considered that the applicant is not referring to drawings or to the part of its description.

Article 72
Request examination for the patent Registration

1. The examination of requirements for the registration of a patent shall establish whether the application complies with the following requirements:
 - 1.1. whether the subject-matter of the application is the invention which may be, at first sight, protected by a patent within the meaning of paragraph 1 and 3 of the Article 7, and Article 8, 9, 10 and 14 of this Law;
 - 1.2. does the application, at first sight, comply with the rule on the unity of invention referred to in Article 53 of this Law.

Article 73
Refusal of the Application

1. If it has been established that the patent application does not comply with all the requirements for the registration of a patent referred to in paragraph 1 of Article 72 of this Law, the Office shall, in a written notification, inform the patent applicant of the reasons due to which the patent shall not be granted, and shall invite him to comment, in a written form, on the specified reasons within the time limit of two (2) months as from the day of receipt of the invitation.
2. On request of the applicant the Office may extend the time limit for two (2) months as referred to in paragraph 1 of this Article.
3. If the patent applicant does not comply with the invitation referred to in paragraph 1 of this Article, the Office shall issue a decision on refusal of a patent.

4. If the requirements referred to in Article 72 of this Law are not complied with in part, the Office by a decision shall refuse the application only in that part.

Article 74 **Grant of the Patent rights**

1. If it has been established that the patent application complies with all the requirements referred to in Article 70 and Article 72 paragraph 1 of this Law, the Office shall issue a decision on the grant of a patent and enter the patent in the Register of patents.

2. The Office shall issue a decision referred to in paragraph 1 of this Article after the expiry of eighteen (18) months from the date of filing, or if priority is claimed, the earlier date of priority provided that the fees 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 48 of this Law From the applicant or in time period of two (2) months after notification issued by the office.

3. Granted patent takes effect against third parties from the date of its publication in the Official Bulletin.

4. Until the issuance of a decision under paragraphs 2 of article 79 of this Law the scope of protection shall be determined by the contents of patent claims as applied.

Article 75 **Publication of a Registered Patent**

1. The Office shall publish the granted patent after the decision for grant under paragraph 1 of Article 74 of this Law.

2. The applicant may request that the decision for grant be issued and the patent be published even before the expiration of the time limit under paragraph 2 of Article 74 of this Law, but not before ninety (90) days as from the date of the filing, or if priority is claimed, the date of priority, provided that the additional fee is paid in compliance with the Article 48 of this Law.

3. The content of the publication of a registered patent shall be defined by the sub-legal act.

Article 76 **Patent Certificate**

1. The patent owner shall be issued a patent certificate after granting of patent the grant of a patent.

2. The content and form of the certificate referred to in paragraph 1 of this Article shall be defined by the sub-legal act.

Article 77 Patent Specification

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.

2. The content and form of the Patent Specification referred to in paragraph 1 of this Article shall be defined by the sub-legal act.

Article 78 Submission of the evidence on the registered patent at the relevant Offices

1. The patent owner shall submit to the Office the written evidence that the patented invention complies with all the requirements referred to in articles from 7, 8, 9, 10, 11, 12 and 14 of this Law, no later than the expiry of the ninth year of the patent term.

2. When submitting the evidence under paragraph 1 of this Article, or within two (2) months from the receipt of the invitation from the Office, the patent owner shall pay a fee for issuing decision referred to in Article 48 of this Law.

3. The written evidence referred to in paragraph 1 of this Article, where the evidence shall be a translation into official language of a patent granted for the same invention by the European Patent Office, or one of the national and international offices which, by virtue of the Patent Cooperation Treaty, have the status of International Preliminary Examining Authority for international patent applications, and other offices, with which, at the time of submitting the evidence referred to in paragraph 1 of this Article, the Office has signed a cooperation agreement.

4. If the granting proceedings in a relevant office have not yet been terminated, the applicant shall inform the Office accordingly in the time limit envisaged in paragraph 1 of this Article, and the Office may extend that time limit for not more than ninety (90) days after the termination of the procedure for the substantive examination. If the evidence is not submitted in due time, the provision of paragraph 1 of Article 80 of this Law shall apply.

Article 79
Decisions upon submission of the Evidence

1. If the patent owner fails to submit the evidence as referred to in Article 78 paragraph 1 of this Law, the patent shall lapse on the date of the expiry of the tenth year of the patent term.
2. If on the basis of the submitted evidence the Office finds that the invention:
 - 2.1. meets the requirements on patentability as referred to in Article 78 paragraph 1 of this Law entirely, it shall issue the decision declaring that the patented invention meets requirements on patentability;
 - 2.2. meets the requirements conditions partly on patentability as referred to in Article 78 paragraph 1 of this Law, the office shall issue the decision with declaration where shall be stated that patented innovation meets the requirements conditions only partly, and amend the form request for patent recognition, respectively re-issue the Patent Specification after the tax is paid according to Article 48 of this Law.
3. If the Office finds that the invention does not meet the requirements on patentability as referred to in Article 78 paragraph 1 of this Law, it shall issue the decision declaring the patent invalid.
4. The Office shall communicate to the patent owner the decisions under paragraphs 2 and 3 of this Article and shall invite him to submit a written comment within two (2) months as from the day of receipt of the invitation.
5. If the patent owner does not comply with the invitation within the time limit referred to in paragraph 4 of this Article, the Office shall issue a decision, where it declares that the patent and application did not show any effects.
6. Where, on the basis of the submitted written evidence, the Office establishes that the granted patent does not comply with the requirements referred to in Article 53 of this Law it shall divide the patent into one or more patents preserving the date of filing of the initial application or the date of priority if such priority is claimed., provided that prescribed fees are paid.
7. The relevant indications from the decisions referred to in this article shall be published in the bulletin of the Office, as specified by the sub-legal act.

Article 80

Reinstatement of Rights

1. If the applicant or the owner of a patent has, in spite of due care required by the circumstances, failed to perform, within a time limit prescribed by this Law or bylaw for meeting the requirements in time at the Office, a direct result of which is a loss of rights with respect to an application or patent, where the applicant may file a request on the reinstatement of the right for patent recognition.
2. The Office with decision shall reinstate his rights, provided that the applicant or the owner of the right:
 - 2.1. files a request for it and pays the administrative fee in compliance with Article 49 of this Law;
 - 2.2. states the grounds on which the request is based and sets out the facts on which it relies.
 - 2.3. completes the omitted acts within a prescribed time limit.
3. The request for reinstatement of rights shall be filed within three (3) months, counting from the day on which the reason of failure ceased to exist, and if the applicant has later learned of failure, counting from the day it learned of it.
4. The request referred to in paragraph 1 of this Article shall not be filed after the expiration of one (1) year from the date of failing to comply with the time limit.
5. Before the decision for partial refusal or refuse it entirely, the Office shall notify the person filing a request for reinstatement of rights about the reasons for which it intends to refuse the propos, entirely or partially, and shall invite him to comment on those reasons within sixty (60) days from the day on which he receives the invitation.
6. A request for reinstatement of rights shall not be filed in connection with the failure to comply with the following acts:
 - 6.1. filing of the request referred to in paragraph 1 of this Article
 - 6.2. filing of request for the extension of a time limit;
 - 6.3. payment of administrative fee and fee on meeting patent requirements;
 - 6.4. filing of the request referred to in Article 63, 67, and 68 of this law;
 - 6.5. filing of the request referred to in Article 81 of this Law;
 - 6.6. all the acts in the procedures before the Office, involving several persons

7. The contents of the request, the requirements and procedure related to the request referred to in paragraph 1 of this Article, and the publication of the data concerning the reinstatement of right shall be specified by the sub-legal act.

8. Any person who has in good faith used or made effective and serious preparations for using an invention which is the subject of a granted patent in the period between the loss of rights referred to in paragraph 1 of this Article and publication in the Official Bulletin of the mention of reinstatement of those rights, may without payment continue such use in the course of his business or for the needs thereof.

Article 81 **Continuation of the Procedure**

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 to 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.

2. The Office shall authorize the continued processing, provided that the applicant:

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

2.2. pays the administrative fee in accordance with Article 48 of this Law.

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

4. If the omitted acts have not been performed within the time limit referred to in paragraph 3 of this Article, or if the administrative fees referred to in Article 48 of this Law have not been paid, a request for the continued processing shall be deemed not to be filed, and the decision to that effect shall be issued by the Office.

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

5.1. a request submission referred to in paragraph 1 of this Article;

5.2. a request submission on time limit continuation;

5.3. a payment on administrative fee and payment fee on patent maintenance;

5.4. for filing the request referred to in articles 63, 67 and 68 of this Law;

- 5.5. for filing the request referred to in Article 81 of this Law;
- 5.6. For all the acts in the procedures before the Office involving several parties.
6. If the Office complied with the request referred to in paragraph 1 of this article the provisions set out in Article 80 paragraph 7 of this Law shall apply.

CHAPTER XI DURATION AND MAINTENANCE AND TERMINATION OF A PATENT RIGHTS

Article 82 Term of Protection

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

Article 83 Maintenance and termination of a Patent

1. The maintenance of rights conferred by a granted patent shall be subject to payment of annual fees in the manner prescribed by sub-legal act.
2. The annual fees referred to in paragraph 1 of this Article shall be payable for the third and every subsequent year, calculated from the date of filing of the application.
3. If the patent owner fails to pay the administrative fees in compliance with the paragraph 1 of this Article, he may pay them in the grace period of six (6) months, provided that he also pays an additional fee and additional procedural charges.
4. If the patent owner will not pay an annual fee for the maintenance of a patent, the validity of patent will end in first day of its expired day that is set according to paragraph 1 of this Article.
5. The tariffs for maintenance of the patent can be paid by any representatives registered at the Office registrar.

CHAPTER XII

SUPPLEMENTARY CERTIFICATE FOR PROTECTION OF PHARMACEUTIC PRODUCTS AND PLANT PRODUCTS

Article 84

Meaning of Terms

1. The following terms that are used in regard to Supplementary Certificates have these meanings:

1.1. medicinal product - any substance or combination of substances intended for treating or preventing disease in human beings or animals, and any substance or combination of substances, which may be administered to human beings or animals with a view to restoring, correcting or modifying physiological functions in humans or in animals, or to making a medicinal diagnosis;

1.2. product - the active ingredient or combination of active ingredients of a medicinal product;

1.3. basic patent - a patent which is designated by its owner for the purpose of the procedure for the grant of a Supplementary Certificate, protecting a product as such, as defined in sub-paragraph 1.2 of this paragraph, or a process for obtaining a product or an application of a product;

1.4. first authorization to place on the market - the first authorization to place a product as a medicinal product intended for humans or animals on the market in the Republic of Kosovo or in the European Union;

1.5. application for an extension of the duration - an application for an extension of the duration of the certificate pursuant to Article 13 (3) of this Regulation and Article 36 of Regulation (EC) No 1901/2006 of the European Parliament and of the Council of 12 December 2006 on medicinal products for pediatric use.

2. The following terms used at the Supplementary Certificate, granted for plant protection products, shall have the following meanings:

2.1. plant protection product - is an active substance or a preparation containing one or more active substances, put up in the form in which they are supplied to the user, intended to:

2.1.1. protect plants or plant products against harmful organisms or prevent the action of such organisms, in so far as such substances or preparations are not defined otherwise;

2.1.2. influence the life processes of plants, other than as a nutrient (e.g. plant growth regulator);

2.1.3. preserve plant products, in so far as such substances or products are not subject to special provisions on preservatives;

2.1.4. destroy undesirable plants; or destroy parts of plants, check or prevent undesirable growth of plants.

2.2. substance - a chemical element or its compounds, as they occur naturally or by manufacture, including any impurity inevitably resulting from the manufacturing process;

2.3. active substance - a substance or a microorganism, including viruses, having general or specific action against harmful organisms, or on plants, parts of plants or plant products;

2.4. preparation - a mixture or a solution composed of two or more substances, of which at least one is an active substance, intended for use as a plant protection product;

2.5. plant - a live plant and live part of plants, including fresh fruit and seeds;

2.6. plant product - a product in the unprocessed state or having undergone only simple preparation such as milling, drying or pressing, derived from plants, but excluding plants themselves as defined in sub-paragraph 2.5 of this paragraph;

2.7. harmful organisms - pests of plants or plant products belonging to the animal or plant kingdom, such as viruses, bacteria and micro-plasmas and other pathogens;

2.8. product - the active substance as defined in sub-paragraph 2.3 of this paragraph, or combination of active substances of a plant protection product;

2.9. basic patent - a patent which is designated by its owner for the purpose of the procedure a product as such, a preparation and/or or a process for obtaining a product or an application a product for the grant a Supplementary Certificate;

2.10. first authorization to place on the market - the first authorization to place the products as plant protection products on the market in the Republic of Kosovo or in the European Union.

Article 85
Duration of the Certificate

1. The Certificate may be granted in accordance with the provisions of this Law in the cases where a basic patent has been granted for a product which is a component part of a medicinal product intended for humans or animals, or for a plant protection product, the placing on the market of which requires prior authorization by the competent State authority.
2. The Certificate shall take effect promptly after the expiration of the lawful term of the basic patent.
3. The rights conferred by the Certificate shall run for a period equal to the period which elapsed between the date of filing of the application for a basic patent and the date of the first authorization to place the product protected by such a patent on the market, reduced by a period of five (5) years.
4. The duration of the Certificate may not exceed five (5) years from the date on which it takes effect.
5. The periods laid down in paragraphs 3 and 4 of this Article shall be extended by six months in the case where Article 36 of Regulation (EC) No 1901/2006 applies. In that case, the duration of the period laid down in paragraph 3 of this Article may be extended only once.
6. The duration of the Certificate shall be specified by a decision issued by the Office.

Article 86
Conditions for obtaining the Certificate

1. The Certificate shall be granted upon a request of the owner of the basic patent, if the following conditions are met on the date of filing of the application for the Certificate:
 - 1.1. that the product is protected by a basic patent in force;
 - 1.2. that an authorization to place the product on the market as a medicinal product intended for humans or animals, or a plant protection product respectively, which is in force, has been granted in accordance with special regulations;
 - 1.3. that the product has not already been the subject of the Certificate;
 - 1.4. that the authorization referred to in sub-paragraph 1.2 of this paragraph, is the first authorization to place the product on the market as a medicinal product intended for humans or animals, or a plant protection product, respectively.

Article 87
Application for the Certificate

1. The application for the Certificate shall be filed with the Office within six (6) months from the date of the grant of the authorization, referred to in paragraph 1 and sub-paragraph 1.2 of Article 86 of this Law, and if the authorization has been granted before the grant of the basic patent, within six (6) months from the date of issuing the decision referred to in Article 80 paragraph 2 of this Law.

2. The application for an extension of the duration referred to in paragraph 5 of Article 85 of this Law may be made when lodging the application for a certificate or when the application for the certificate is pending and the appropriate requirements of paragraph 4 or paragraph 5 of Article 88 respectively are fulfilled. The application for an extension of a duration of a certificate already granted shall be lodged not later than two (2) years before the expiry of the certificate.

Article 88
Content of application for Certificate

1. Application for a certificate except the request for issuing the certificate contains in particular:

1.1. name and address of the applicant;

1.2. name and address of the authorized representative, if any;

1.3. basic patent number and title of the invention;

1.4. the number and date of first authorization for placing the product on the market, or to note that the number and date of first authorization if authorization as submitted is not the first authorization to place the product on the market;

1.5. a copy of the authorization to place the product on the market, which defines the product and which contains in particular the number, date of authorization and the summary of product characteristics issued by the competent authority in the procedures established by the sub-legal acts;

1.6. evidence that indicates the identity of the product, content of authorization procedure and the bulletin in which the information for authorization is published, if the authorization under sub-paragraph 1.2 of this paragraph is not the first authorization to place the product on the market;

1.7. evidence or payment of the fee for issuing the Certificate as well as extension of the term of Certificate.

2. If the applicant for certificate is owner of more than one patent for the same product, he receives only one certificate for that product.
3. If there are two or more applications related to the same product and come from two or more different patent owners, each owner can be given a certificate for this product.
4. When the application for the certificate includes a request for extension of the deadline:
 - 4.1. a copy of a statement is requested in which is shown the compliance with the complete plan of pediatric researches as stated in Article 36 (1) of Regulation (EC) No. 1901/2006;
 - 4.2. besides a copy of authorization to place the product on the market it may also be required the proof of possession of authorization form all member states to place the product on the market.
5. When application for a certificate is in the phase of examination, the request for extension of time under paragraph 2 of Article 87 of this Law shall contain the conditions mentioned in paragraph 4 of this Article.
6. The requirement for deadline duration of the given certificate must contain the conditions listed in paragraph 4 of this Article and a copy of the certificate;
7. Requirements listed in paragraph 1 of this Article are determined by sub-legal act.

Article 89 Formal Examination

1. The office conducts formal examination at the time of submission of application for Certificate.
2. With the formal examination we notice that:
 - 2.1. application is submitted in proper form and if it contains all the indicators by paragraph 1 of Article 88 of this Law;
 - 2.2. fee payment is made under sub-paragraph 1.7 of Article 88 of this Law.
 - 2.3. The application is submitted within the period given in Article 87 of this Law;
 - 2.4. Application accompanied by evidence referred in paragraph 1 sub-paragraphs 1.4, 1.5, 1.6 and paragraph 4 of Article 88 of this Law;

- 2.5. Basic patent was in force at the time of submission of application for certificate.
3. If the application for Certificate does not contain the elements described in paragraph 2 of this Article, the office informs the applicant to correct the incomplete within thirty (30) days from the day of receiving it.
4. If the applicant does not correct the deficiencies mentioned on the invitation, within the specified time, the Office shall issue a decision for rejecting the application for Certificate.
5. If the applicant meets the deficiencies within the time stipulated in paragraph 2 of this Article, the Office continues the procedure.
6. Provisions of this Article shall apply also to requests for the extension of the duration.

Article 90 **Substantive examination Procedure**

1. The Office with substantive examination makes review whether:
- 1.1. the conditions for obtaining the certificate required by Article 86 of this Law are fulfilled at the date of submission of application;
 - 1.2. the product for which is applying for Certificate is protected by basic patent;
 - 1.3. authorization for placing the product on the market is given in the manner as determined by special regulation;
 - 1.4. the product is already subject of the certificate.
2. If the Office finds that the conditions specified are fulfilled than the Office issues a decision on giving the certificate.
3. If the Office finds that not all conditions specified are fulfilled, it may refuse the application for certificate with decision.
4. Paragraphs 1 till 3 of this Article are applied also for applications for the length of time.

Article 91 **Contents of Certificate**

1. The Certificate contains:

- 1.1. name and address of the holder of Certificate;
- 1.2. the number of basic patent;
- 1.3. title of the invention;
- 1.4. number and date of authorization to place the product on the market, the product name identified in the authorization;
- 1.5. number and date of first authorization to place the product on the market, according to needs, based on the provisions of Article 88, paragraph 1 subparagraph 1.5 of this Law;
- 1.6. duration of the Certificate.

Article 92 Entry in Register

Data from Certificate are registered in register of Office established by sub-legal act.

Article 93 Subject and Protection impact

1. Within the limit of protection given by basic patent, the protection given with certificate has effect only for the product covered by the authorization to place it on the market.
2. Certificate will recognize the basic patent owner or his successor the same rights and obligations of basic patent.

Article 94 Publication

Office shall publish details of the application for certificate, the decision to grant or refuse the certificate and its outcome determined by the sub-legal act.

Article 95 Validity of Certificate

1. The Certificate is valid for the given period.
2. Certificates will be completed before the expiration of period for which is given if:

- 2.1. certificate holder shall submit written statement to the office that gives up from the Certificate which shall be adopted immediately;
 - 2.2. annual maintenance fee of which is not paid within the deadline time set;
 - 2.3. the product to which the certificate was given is no longer on the market as a result of withdrawal of authorization for placing it on the market in accordance with national rules.
3. The office shall decide for the Certificate expiration on an official duty basis, or at the request of the person interested.

Article 96
Declaration of non-availability of Supplementary Certificate

1. Certificate shall be declared not valid or void if:
 - 1.1. it is given against the provisions of this law;
 - 1.2. basic patent have expired under the dispositions of Articles 98, 100 and 106 of this Law;
 - 1.3. basic patent is declared invalid or is canceled in whole or partially, where the product to which the certificate was given will not be further protected by a request of the base patent or if the term of validity of the patent has ended.
2. Provisions of this Law related to proceedings on the request for declaring non-validity of the patent, will be also applied in the procedure for announcing the cancellation of the Certificate.

CHAPTER XIII
THE PATENT EFFECT CESSATION

Article 97
Effect Cessation

1. Patent granted ceases being effective:
 - 1.1. with the expiration of protection under Article 82 of this Law;
 - 1.2. due to non payment of annual maintenance fee;

- 1.3. based on delivery or renunciation;
 - 1.4. according to the declaration of no validity.
2. Completion of the effects of the patent will be registered in the register and published.

Article 98
Non-payment of annual fees for Maintenance

If the patent applicant or patent owner does not pay annual fees to maintain patent rights under Article 83 of this Law, the patent expires on the expiry day of payment.

Article 99
Submission of Patent

1. The patent owner may submit patent in whole or partially, by written statement. Submission declaration enters into force after the day that is communicated to the Office.
2. The patent owner can not submit the patent without written consent of third persons if they have any rights registered in the register over the patent.
3. Submission of the patent is registered in the register and published in the Official Bulletin.

Article 100
Death or legal inability of the right Holder

1. The patent expires on the date of death of the owner, respectively, on the day of losing legal subjectivity of the legal person unless it is transferred to the heir or legal successor.
2. Paragraph 1 of this Article shall also apply to patent applications.

CHAPTER XIV
DECLARATION OF INVALIDITY OF THE PATENT

Article 101
Application for invalidity Declaration

1. The procedure regarding to the announcement of no validity of a patent, is initiated from a written request by the Office.

2. The request from paragraph 1 of this Article shall contain:
 - 2.1. the information related to the application submitter;
 - 2.2. number of patent against the application is submitted, the patent owner's name and title of the invention;
 - 2.3. statement of level in which the patent is proposed to be invalid and the basis upon which the request is based, also the facts and evidences stated which are presented in support of these bases;
 - 2.4. the information regarding with thee authorized representative of patents if the application is submitted by the representative;
 - 2.5. proof of payment of administrative fees for application for declaration of no validity, as referred to in Article 48 of this Law.

Article 102
Reasons for disclosure of Invalidity

1. A patent declared invalid if it is given:
 - 1.1. for a subject that is not patentable within the definition of Articles 7 to 14 of this Law;
 - 1.2. for an invention which is not presented in a very clear and complete way that can be performed by a person with knowledge in that area;
 - 1.3. for an invention which, on the date of submission of application for patent respectively the date of priority given, was not new, or have not included degree of innovation, or which is not applicable in the industry;
 - 1.4. for the subject that draws out of content of the application submitted as such, or if the patent is granted for an application with partition or a new application submitted under paragraph 4 of Article 111 of this Law.

Article 103
Submission period and the persons who are entitled to declare invalidity

1. Declaration of invalidity of the patent can be appealed at any time during the time of patent protection from any natural or legal person, or ex-officio from the office.
2. The procedure for declaring the patent invalid is conducted by the office through the offices which the office has signed a cooperation agreement in this direction.

Article 104
Examination of conditions for declaration of invalidity

1. When the request for declaration of invalidity of a patent is not in accordance with Article 101 of this Law, the Office invites the applicant to correct deficiencies within two (2) months from the date of receiving the invitation.
2. If the applicant does not correct the deficiencies mentioned in invitation within the time limit, under paragraph 1 of this Article, the office shall refuse the application.
3. Office will communicate a copy of the petition to abolish the patent, together with given evidence to the patent owner, requesting him to respond and make changes where necessary in the description, patent request and drawings within sixty (60) days from the date of accepting the invitation.
4. Office invites both parties, whenever necessary, to submit their objections in submissions of opposing party within the time limit specified in the paragraph 3 of this Article.
5. All written communications of competent authorities and their responses will be submitted to all parties to the proceedings.
6. Upon reasonable request, the Office may extend the time limits mentioned in this Article for a period that considers reasonable, but which will not exceed sixty (60) days.

Article 105
Decision regarding the declaration of invalidity of the Patent

1. Office issues:
 - 1.1. decisions to declare the invalidity of a patent, entirely or partially, if determined that their requirements for the award are not met;
 - 1.2. decision to refuse the application if it determines that the requirements for the award are met.
2. If the patent declared invalid all legal effects from the patent are invalid.
3. Before the decision is taken to declare the patent in part, the Office informs the parties that the text of the patent will remain in the patent and invites parties to submit their objections within sixty (60) days if they do not agree for that text. If the parties do not agree with that text, the procedure for invalidity statement can be extended.
4. If parties agree with the text which the Office will keep it on the patent or if the parties do not respond to the invitation referred in paragraph 3 of this Article, the Office invites patent owner to pay an administrative fee within sixty (60) days from the date of

receiving the invitation for re-issuing of detailed description of the patent. If the fee is not paid on time, patent will be declared void and annulled by application of declaration of invalidity.

5. The Office will publish the information for invalid patent in the Official Bulletin within ninety (90) days from the date of the final decision.

CHAPTER XV REVOCATION OF DECISION FOR GRANTING THE PATENT

Article 106 Basis for Revocation

1. Decision granting the patent in force may be canceled for the future before the expiration of the patent, if it is decided:

1.1. that practical biological material that is deposited in an authorized institution in accordance with the dispositions referred to in Article 55 paragraph 2 of this Law no longer exists or the mentioned material is not available to public;

1.2. that its availability to the public through the authorized institution in which it was deposited was discontinued in the period longer than foreseen.

Article 107 Request for Cancellation

1. Proceedings for annulment of the decision granting the patent begin with the submission of the request for cancellation at the Office.

2. Provisions of this Law concerning the content of the application and the procedure for the declaration of the patent invalid are implemented with the necessary changes, even in the content of the application and in procedure regarding with the annulment of the decision granting the patent.

CHAPTER XVI INFORMATION SERVICES OF INDUSTRIAL PROPERTY OFFICE

Article 108 Confidentiality of material and information Services

1. The material of patent applications and patents which have not yet been published in the Official Bulletin are not available to the public without the consent of the applicant.
2. Office on request sets available to any individual or legal person, copies of the application for patent, published in the Official Bulletin.
3. Before the publication of the application for patent in the Official Bulletin, the Office may make known to any natural or legal person the information as the application number, date of registration or in the case of priority, the request for it, number date and place or organization where the application is first submitted, the applicant information and title of the invention.
4. The fee for providing these services shall be determined by a sub-legal act.

Article 109 The extract from the Register

1. Office issues extract from the register of patents at the request of any natural or legal person who has paid the appropriate fee.
2. Extraction method, content, and fees for the extract are determined by sub-legal act.

CHAPTER XVII IMPLEMENTATION

Article 110 Subjects who have the right to seek the protection for Patents

Besides the owner's right for the patent, the right for patent protection may require the owner of an exclusive license to the extent to use the patent under the contract for license.

Article 111
Claim to establish the right to the Grant of a Patent

1. If the application for patent is filed by a person who is not eligible for the grant of a patent for an invention, the inventor or his legal heir can seek legal action seeking a determination of his rights to grant the patent.
2. If the application for patent is filed by a person who is not eligible for the grant of a patent and is one of the persons who together created the invention, other inventors or their legal heirs may request the appointment of their rights in giving a joint patent.
3. Inventor whose right to award a patent is assigned to the final decision may at any time, require the office to register his name in applying for patent and all of the issued documents for the patent, and other relevant records of the office. Registration of name of inventor, may also be required by its legal successor.
4. Inventor or his successor to whom, by court decision has placed the right to grant patent protection for invention, is entitled to resume the procedure for granting the patent within ninety (90) days from the date on which the final decision of court was given or to submit a new application for the same invention, demanding the handover date and the date of priority if the application submitted by the applicant who is not entitled to receive a patent.
5. The Inventor, the right to award the patent of which is determined by the final decision of the court, at any time may require from the office the registration of his name in an application for a patent and in all the issued documents for the patent and in relevant office records. Inventors name registration may be required as well as from his legal successor.

Article 112
Claim due to infringement of the right of inventor's designation

1. If the person who is not inventor, was mentioned in the patent application and patent documents in connection with or in the records of the office, or if the inventor is not mentioned, the inventor may initiate legal action seeking to mention his name.
2. If the person who is not the inventor, and is referred as such in the patent application and patent documents in connection with or records of the office, to such person will be initiated legal action.
3. The right to request referred to in paragraph 1 of this Article shall also to belong to the inventor of a joint invention and will not be inherited.
4. The application referred to in paragraph 1 of this Article may be submitted at any time during the validity of the patent.

Article 113

Claim for declaration and termination of the Infringement

1. The patent owner may lodge a claim against any person who has infringed a patent by performing without authorization any of the acts referred to in Article 23 and Article 24 of this Law, 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 of any of the acts referred to in Article 23 and Article 25 of this Law, requesting termination of the violation and to stop such violations and similar to them in the future.
3. The patent owner can initiate legal action against any person committing any of the acts without authorization has caused serious threat that its patents may be infringed, seeking termination of the act in question and prohibition of patent infringement.
4. Legal action referred to in this article may be made against the person who in the course of his / her economic activity provides services for use in acts that violate or threaten of its infringement.

Article 114

Claim for seizure and destruction of Objects

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 23 and Article 24 of this Law, 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 the infringer.
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.

Article 115

Claim for damages, usual compensation and unjust enrichment

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 23 and Article 25 of this Law, claiming damages pursuant to the general rules on legal redress laid down in the Law on obligations.

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 23 and Article 24 of this Law, claiming payment of remuneration in the amount that he would have claimed, given the circumstances, in the license agreement, if concluded.

3. The patent owner may institute a legal action against any person who has performed without authorization of any of the acts to in Article 23 and Article 24 of this Law, with no basis for it in any legal transaction, a court decision or law, and has benefited from it, seeking compensation or recover of such benefits in accordance with general rules on unjust enrichment, the obligations stipulated in Law.

4. The claims referred to in paragraphs 1, 2 and 3 of this Article shall not be mutually excluding. When deciding on the claims filed cumulatively and referred to in paragraphs 1, 2 and 3 of this Article, the court shall observe the general principles laid down in the Law on obligations.

Article 116 **Claim for publication of the Judgment**

1. The patent owner may request that the verdict of the court which confirmed complete or partial violation of patent rights, to be published in public media, at the expense of the offender.

2. Court decides within the application for full or partial publication of the verdict and where the information will be published.

3. If the Court decides to publish only a part of a verdict, it shall order, within the limits of the request, to be published at least part of the verdict where is pronounced its offence and its offender.

Article 117 **Burden of Proof**

1. For the purposes of civil proceedings concerning the infringement of the patent protected a process for obtaining a product; the judicial authorities shall have the authority to order the defendant to prove that the process to obtain an identical product is different from the patented process.

2. Any identical product when produced without the consent of the patent owner shall, in the absence of proof to the contrary, be deemed to have been obtained by the patented process:

2.1. if the product obtained by the patented process is new;

- 2.2. if there is a substantial likelihood that the identical product was made by the process and the owner of the patent has been unable through reasonable efforts to determine the process actually used.
3. The burden of proof referred to in paragraph 1 of this Article shall lay with the alleged infringer if only one of the conditions referred to in paragraph 2 of this Article is fulfilled, taking into account the legitimate interests of defendants in protecting their manufacturing and business secrets.

Article 118
Relation to a patent granted without the evidence on patentability

When the legal action is instituted concerning the infringement of a patent, the court shall interrupt the proceedings until the Office issues a decision in accordance with paragraph 2 of Article 79 of this Law.

Article 119
Request for Information

1. The owner of the patent, which has begun the procedure for patent protection in cases of violations, may require information on the origin and distribution network of products that infringe the patent.
2. The request under paragraph 1 of this Article may be submitted in the form of indictment or to obtain provisional measures against:
 - 2.1. the person against whom a complaint is filed pursuant to paragraph 1 of this Article;
 - 2.2. person within its business activity has the products for which there is a suspicion that they have violated the patent;
 - 2.3. person in the conduct of its business activity provides services, which allegedly infringe the patent;
 - 2.4. persons in the conduct of their business activities provide services or use provided services in the alleged activities that violate the patent;
 - 2.5. the person that is proved that is involved in producing or distributing products or services allegedly infringing design.
3. Request for information on the origin and distribution network of products and services under paragraph 1 of this Article may include in particular:

- 3.1. information on the names and addresses of manufacturers, distributors, suppliers and other previous owners of products and services, wholesale and retail sellers;
- 3.2. Information on the quantities produced, distributed, received and ordered, and price of products and services;
4. If such person refuses to provide information without compelling reason, he/she is responsible for damage caused in accordance with applicable legal provisions.
5. The provisions of this Article shall not apply to the use of confidential information.
6. The provisions of this Article shall not apply to the dispositions of Articles 121 and 122 of this Law which regulate taking of evidence.

Article 120

Provisional measures in case of patent infringement

1. Upon application by the patent owner who proves that his patent is infringed or is threatened to be violated, the court may consider the taking of temporary measures in order to stop or prevent violations and, in particular:
 - 1.1. the order to stop the opposing party's patent infringement action, to issue such orders against the broker, whose services used by a third party violates the patent;
 - 1.2. to order the seizure or removal of the products from the market, which are contrary to the law.
2. Upon request by patent owner who proves that his patent was infringed by any business activities in order to provide material benefits and such infringement has threatened to cause him irreparable or hardly repairable damage, the court, except interim measures mentioned in paragraph 1 of this Article, can order the confiscation of personal and real estate property of the opposite party, which is not directly related to the violation, including the freezing of his / her bank accounts and assets .
3. For the purpose of assignment and execution of interim measures under paragraph 2 of this Article, the court may require the opposing party or other persons concerned, the introduction of banking information, financial and other economic information, or setting available and other documents about them. The court provides protection of confidentiality of such information and prevents misuse.
4. Interim measures under paragraph 1 of this Article may be ordered without informing the opposing party, if the applicant demonstrates that the measures would not be effective, or there is a risk of causing irreparable damage or hardly repairable. Interim

measures under paragraph 2 of this Article can be ordered without informing the opposing party, if the applicant for the move, proves that it would not be effective or, given the circumstances of the case, it would be necessary.

5. In the decision on interim measure, the court determines the duration of such measures and whether any measures was ordered before the procedure, during which period the applicant for measure initiates proceedings to justify the measure, within twenty (20) working days and no longer than thirty-one (31) calendar days from the date of pronouncement of the interim measure.

Article 121 **Provisional measures for preservation of evidence**

1. Upon the legal action of the patent owner, who claims that it violated the patent rights, or is threatened to be violated and there is a possibility that evidence of such breach or threat can not be or become difficult to handle, the court decision may order the taking of temporary measures to preserve evidence.

2. Through interim measures under paragraph 1 of this Article, the court may order:

2.1. a detailed description of products and services, which may violate the license with or without sampling;

2.2. confiscation of products which may violate the patent;

2.3. confiscation of the material and tools used during the production and distribution of products that may infringe patent and documents having to do with it.

3. Interim measures specified in paragraph 1 of this Article can be ordered without informing the opposing side, if the applicant for taking the measure states that there is a risk that the evidence can be destroyed or that can cause irreparable or hardly repairable damage.

4. In a decision ordering the provisional measure, the court determines the duration of the measure even if the procedure is not initiated, provided that the request is submitted in time which will not be shorter of twenty (20) working days and not longer than thirty-one (31) calendar days from filling the application.

Article 122
Obtaining evidence in the proceedings

1. When a party in the proceeding is seeking for evidence pertaining to the opposing party, the court shall order the opposing party to submit such evidence within a specified time.
2. The owner of the patent in the role of the plaintiff, who alleges the infringement of patents is conducted in business in order to profit and for this presents evidence during the proceedings: documents as banking, financial or commercial documents or other evidence to confirm that they belong to opposing party, the court invites the opposing party to submit such evidence within a specified time.
3. If the party invited to present evidence, refuses after being invited by the court, the court may take measures to obtain and prove such facts.
4. The provisions of the Law on Civil Procedure relating to the 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.

Article 123
Quick procedures and implementation of the provisions of other Laws

1. The procedure regarding the patent infringement should be accelerated.
2. During the proceedings regarding the violation of the patent rights there are applied the provisions of other applicable Law.
3. At the request of the court or the party that have initiated proceedings for infringement of the patent rights, the Office accepts the request for annulment or declaration of decision as invalid for the registered patent, presented before or during the procedure and will proceed in the fast procedure. The Court considering the circumstances shall determine the procedure until the final decision.

Article 124
Competent Courts

1. For all of the cases of violations of the patents rights, the competent court will rule in accordance with legal provisions in power.

CHAPTER XVIII
PUNITIVE PROVISIONS

Article 125
Punitive Provisions

1. With a fine in amount from three thousand (3,000) € to five thousand (5,000) € is punished the legal person which during practicing his business activities, in any kind of form uses the products or services in which is included or implemented the patent, in conflict with the Articles 23 of this Law.

2. With a fine in amount from one thousand (1,000) € to three thousand (3,000) € is punished the responsible person of the legal person in accordance with paragraph 1 of this Article.

3. With a fine in amount from two hundred (200) € to eight hundred (800) € is punished the natural person which during practicing his business activities, in any kind of form uses the products or services in which is included or implemented the patent, in conflict with the Article 23 of this Law.

4. With a fine in amount from one thousand (1,000) € to three thousand (3,000) € is punished the legal person which uses the licence in conflict with the provisions of the Article 31 of this Law.

5. With a fine in amount from one thousand (1000) € to three thousand (3,000) € is punished the responsible person in the legal person which uses the licence in conflict with the provisions of the Article 31 of this Law.

6. With a fine in amount from one thousand (1,000) € to three thousand (3,000) € is punished the natural person which uses the licence in conflict with the provisions of the Article 31 of this Law.

7. In cases when the patents is used in conflict with the provisions of this Law, by which it is supposed that a criminal act has been performed, the provisions of the Kosovo Criminal Code are implemented

CHAPTER XIX REPRESENTATION

Article 126 General representation issues

1. Only the person registered into the Register of patent representatives kept and maintained by the Office, shall be entitled to act before the Office.
2. For entry in the Register of patent representatives, a fee shall be paid as defined with sub-legal act.
3. The representative shall be authorized as a representative for patents and trademarks in written form.
4. The representation issues shall be defined with sub-legal act.

Article 127 Representation

1. A legal or natural person, which does not have a principal place of business, of residence or permanent residence in the territory of the Republic of Kosovo, shall be represented before the Office by a representative which is registered in the Register of Representatives kept by the Office, if the matter of representation is not otherwise foreseen by Law.
2. As exclusion from the provisions set out in paragraph 1 of this Article, foreign legal or natural persons may individually, without a representative, perform the following acts:
 - 2.1. submit applications for patents;
 - 2.2. perform other acts related to the definition of the submission date of the application for patent;
 - 2.3. Submit the original copy of the application for the first patent, when claiming priority right referred to in Article 64 of this Law;
 - 2.4. receive notifications from the Office, relating to the procedures referred to in sub-paragraphs 2.1., 2.2. and 2.3. of paragraph 2 of this Article;
 - 2.5 pay the administrative fees in accordance with Article 48 of this Law.

3. In the case of performing the individual 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 Kosovo.

4. If a foreign legal or natural person fails to appoint a representative or to communicate the address to the Office, in accordance with the provisions set out in paragraph 3 of this Article, the Office shall inform him in writing to appoint a representative or to communicate the address for correspondence within a period of ninety (90) days.

5. If a foreign legal or natural person fails to answer to the invitation of the Office, referred to in paragraph 4 of this Article, the Office shall reject its communication by a decision and it shall be deemed that the representatives have not been appointed.

6. A legal or a natural person having a principal place of business, a domicile or a habitual residence in the territory of the Republic of Kosovo, may be represented in proceedings before the Office by an employee, which does not need be the patent representative registered in the Register of the representatives.

Article 128

Persons entitled to become patent Representatives

1. The representatives for the patents have the right to represent the parties in procedure which are dealing with recognition and maintenance of the patent and certificates for additional protection in accordance with this Law.

2. Representative of the patents can be:

2.1. natural person, resident in the Republic of Kosovo, with the finalized university studies by passing the qualifying test for an representative for the patents at the Office;

2.2. legal persons who have their main location of the business in the Republic of Kosovo and at least one employee which fulfill the conditions foreseen in the paragraphs and sub-paragraph 2.1.of this paragraph.

CHAPTER XX TRANSITIONAL AND FINAL PROVISIONS

Article 129 Pending Procedures

1. All procedures for granting the patents, procedures concerning revocations of the patents and applications filed for revalidation, which are pending up to the day of entering into force of this Law, shall be carried out according to the provisions of this Law.

Article 130 Changes of this law on the day of entrance of the Republic of Kosovo into the European Union

In paragraph 1 of Article 29 words "Republic of Kosovo" will be replaced with the words "of the European Union, or European Economic Zone", on the day of entrance of the Republic of Kosovo into the European Union.

Article 131 Implementation of the special provisions and issuance of sub-legal acts

1. Implementation of the provisions defined by Article 38 up to Article 46 and Article 84 up to Article 96 of this Law will start on the day of inclusion of the Republic of Kosovo into the European Union.

2. Minister of Trade and Industry, for the implementation of this Law, shall issue sub-legal acts, within twelve (12) months from the entry into force of this Law.

Article 132 Repealing Provisions

With entrance into force of this Law, the Law No. 2004/49 "For Patenting" Law No. 02L/100 on amending and supplementing the Patent Law No. 2004/49, ceases to be valid, as well as the other acts which are in conflict with this Law.

Article 133
Entry into force of this law

This Law shall enter into force fifteen (15) days after publication in the Official Gazette of the Republic of Kosovo.

Law No. 04/L-029
29 July 2011

The President of the Assembly of the Republic of Kosovo

Jakup KRASNIQI