

## **Government Decree 61/2006 (III. 23.)**

### **on the deposit and handling of biological material for the purposes of patent procedure**

The Government, based on the authority conferred on it by Section 118 (3) of Act XXXIII of 1995 on the Protection of Inventions by Patents, hereby decrees the following:

#### **Section 1**

(1) For the purpose of filing a patent application for an invention based on a biological material or its application

(a) bacteria (including *Streptomyces*); and

(b) fungi, including yeasts and moulds (hereinafter (a) and (b) collectively "biological material") may be deposited at the National Collection of Agricultural and Industrial Microorganisms operating within the institutional framework of the Hungarian University of Agricultural and Life Sciences (hereinafter "the University"), provided that they do not pose a health or other hazard to the environment and do not necessitate special requirements for storage or cultivation, and are classified in risk groups 1 and 2 according to the classification adopted by the World Health Organization.

(2) The University shall store and handle the deposited biological material in accordance with the provisions of Law Decree No. 1 of 1981 on the promulgation of the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (hereinafter "the Budapest Treaty") and Decree No. 21/2002. (XII. 13.) of the Ministry of Justice on the promulgation of the Regulations under the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (hereinafter "the Regulations").

#### **Section 2**

(1) For the purpose of depositing biological material, the depositor shall send to the University

(a) at least 25 lyophilised ampoules, which shall be considered as stored material; or

(b) at least 3 lyophilised or live cultures from which the University shall prepare material for storage.

(2) The request for deposit shall be made on a form published by the University.

#### **Section 3**

(1) For the services provided by the University, the depositor or other service recipient shall pay to the University, on the basis of an invoice issued by the University, an administrative service fee (hereinafter collectively "fee") at the rates specified in points (a) to (d) of the Annex to this Decree.

(2) The fees shall be paid to the University's account number, indicating the identification data.

(3) The fees shall constitute revenues of the University and may be used by the University to cover its costs incurred in connection with the performance of the tasks set out in the Budapest Treaty, the Regulations and this Decree.

(4) *[repealed]*

(5) The depositor shall pay to the University a one-off storage fee as specified in point (a) of the Annex to this Decree for each biological material deposited. The depositor holding a domestic payment account shall transfer the storage fee to the University's account specified in paragraph (2) within eight days of receipt of the invoice.

(6) The fees specified in points (b) to (d) of the Annex to this Decree shall be paid to the University at the same time as the request for the issuance of the documents or samples specified therein. The fee set out in point (d) of the Annex to this Decree does not include the postal charges related to the issuance of the sample, which shall be payable to the University in addition to the fee.

#### **Section 4**

If the depositor fails to pay the fee, the University shall invite the depositor to pay the fee by setting a deadline. Failure to do so shall result in the termination of the deposit, the University shall destroy the biological material deposited, and the University shall warn the depositor of this in the invitation.

#### **Section 5**

(1) If the deposited biological material perishes during the period of storage, the depositor shall be notified by the University. In this case, the depositor shall be entitled to deposit identical biological material free of charge.

(2) After the expiry of the storage period specified in the Regulations, the University shall return the deposited biological material to the depositor at the depositor's request. Unless the depositor so requests, the University shall destroy the stored biological material or place it in its collection six months after the expiry of the storage period.

#### **Section**

The University may provide additional services (in particular, identification and genetic characterisation of the biological material to be deposited) in connection with the preservation and storage of biological material deposited for the purposes of patent procedure, on the basis of a separate agreement with the depositor and for a separate fee.

#### **Section 7**

(1) This Decree shall enter into force on the eighth day following its promulgation.

(2) The rate of the fee set out in the Annex to this Decree shall apply, pursuant to Rule 12.2(c) of the Regulations, from the thirtieth day following its publication by the International Bureau and in respect of fee claims arising after that date.

(3) Biological material as defined in Section 1(c) of the Ministerial Decree on the deposit and handling of microorganism strains for the purposes of patent procedure deposited before the entry into force of this Decree shall continue to be stored by the University in accordance with the legislation in force at the time of deposit.

#### *Annex to Government Decree 61/2006 (III. 23.)*

#### ***Fees payable for each biological material under this Decree***

***HUF***

<i>a</i>	Storage	202 500
<i>b</i> )	Issuance of attestations pursuant to Rule 8.2 of the Regulations and communication of information under Rule 7.6 of the Regulations	13 500
<i>c</i> )	Issuance of viability statements with the exception provided for in the first sentence of Rule 10.2(e) of the Regulations	33 750
<i>d</i> )	Furnishing of samples with the exception provided for in the first sentence of Rule 11.4(h) of the Regulations	40 500