

**DRAFT****THE PATENT LAW****I. GENERAL PROVISIONS***Application of the Law*

## Article 1

This Law shall apply to the patent protection system.

*A patent*

## Article 2

A patent is the right protecting its owner as regards the economic exploitation of the invention which is the subject matter of the patent.

*Competence of the State Intellectual Property Office*

## Article 3

The State Intellectual Property Office (hereinafter: the Office) shall carry out the administrative procedure for the grant of a patent and shall perform other administrative works dealing with the patent protection.

*National Treatment of Foreign Persons*

## Article 4

Foreign natural and legal persons shall, under this Law, enjoy in the Republic of Croatia the same rights as are enjoyed by the Croatian nationals and legal entities established in the Republic of Croatia, if it results from international treaties binding the Republic of Croatia or from the application of the principle of reciprocity.

The existence of reciprocity shall be presumed until proved to the contrary.

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

*Patentable Invention*

Article 5

- (1) A patent shall be granted for an invention which is new, which involves an inventive step and which is susceptible of industrial application.
- (2) The following in particular shall not be considered to be the inventions within the meaning of paragraph (1):
  1. discoveries, scientific theories and mathematical methods,
  2. aesthetic creations,
  3. rules, instructions or methods for performing mental acts, playing games or doing business,
  4. presentations of information,
  5. computer programs.
- (3) The provisions referred to in paragraph (2) of this Article shall apply only to the extent to which the patent application relates to such subject-matter or activity as such.
- (4) The patent protection shall exclude:
  1. the inventions relating to animal breeds and plant varieties and to essentially biological processes for the production of a plant or an animal, except for the inventions relating to the microbiological processes and the products resulting from such processes.
  2. the inventions the publication or exploitation of which would be contrary to the public order or morality. The exploitation shall not be deemed to be so contrary merely because it is prohibited by the legal provision.

*Novelty of an Invention*

Article 6

- (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) The state of the art shall also include the content of all patent applications as filed in the Republic of Croatia, the filing dates of which are earlier than the date of application referred to in paragraph (2) of this Article, and which were made

available to the public only on, or after the date of filing the patent application, through the publication effected in the manner provided for in this Law.

#### Article 7

An invention shall also be considered to be new if no more than six months prior to the filing date of the patent application it has formed part of the state of the art due to:

1. an evident abuse in relation to the applicant or his legal predecessor;
2. the fact that that the invention has been displayed at an official or officially recognized international exhibition falling within the terms of the Convention on international exhibitions signed at Paris on November 22, 1928 and last revised on November 30, 1972, provided that the applicant indicates in the patent application, at the time of its filing, that the invention has been so displayed and files a supporting certificate within the period of four months at the latest as from the date of filing the patent application.

#### *Inventive step*

#### Article 8

- (1) The invention shall involve an inventive step if, having regard to the state of the art, it is not obvious to a person skilled in the art.
- (2) In deciding whether the invention involves an inventive step, the content of the applications referred to in Article 6, paragraph 3 of this Law shall not be taken into account.

#### *Industrial Applicability*

#### Article 9

- (1) An invention shall be industrially applicable if its subject matter can be manufactured or used in any kind of industry, including agriculture.
- (2) Methods for treatment of the human or animal body by surgery or therapy and diagnostic methods practiced on the human or animal body shall particularly not be regarded as industrially applicable inventions, except for the products, in particular substances or compositions used in these methods.

### **III RIGHT TO A PATENT**

*Persons Entitled to Obtain a Patent for an Invention*

Article 10

- (1) The right to a patent shall belong to the inventor or his successor in title, in compliance with Article 12, paragraph (2).
- (2) If the invention has been created jointly by several inventors, the right to a joint patent shall belong to the inventors or their successors in title.

*Inventor*

Article 11

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

*Inventor's Successor in Title*

Article 12

- (1) The inventor's successor in title shall be the legal or natural person who is entitled to obtain a patent by virtue of the law, the legal business or the inheritance.
- (2) An employer shall be considered to be the inventor's successor in title where, by virtue of the law or a working contract, he has the right to obtain a patent for the invention created in the course of the inventor's work for that employer.

## **IV PATENT GRANTING PROCEDURE**

### **1. Patent Application**

#### *Beginning of the Patent Granting Procedure*

##### Article 13

- (1) The procedure for the grant of a patent shall begin with the filing of a patent application with the Office.
- (2) The manner of filing a patent application shall be determined by the regulation enacted by virtue of this Law.
- (3) The filing of the application referred to in paragraph (1) of this Article shall be subject to the payment of a prescribed fee.

#### *Rule Concerning the Unity of the Invention*

##### Article 14

- (1) As a rule, a separate patent application shall be filed for each invention.
- (2) In one patent application the grant of a patent for several inventions may be applied for only if such inventions are so linked as to form a single general inventive concept.

#### *Language of Filing a Patent Application*

##### Article 15

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

#### *Content of a Patent Application*

##### Article 16

- (1) A patent application shall contain:
  1. a request for the grant of a patent,
  2. a description of the invention
  3. one or more claims for the protection of the invention (hereinafter: claims),

4. any drawings referred to in the description or the claims,
  5. an abstract
- (2) A request for the grant of a patent shall contain: an express indication that the grant of a patent is applied for, the title of the invention expressing the essence of the invention, the name or the title respectively and address of the applicant, as well as the name and address of the inventor or the indication concerning the written declaration of the inventor stating that he doesn't want to be mentioned as such.
  - (3) The declaration referred to in paragraph (2) of this Article shall be filed up to the expiration of the period of four months at the latest, as from the filing date of the application.
  - (4) The patent application must disclose the invention in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art.
  - (5) If the invention relates to the viable biological material which cannot be disclosed in a manner enabling it to be carried out by the person skilled in the art, the application must be supported by the proof to the effect that the sample of such material has been deposited with the competent institution on the filing date of the patent application at the latest.
  - (6) The competent institution referred to in paragraph (5) of this Article shall be considered to be the institution which complies with the requirements prescribed by the international treaty on the international recognition of the deposit of microorganisms for the purposes of patent procedure.
  - (7) The claims shall define the subject matter the protection of which is applied for. They shall be clear and concise and completely supported by the description. Patent claims may be independent and dependent. The independent claims shall contain new, essential characteristics of the invention. The dependent claims shall contain specific characteristics of the invention defined in the independent or other dependent claim.
  - (8) The abstract shall be the short summary of the essence of the invention serving exclusively for the purpose of technical information.
  - (9) The content and the manner of drafting particular elements of the patent application shall be defined by the regulation enacted by virtue of this Law.

*Minimum Content of the Patent Application Necessary for the Filing Date to be Accorded*

- (1) The accordance of the filing date of the patent application shall require that on such a date the application contains:
1. explicit indication of the fact that the grant of a patent is applied for,
  2. the name or the title respectively, and the address of the applicant,
  3. the description and one or more claims, even though such description and claims do not comply with the requirements prescribed under this Law and the regulation enacted by virtue of this Law.

## **2. *Priority Right***

### *Concept of Priority*

#### Article 18

- (1) If two or more inventors have created the same invention independently of each other the priority concerning the right to the grant of a patent shall belong to the applicant whose application has the earliest filing date.
- (2) The priority shall be in effect as from the date of filing the application with the Office, except for the cases in which the requirements for the grant of the priority right referred to in Articles 19 and 20 have been complied with.

### *Requirements for the Grant of Priority Right*

#### Article 19

- (1) A legal or a natural person who has filed in any State party to the Paris Convention for the Protection of Industrial Property (hereinafter: the Paris Union) a correct application for any kind of protection for inventions, or her/his successor in title, shall be granted in the Republic of Croatia, a right of priority as from the date of filing the first application, provided that the application for the same invention is filed with the Office within twelve months, and that the right of priority is claimed.
- (2) A correct application referred to in paragraph (1) of this Article shall be considered to be the application the filing date of which is accorded in compliance with the national law of the State party to the Paris Union in which it was filed, or in compliance with the international treaty concluded among the States party to that Union, whatever may be the outcome thereof.

### *Priority Claim*

## Article 20

The applicant desiring to take advantage of the priority right referred to in Article 19 of this Law in the Republic of Croatia, shall file with the Office:

1. a priority claim containing the essential data concerning the first application the priority of which is claimed (application number and the filing date, the State in which, or the intergovernmental organization with which the application was filed), up to the expiration of the period of two months at the latest as from the date of filing the application in the Republic of Croatia.
2. the copy of the first application certified by the competent authority of the State in which, or the international organization with which it was filed, up to the expiration of the period of three months at the latest as from the date of filing a priority claim.

### *Multiple Priority Claim*

## Article 21

The applicant may, complying with the requirements referred to in Article 20 of this Law, claim multiple priority right on the basis of several earlier applications filed in one or more of the States party to the Paris Union.

### *Characteristics of the Invention the Priority Claim is Relating to*

## Article 22

- (1) The priority claim shall relate only to such characteristics of the invention which are contained in the first application or applications whose priority is claimed.
- (2) If certain characteristics of the invention do not appear among the claims contained in the first application or applications respectively, for the grant of priority right it shall be sufficient that all such characteristics may be precisely derived from all elements of the application.

### *Application of the Date of Granted Priority*

## Article 23

If the right of priority is granted, the date of granted priority shall be applied instead of the date of filing the patent application with the Office for the purposes of provisions referred to in Article 6 paragraphs (2) and (3) and Article 18 paragraph (1) of this Law.

*Computation of Time Limits in Case of the Granted Multiple Priority Right*

Article 24

If the multiple priority right is granted, the time limits which run under this Law from the date of granted priority shall be computed as from the earliest date of multiple priority right.

**3. Procedure as From the Receipt of the Patent Application up to the Publication Thereof**

*Examination of the Patent Application After its Receipt*

Article 25

- (1) After receiving a patent application the Office shall examine whether:
1. the application complies with the requirements for the accordance of the filing date referred to in Article 17 of this Law,
  2. the filing fee referred to in Article 13 of this Law is paid,
  3. the certified translation of the application in the Croatian language is filed, if the application has been drafted in the foreign language,
  4. the drawings referred to in Article 16, paragraph (1), subparagraph 4, have been filed.
- (2) If the application doesn't comply with the requirements for the accordance of the filing date referred to in Article 17 of this Law, the Office shall invite the applicant to correct the deficiencies expressly indicated in the invitation, within thirty days as from the day on which the invitation was received.
- (3) If the applicant doesn't comply with the Office invitation within the time limit referred to in paragraph (2) of this Article, the patent application shall be rejected by a decision.
- (4) If the applicant corrects the deficiencies within the time limit referred to in paragraph (2) of this Article, the Office shall issue a decision whereby the date of receipt of the required corrections shall be accorded as the filing date of the patent application.
- (5) Where the patent application refers to the drawings which, in fact, are not included in the application, the Office shall notify the applicant accordingly, and he may file them within the prescribed time limit and, if he does so, the filing date shall be the

date on which the drawings have been received by the Office. Otherwise, any reference to the said drawings shall be considered to be non-existent.

- (6) The Office shall invite the applicant who has not submitted the proof of payment of the prescribed fee or the certified translation of the patent application into the Croatian language, to correct the respective deficiency within sixty days as from the day of receipt of the invitation.
- (7) On the reasoned request of the applicant the Office may extend the time limit referred to in paragraph (5) of this Article, for a time period considered to be justified.
- (8) If the applicant doesn't comply with the invitation referred to in paragraph (6) of this Article, the patent application having the accorded filing date shall be considered to be withdrawn and the Office shall decide to stop the patent granting procedure.
- (9) The filing of the corrections referred to in paragraphs (2) and (6) of this Article in compliance with the Office invitation and the filing of the request for the extension of the time limit shall be subject to the payment of the prescribed fees.

#### *Entry of the Patent Application into the Register of Patent Applications*

##### Article 26

- (1) The patent application having the accorded filing date shall be entered into the register of applications kept by the Office.
- (2) The content of the register of patent applications and the manner of keeping it shall be prescribed by the regulation enacted by virtue of this Law.

#### *Priority Certificate*

##### Article 27

- (1) On the request of the applicant, the Office shall issue a certificate on the right of priority acquired on the date of filing the patent application, established in compliance with the provisions of Article 25 of this Law.
- (2) The requirements for and the method of issuing the certificate referred to in paragraph (1) of this Article, as well as the content thereof shall be determined by the regulation enacted by virtue of this Law.
- (3) The issuance of the priority certificate shall be subject to the payment of the prescribed fee.

*Division of the Patent Application*

Article 28

- (1) The applicant may divide the subject matter of the patent application having the accorded filing date (the original application) in two or more applications and on the basis of each of them shall proceed with a separate procedure.
- (2) The division of the original patent application shall be allowed up to the decision concerning the request for the grant of a patent.
- (3) The patent application resulting from the division of the original application (the divisional application) shall retain the filing date of the original application and, if having grounds therefor, shall enjoy the priority of the original patent application.

*Amendments of the Patent Application*

Article 29

The patent application having the accorded filing date shall not be additionally amended by extending the subject matter the protection of which is applied for.

*Formal Examination of the Patent Application*

Article 30

- (1) The formal examination of the patent application shall determine whether the application complies with the following requirements for the publication:
  1. does it contain all elements referred to in Article 16 of this Law drafted in a prescribed manner and the required submissions prescribed by this Law,
  2. whether the inventor is mentioned,
  3. whether a proper priority claim has been filed within the meaning of Article 20 of this Law, where the priority right is claimed,
  4. is the applicant, who is the foreign natural or legal person, represented by the patent agent entered into the register of agents kept by the Office,
  5. does the application, at first sight, complies with the requirement of the unity of invention referred to in Article 14 of this Law,
  6. whether the subject matter of the application is, at first sight, patentable within the meaning of Article 5, paragraphs (2) and (4), and Article 9 of this Law.

- (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 deficiencies expressly indicated in the invitation within the reasonable time limit. This time limit shall not be less than 30 days and shall not exceed 90 days as from the date of receipt of the invitation.
- (3) On the reasoned request of the applicant the Office may extend the time limit referred to in paragraph (2) of this Article for a period it considers to be justified.
- (4) If the applicant doesn't correct the deficiencies referred to in paragraph (2) of this Article within the prescribed time limit, the Office shall issue a decision on the rejection of the patent application or a decision on the refusal of the request for the grant of a patent if the application has been filed for the invention which is not patentable within the meaning of Article 5, paragraph (2) and (4) or Article 9 of this Law.
- (5) If the applicant doesn't comply with the invitation referred to in paragraph (2) of this Article, the Office shall proceed as if the priority right hasn't been claimed.
- (6) The filing of the submissions correcting the deficiencies referred to in paragraph (2) of this Article, in compliance with the Office invitation, and the filing of the requests for the extension of the time limit shall be subject to the payment of the prescribed fees.

#### **4. Publication of the Patent Application**

##### *Manner and Content of the Publication of the Patent Application*

##### Article 31

- (1) The patent application complying, according to the formal examination, with all the requirements referred to in Article 30 of this Law, shall be published in the Office official gazette after the expiration of 18 months as from its filing date or the date of granted priority respectively.
- (2) The patent application referred to in paragraph (1) of this Article may be, on the request of the applicant, published even before the expiration of the said time limit, but not before the expiration of 3 months as of the date of its filing with the Office.
- (3) The publication of the patent application shall comprise the publication of the abstract, a characteristic figure of the drawings, if any, and bibliographic indications determined by the regulation enacted by virtue of this Law.
- (4) The published patent application may be inspected in the Office premises.

- (5) With the publication of the patent application, the invention which is the subject matter of the said application shall be included in the state of the art.
- (6) The publication of the patent application shall be subject to the payment of the prescribed fee which shall be due within 15 days as from the receipt of the Office invitation.

## **5. Patent Granting Procedure**

### *Request for the Grant of a Patent*

#### Article 32

- (1) After the publication of the patent application in the Office official gazette, the applicant may, within 6 months as from the date of publication, file one of the requests for the examination of the requirements for the grant of a patent:
  1. a request for the grant of a patent on the basis of the substantive examination of the patent application, or
  2. a request for the grant of a patent on the basis of the meaningful acceptance of the results of the substantive examination of the patent application, or
  3. a request for the grant of a patent without the substantive examination of the patent application (hereinafter: consensual patent)
- (2) If, within the prescribed time limit, the request referred to in paragraph (1) is not filed, the patent application shall be considered to be withdrawn and the Office shall issue a decision on the suspension of the procedure for the grant of a patent.
- (3) The filing of the request referred to in paragraph (1) of this Article shall be subject to the payment of the prescribed fees.

### *Grant of a Patent on the Basis of the Substantive Examination of the Patent Application*

#### Article 33

- (1) The substantive examination of the patent application shall establish whether the invention complies with all the requirements for the grant of a patent, i. e. whether the subject matter of the application:
  1. is the invention which is patentable under Article 5, paragraphs (2), (3) and (4) of this Law;

2. is the invention which is disclosed in the application in the manner sufficiently clear and precise to be carried out by the person skilled in the art in compliance with Article 16, paragraphs (4) and (9);
  3. is the invention which is in compliance with the rule on the unity of invention referred to in Article 14 of this Law;
  4. is the invention which is new under Articles 6 and 7 of this Law, which includes an inventive step under Article 8 of this Law, and which is industrially applicable under Article 9 of this Law.
- (2) The substantive examination of the patent application referred to in paragraph (1) of this Article may be carried out by the Office, completely or partially, through one of the national patent offices with which it has concluded a cooperation agreement.
  - (3) The applicant who has filed the patent application for the protection of the same invention also with one of the national patent offices, may file with the Office the results of that substantive examination in the form of the certified translation thereof into the Croatian language.

*Grant of a Patent on the Basis of the Meaningful Taking into Consideration the Results of the Substantive Examination*

Article 34

- (1) A request for the grant of a patent based on the acceptance of the results of the substantive examination in compliance with Article 32, paragraph (1), subparagraph 2 of this Law, may be filed only in case where the patent application for the same invention has been filed with one or more elected offices.
- (2) The elected offices referred to in paragraph (1) of this Article shall be national and intergovernmental offices which under Article 16 or 32 respectively of the Patent Cooperation Treaty have the status of International Searching Authorities or International Preliminary Examining Authorities respectively, and which have signed an appropriate cooperation agreement with the Office.

Article 35

- (1) The applicant referred to in Article 34 paragraph (1) shall support the request with the signed statement to the effect that he will furnish the certified translations of the results of the substantive examination carried out by one or more elected offices within 6 months as from the day of the availability thereof, and 5 years at the latest as from the date of filing the application with the elected office.

- (2) On the reasoned request of the applicant and the evidence being furnished, the Office may extend the time limit referred to in paragraph (1) up to 3 months at the latest after the termination of the procedure for the substantive examination carried out by the elected office, the results of which shall be filed with the Office.
- (3) If the applicant doesn't furnish a certified translation of the results of the substantive examination carried out by the elected office sufficient for the Office to make a decision concerning a request for the grant of a patent, the application shall be considered to be withdrawn and the Office shall issue a decision on the suspension of the procedure.

#### Article 36

The content and the form of filing the request referred to in Article 34, the content of the results of the examination referred to in Article 35, paragraph (3) and the provisions concerning the confidentiality of the furnished results shall be prescribed by a special regulation enacted by virtue of this Law.

#### Article 37

- (1) The office shall issue a decision concerning the request for the grant of a patent on the basis of meaningfully taking into consideration the results of the substantive examination of the requirements referred to in Article 33, paragraph (1) and on the basis of the additional examinations.
- (2) The additional examination of the patent application shall establish whether the invention complies with the requirements for the grant of a patent i. e. whether the subject matter of the application is:
  1. the invention which is patentable under Article 5, paragraph (4), subparagraph 1, and which is morally allowed under Article 5, paragraph (4), subparagraph 2 of this Law,
  2. the invention which is new with regard to all patent applications filed earlier to the Office in compliance with Article 6, paragraph (3) of this Law,
  3. the invention in relation to which all the data have been furnished sufficient for the evaluation of compliance with all the requirements referred to in Article 33, paragraph (1), except for the requirements referred to in subparagraphs 1 and 2 of this paragraph.

*Consensual Patent - Grant of a Patent Based on Consensus Without the Procedure for the Substantive Examination Being Carried Out*

#### Article 38

- (1) A request for the grant of a patent without the substantive examination of the patent application in compliance with Article 32, paragraph (1), subparagraph 3 (hereinafter: the consensual patent) shall be published in the Office official gazette within three months as from its filing date.
- (2) In addition to the request referred to in paragraph (1) of this Article the relevant elements of the patent application shall be published sufficient for:
  1. attaining consensus between the applicant and interested parties on the grant of a patent for an incompletely (partially) examined invention,
  2. the filing of the opposition relating to the grant of the consensual patent.
- (3) The manner and the content of the publication in compliance with paragraphs (1) and (2) of this Article shall be prescribed by a special regulation enacted by virtue of this Law.

#### *Opposition to the Grant of a Consensual Patent*

##### Article 39

- (1) After the publication of the request referred to in Article 38, any legal or natural person may, within 6 months, file to the Office the opposition to the grant of a consensual patent.
- (2) The opposition referred to in paragraph (1) of this Article shall be supported by the evidence to the effect that the subject matter of the application doesn't comply with the requirements for the grant of a patent referred to in Article 5, paragraph (1) of this Law.
- (3) The filing of the opposition to the grant of a consensual patent shall be subject to the payment of the prescribed fee.
- (4) The content of the opposition referred to in paragraph (1) of this Article shall be defined by a special regulation enacted by virtue of this Law.

#### *Suspension of the Procedure Concerning the Opposition to the Grant of a Consensual Patent*

##### Article 40

- (1) If the opposition has been filed on time, if it is justified and if the prescribed fees have been paid, the procedure for the grant of a consensual patent shall be suspended.
- (2) The justified opposition referred to in paragraph (1) of this Article shall comprise the opposition containing sufficient evidence for a reasonable doubt that the invention

applied for a consensual patent doesn't comply with the requirements referred to in Article 5, paragraph (1) of this Law.

*Continuation of the Procedure in Case of the Lack of Consensus for the Grant of a Patent*

Article 41

- (1) The decision on the suspension of the procedure referred to in Article 40, paragraph (1) and the opposition including submitted evidence referred to in Article 40, paragraph (2) of this Law, shall be communicated to the applicant by the Office.
- (2) Within three months as from the receipt of the decision on the suspension of the procedure, the applicant shall be entitled to file a request for the grant of a patent on the basis of the procedure for the substantive examination in compliance with Article 32, paragraph (2), subparagraph 1.
- (3) If the applicant complies with paragraph (2) of this Article and if the prescribed fee has been paid in compliance with Article 32, paragraph (3), the Office shall continue the procedure. Otherwise the Office shall reject the patent application by a decision.

Article 42

- (1) Any natural or legal person failing to observe the time limit for filing the opposition referred to in Article 39, paragraph (1) of this Law, but having the legal interest to oppose the consensual patent, may file a request for carrying out the substantive examination procedure in compliance with Article 32, paragraph (1), subparagraph 1.
- (2) The request referred to in paragraph (1) of this Article may be filed during the whole term of the consensual patent.
- (3) The request referred to in paragraph (2) of this Article shall be subject to the payment of the prescribed fee.

*Decision on the Refusal of the Request for the Grant of a Patent*

Article 43

- (1) If the substantive examination in compliance with Article 33, paragraph (1) of this Law, or the acceptance of the results of the substantive examination in compliance with Article 37 of this Law has established that the subject matter of patent application doesn't comply with the requirements for the grant of a patent, the Office shall notify the applicant, in the written form, about the reasons due to which the patent shall not be granted, and shall invite him to make a written declaration commenting the specified reasons within the time limit, which shall not be less than 30 days and shall not exceed 90 days as from the receipt of the invitation.

- (2) On the reasoned request of the applicant the Office may extend the time limit referred to in paragraph (1) of this Article.
- (3) If the applicant doesn't comply with the invitation referred to in paragraph (1) of this Article the Office shall issue a decision on the refusal of the request for the grant of a patent.
- (4) The invitation to correct deficiencies and the filing of the request for the extension of the time limit shall be subject to the payment of the prescribed fees.

### *Decision on the Grant of a Patent*

#### Article 44

- (1) The Office shall communicate to the applicant the text of the patent application it intends to grant a patent for and shall invite him to submit a written consent to the communicated proposal:
  1. if it is established that the subject matter of the patent application complies with all the requirements for the grant of a patent referred to in Article 33, paragraph (1),
  2. if it is established that the subject matter of the patent application complies with the requirements for the grant of a patent referred to in Article 37, and
  3. if the opposition to the grant of a consensual patent in compliance with Article 39 has not been filed.
- (2) If the applicant doesn't comply with the invitation within the time limit referred to in paragraph (1) of this Article, the Office shall issue a decision on the grant of a patent, as if the consent has been submitted.
- (3) If the patent applicant submits in time a written declaration to the effect that he doesn't comply with the proposal referred to in paragraph (1) of this Article, he shall state the reasons therefor, and shall submit to the Office the amended text of the claims.
- (4) If the Office accepts the applicant's reasons and amends the text of the claims referred to in paragraph (3) of this Article it shall issue a decision on the grant of a patent according to the text of the claims proposed by the patent applicant.
- (5) The Office shall issue a decision referred to in paragraphs (2) and (4) subject to the payment of fees for the maintenance of a patent, the publication thereof and the issuance of the patent certificate and patent file.

### *Patent Register*

#### Article 45

- (1) The data specified in the decision on the grant of a patent shall be entered into the patent register kept by the Office, on the date of the decision.
- (2) The data specified in the decision on the refusal of the request for the grant of a patent shall be entered into the register of applications.
- (3) The content and the manner of keeping the patent register shall be prescribed by the regulation enacted by virtue of this Law.

#### *The Patent Certificate*

#### Article 46

- (1) The patent applicant shall be issued the patent certificate within 30 days at the latest as from the date of the decision on the grant of a patent.
- (2) Where the consensual patent is granted, the patent owner shall be issued the consensual patent certificate.
- (3) The content and form of the certificates referred to in paragraphs (1) and (2) shall be prescribed by the regulation enacted by virtue of this Law.
- (4) The issuance of the certificates referred to in paragraphs (1) and (2) shall be subject to the payment of the prescribed fees within 15 days as from the receipt of the Office invitation.

#### *Publication of the Granted Patent*

#### Article 47

- (1) A patent shall be published in the Office official gazette within 3 months at the latest as from the date of the decision on the grant thereof, and where the consensual patent is concerned it shall be published in the special part of the official gazette.
- (2) The publication of a patent shall comprise the publication of the first independent claim, the characteristic figure of the drawings, if any, and the bibliographic data prescribed by the regulation enacted by virtue of this Law.
- (3) The publication of a patent shall be subject to the payment of a fee due within the period of 15 days as from the receipt of the Office invitation.

#### *Patent File*

#### Article 48

- (1) The applicant shall be issued a patent file within 6 months as from the date of the decision on the grant of a patent, which is, where the consensual patent is concerned, designated as the consensual patent file.
- (2) The content and the form of the patent file shall be prescribed by the regulation enacted by virtue of this Law.
- (3) The issuance of a patent file shall be subject to the payment of the prescribed fee which shall be due within 15 days as from the receipt of the Office invitation.

#### *Entry of the Amendments into the Registers*

#### Article 49

- (1) At the request of the party all the changes occurring after the filing of the application or respectively after the entry of the decision on the grant of a patent into the register (license, transfer, change of the name or the seat of the applicant or the patent owner), shall be also entered into the register of applications or the register of granted patents respectively.
- (2) The registered changes referred to in paragraph (1) of this Article shall be published in the Office official gazette.
- (3) The entry of changes into the Office registers shall be prescribed by the regulation enacted by virtue of this Law.
- (4) The entry of changes into the registers referred to in paragraph (1) of this Article, the publication thereof in the official gazette, and furnishing of excerpts at the request of the party shall be subject to the payment of the prescribed fees.

#### *Correction of Deficiencies in the Documents*

#### Article 50

- (1) Linguistic and typing errors as well as the deficiencies in the documents filed with the Office may be corrected on the basis of the written request of the person filing the document.
- (2) The filing of the request referred to in paragraph (1) of this Article shall be subject to the payment of the prescribed fee.

## V EFFECTS OF A PATENT

### *Exclusive Rights Acquired by a Patent*

#### Article 51

- (1) The owner of a patent shall be the only person entitled to exploit the protected invention.
- (2) Any other person not having the patent owner's consent shall be prohibited from:
  1. making, offering for sale, selling, using, or importing and stocking for such purposes, a product carried out according to the invention,
  2. using a process which is the subject matter of the invention, or offering the use thereof,
  3. offering for sale, selling, using or, importing and stocking for such purposes, the product which is obtained directly by a process which is the subject matter of the invention.
- (3) Any other person not having the patent owner's consent shall be prohibited from offering and supplying the product (substance, composition, part of the apparatus) constituting an essential element of the invention, to persons not entitled to exploit the said invention, if the offerer or the supplier knows or should have known from the circumstances of the case that such product is intended for putting into function the invention of another.
- (4) The provisions referred to in paragraph (3) of this Article shall not apply if the offered or supplied product is a staple commercial product, except where the supplier or offerer induces other persons to commit acts referred to in paragraph (2) of this Article.
- (5) The patent owner's exclusive right of exploitation of the invention shall not apply to:
  1. acts in which the invention is exploited for private and non-commercial purposes,
  2. acts done for the purposes of research and development of the subject matter of the protected invention, including experiments and tests necessary for the registration of the human and veterinary medicines, medical and veterinary products or agents for the protection of plants.
  3. direct and individual preparation of a medicine in a pharmacy on the basis of a medical prescription and acts concerning the medicine so prepared.

- (6) In the absence of proofs to the contrary, a product shall be considered to have been obtained by a protected process, if the product is new and a substantial likelihood exists that the product was made in a protected process and the patent owner has been unable, despite reasonable efforts, to determine the process actually used. A substantial likelihood that the product was obtained in the protected process shall exist, in particular, when the protected process is the only known process.

*Scope of the Exclusive Rights*

Article 52

The scope of the patent owner's exclusive rights shall be determined by the text of the claims, finally accepted in the patent granting procedure.

*Contractual License and the Transfer of a Patent*

Article 53

- (1) The right to exploit the protected invention shall be assigned by a license contract.
- (2) A patent may be the subject of the transfer, complete and partial.
- (3) The license contract and the contract on the transfer of a patent shall be concluded under the conditions and in a manner prescribed by the Law on Obligatory Relations.
- (4) The conclusion of the license contract or the contract on the transfer of a joint patent shall require the consent by all of the owners thereof.
- (5) The provisions of this Article shall also apply in an appropriate manner to the conclusion of the license contract and the contract on the transfer of a patent application.

**VI LIMITATION OF THE EFFECT OF A PATENT**

*The Right of the Prior User*

Article 54

- (1) A patent shall have no effect against the person who had, prior to the filing date of the application, exploited or manufactured, in good faith and within her/his economic activities, the product which is the subject matter of the invention or, had made real and serious preparations for such exploitation of the invention in the Republic of Croatia.
- (2) The person referred to in paragraph (1) of this Article shall have the right to proceed, without the patent owner's consent, with the exploitation of the invention to the

extent to which she/he had exploited it or had prepared its exploitation up to the filing date of the application for the said invention.

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

### *Patent Immunity of Vehicles in International Traffic*

#### Article 55

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

### *Compulsory License*

#### Article 56

- (1) The competent court of the Republic of Croatia is exclusively authorized to grant a compulsory license, on the request of an interested person, if the patent owner doesn't exploit the protected invention, or if he exploits it to the extent which is insufficient to satisfy the needs of the Croatian market, if he refuses to conclude a license contract or sets forth non-market conditions for the conclusion of such a contract.
- (2) A request for the grant of a compulsory license may be filed after the expiration of the period of 4 years as from the filing date of the application, or after the expiration of the period of 3 years as from the date of the patent grant, whichever occurs later.
- (3) If the exploitation of the protected invention is of the public interest (health, defense, protection and improvement of the human environment) or of a special interest for a particular branch of economy, the compulsory license may be granted even before the expiration of the periods referred to in paragraph (2) of this Article.
- (4) A compulsory license shall not be granted if the patent owner proves the existence of the legitimate reasons for the non-exploitation or insufficient exploitation of the protected invention.

- (5) In the case of granting a compulsory license, the patent owner shall be entitled to a remuneration, appropriate to the economic value of the license which shall be determined by the court decision referred to in paragraph (1) of this Article.

#### Article 57

- (1) A compulsory license shall be granted for the purpose of supplying the domestic market. It shall not be exclusive and the duration thereof is exclusively connected with the duration of reasons it has been granted for.
- (2) A compulsory license shall not be transferred without the production plant or the part thereof respectively, in which the invention it is granted for has been exploited.

#### *Exhaustion of the Patent Owners' Exclusive Entitlements*

#### Article 58

The patent owner may not prohibit to other persons offering for sale, sale or use of the product previously put on the domestic market by him or by other person having his express consent.

### **VII DURATION, MAINTENANCE AND LAPSE OF A PATENT**

#### *Term of a Patent*

#### Article 59

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

#### Article 60

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

#### *Annual Fees for the Maintenance of a Patent*

#### Article 61

- (1) The maintenance of the granted patent shall be subject to the payment of the prescribed annual fees.
- (2) During the patent granting procedure the prescribed annual fees for the maintenance of the rights arising from the patent application shall be paid.

- (3) The annual fees shall be due on the date corresponding to the filing date of the patent application.

*Early Lapse of a Patent Due to the Non-Payment of Annual Maintenance Fees*

Article 62

If the patent owner doesn't pay, even in the additional period of 6 months, a prescribed annual fee for the maintenance of a patent, when the fee shall be doubled, the patent shall lapse as from the day following the day on which such period expired.

*Early Lapse of a Patent Due to the Surrender Thereof*

Article 63

- (1) If the patent owner surrenders a patent, it shall lapse on the day following the day on which a written declaration concerning the surrender thereof is filed with the Office.
- (2) If a particular right on behalf of third persons has been entered into the register, the patent owner may not surrender a patent without previously obtaining a written consent of those persons.

*Loss of the Capacity of a Natural or Legal Person by a Patent Owner*

Article 64

- (1) A patent shall lapse on the day of the patent owner's death, if the heirs have not effected the entry into the Office patent register.
- (2) If the patent owner is a legal person, a patent shall lapse on the day of the loss of the legal person's capacity.

**VIII DECLARATION CONCERNING THE NULLITY OF THE DECISION ON THE GRANT OF A PATENT**

*Reasons for the Declaration of Nullity of the Decision on the Grant of a Patent*

Article 65

- (1) The decision on the grant of a patent may be declared null and void ex officio at any time, on the proposal of an interested person or a State Attorney, if the patent has been granted:
1. for an invention which within the meaning of Article 5, paragraphs (2) and (4) of this Law may not be protected by a patent,

2. for an invention which, on the filing date of the application or on the date of the granted priority respectively, was not new or didn't include an inventive step,
3. for an invention which is not industrially applicable,
4. for an invention which is not disclosed in a manner sufficiently clear and precise as to be carried out by the person skilled in the art,
5. in a larger scope than it could have been with regard to the claims supported by the description on the filing date of the application or on the date of granted priority respectively,
6. on behalf of the person not entitled to the patent protection of the invention.

*Proposal for the Declaration of Nullity of the Decision on the Grant of a Patent*

Article 66

- (1) The procedure concerning the declaration of nullity of the decision on the grant of a patent shall begin by filing the proposal with the Office.
- (2) The proposal referred to in paragraph (1) of this Article shall contain the data concerning the applicant, the owner of a patent, the number of the decision, and the registration number of the patent, the reasons for the proposal of the declaration of nullity of the decision supported by necessary evidence, and the reasoned legal interest of the person filing the proposal.
- (3) The filing of the proposal referred to in paragraph (1) of this Article shall be subject to the payment of the prescribed fee.

*Procedure Concerning the Proposal for the Declaration of Nullity of the Decision on the Grant of a Patent*

Article 67

- (1) If the proposal for the declaration of nullity of the decision on the grant of a patent is not drafted in compliance with the provision referred to in Article 66, paragraph (2), the Office shall invite the applicant to correct it within the period of 30 days as from the day of the receipt of the invitation.

- (2) If the applicant doesn't correct the proposal within the period specified in paragraph (1) of this Article, the Office shall reject a proposal by a decision.
- (3) The Office shall communicate the correct proposal for the declaration of nullity of the decision to the patent owner and shall invite him to submit his response within the period which shall not be less than 30 days and shall not exceed 60 days.
- (4) In the course of the procedure concerning the declaration of nullity of the decision on the grant of a patent, the Office shall invite the parties as many times as necessary to submit, within the period referred to in paragraph (3) of this Article, their comments on the submissions of the other party.
- (5) The Office shall hold a hearing if it considers that it is necessary for the establishment of the facts essential for deciding on the proposal for the declaration of nullity of the decision on the grant of a patent.
- (6) On the reasoned request, the Office may extend the time limits referred to in paragraphs (1) and (3) of this Article for the time it considers justified.
- (7) The correction of the proposal referred to in paragraph (1) and the filing of the request referred to in paragraph (6) of this Article shall be subject to the payment of the prescribed fees.
- (8) In cases where the owner of a consensual patent is concerned, the response referred to in paragraph (3) of this Article shall also contain a request for the substantive examination with the indication of the time limit within which the results of such examination will be submitted.

*Waiver of the Proposal for the Declaration of Nullity of the Decision on the Grant of a Patent*

Article 68

If the person filing the proposal for the declaration of nullity of the decision on the grant of a patent waives the proposal in the course of the procedure, the Office may proceed ex officio.

*Decision Concerning the Request for the Declaration of Nullity of the Decision on the Grant of a Patent*

Article 69

On the basis of the results of the procedure the Office shall issue a decision on the declaration of nullity of the decision on the grant of a patent, entirely or partially, or the decision refusing the proposal.

## **IX ANNULMENT OF THE DECISION ON THE GRANT OF A PATENT**

### *Reasons for the Annulment of the Decision on the Grant of a Patent*

#### Article 70

- (1) The decision on the grant of a patent may be annulled up to the expiration of the term of a patent, if it is established:
  1. that the viable biological material deposited in the authorized institution in compliance with the provision referred to in Article 16, paragraph (5) of this Law no longer exists or that the said material is no longer available to the public,
  2. that its availability to the public through the authorized institution in which it has been deposited was discontinued in the period longer than it is prescribed.

### *Proposal and Procedure Concerning the Annulment of the Decision on the Grant of a Patent*

#### Article 71

- (1) The procedure concerning the annulment of the decision on the grant of a patent shall begin by filing the proposal with the Office.
- (2) The provisions of this Law relating to the content of the proposal and to the procedure concerning the declaration of nullity of the decision on the grant of a patent shall apply in an appropriate manner to the content of the proposal and to the procedure concerning the annulment of the decision on the grant of a patent.
- (3) The filing of the proposal concerning the annulment of the decision on the grant of a patent and its correction upon the Office invitation shall be subject to the payment of the prescribed fees.

### *Decision on the Proposal Concerning the Annulment of the Decision on the Grant of a Patent*

#### Article 72

- (1) On the basis of the results of the procedure the Office shall issue a decision on the annulment of the decision on the grant of a patent, or the decision refusing the proposal as unfounded.
- (2) The decision on the annulment of the decision on the grant of a patent shall have legal effect as from the date established by the Office as the date from which the viable

biological material no longer exists or is no longer available to the public for other reasons, or as the date from which the viable biological material was not available to the public during the period longer than the prescribed one.

## **X CIVIL PROTECTION OF RIGHTS**

### ***1. An Action Contesting the Patent Protection Rights***

#### Right of Action

##### Article 73

- (1) The inventor or his successor in title shall be entitled to request through an action before the competent court, the establishment of the right to the patent protection of the invention, if a request for the grant of a patent has been filed by the person not entitled to such right or, in case of the jointly created invention, by the person who is not the sole person entitled to such right.
- (2) The action referred to in paragraph (1) of this Article may be filed up to the decision on the grant of a patent.
- (3) The procedure concerning the action contesting the patent protection of the invention shall be urgent.

#### *Right to Resume the Procedure for the Grant of a Patent by Virtue of the Final Court Decision*

##### Article 74

The inventor or his successor in title respectively whose right to a patent protection of the invention has been established by a final court decision shall be entitled to resume the procedure for the grant of a patent within 3 months as of the date the court decision comes into effect.

### ***2. An Action for the Infringement of the Inventor's Moral Right***

#### Right to Action

##### Article 75

- (1) The inventor shall be entitled to request through an action before the competent court the ordering of the entry of his name into the patent application and all documents issued for a patent as well as into appropriate Office registers, if the person mentioned as such in the application is not the inventor.

- (2) The right to action referred to in paragraph (1) of this Article shall also belong to the inventor of the joint invention who is not mentioned in the patent application.
- (3) To the request referred to in paragraph (1) of this Article a request that the final court decision be published at the expense of the defendant may be added.
- (4) The term for an action referred to in paragraph (2) shall not be limited. After the death of the inventor the right to an action shall be acquired by his heirs.

### ***3. An Action for the Infringement of a Patent***

#### *Right to Action*

##### Article 76

- (1) The patent owner shall be entitled to an action before the competent court against any person who infringes a patent by performing any of the actions referred to in Article 51, paragraphs (2) and (3) of this Law.
- (2) The right to action referred to in paragraph (1) of this Article, after the grant of a patent, shall also belong to the owner of the exclusive license.
- (3) The owner of a consensual patent shall have, prior to the action referred to in paragraph (1) of this Article, the results of the substantive examination at his disposal.

#### *Requests Contained in the Action*

##### Article 77

- (1) An action for the infringement of a patent shall contain requests for:
  1. the establishment of the existence of the infringement,
  2. the prohibition of actions infringing a patent,
  3. the compensation for damages,

4. the seizure and destruction of the products resulting from or acquired by the infringement of a patent, and articles (implements and tools) predominantly used in the creation of products infringing a patent,
  5. the publication of the court decision at the expense of the defendant.
- (2) The plaintiff shall be entitled to the compensation for damages that he has suffered as from the publication date of the patent application in the manner provided for in Article 31 of this Law, and to the financial gain acquired by the defendant infringing a patent, if such gain has not been included in the compensation of the real financial damage.
- (3) To the matters concerned with the compensation for damages caused by the infringement of a patent not regulated by this Law, the corresponding provisions of the Law on Obligatory Relations shall apply.

#### *Ordering of a Provisional Measure*

##### Article 78

- (1) The action may contain a request for ordering, before the court decision comes into effect, a provisional measure comprising:
1. the desistance from actions infringing a patent, or actions that might infringe a patent,
  2. the seizure or exclusion from circulation respectively of products resulting from or acquired by the infringement of a patent and of articles (implements and tools) predominantly used in the creation of products infringing a patent,
  3. the preservation of evidence.
- (2) Subject to the provision referred to in paragraph (1) of this Article, the proposal for ordering a provisional measure may be filed even before the action, provided that the action is brought within 15 days as from the day of filing a proposal.
- (3) If there is a likelihood of irreparable damage or a likelihood that the later derivation of evidence would be difficult or impossible, the court shall order a provisional measure without previously notifying the other party.
- (4) To the matters concerned with the ordering of provisional measures not regulated by this Law the corresponding provisions of the Law on Enforcement shall apply.

#### *Preclusion of the Time Limit for Bringing an Action for the Infringement of a Patent*

#### Article 79

The action for the infringement of a patent may be brought within 3 years as from the day of learning about the infringement and the infringer, but not after the expiration of the period of 5 years as from the day the infringement was committed on.

#### *Urgency of the Procedure Concerning the Action for the Infringement of a Patent*

#### Article 80

The procedure concerning the action for the infringement of a patent shall be urgent.

### **XI INTERNATIONAL PATENT APPLICATION UNDER THE PATENT COOPERATION TREATY**

#### *International Patent Application*

#### Article 81

- (1) The international patent application shall be the application filed in compliance with the Patent Cooperation Treaty (hereinafter: the Treaty). Any reference in this Law to the Treaty (in Articles 81 to 84) shall be, at the same time, considered to be the reference to the Regulations under the Patent Cooperation Treaty.
- (2) To the international patent applications filed with the Office as the receiving, designated, or elected office, the provisions of the Treaty, this Law and the regulations enacted by virtue of this Law shall apply.

#### *International Patent Application Filed with The Office as the Receiving Office*

#### Article 82

- (1) International patent application may be filed with the Office as the receiving office if the applicant is the Croatian national, or a natural person having the residence in the Republic of Croatia or a legal person established in the Republic of Croatia.
- (2) The international application referred to in paragraph (1) of this Article shall be filed in the language and in the number of copies determined by the regulation enacted by virtue of this Law.
- (3) The filing of the international patent application referred to in paragraph (1) of this Article shall be subject to the payment of the prescribed transmittal fee within the period of one month as of the date of reception of the international application.

*International Patent Application Filed with the Office as the Designated or Elected Office*

Article 83

- (1) The international patent application in which the Republic of Croatia is designated, in compliance with the provisions of the Treaty, for the grant of a national patent, shall be filed with the Office as the designated office, in the Croatian language, within the time limit and in the number of copies determined by the regulations enacted by virtue of this Law.
- (2) The international application in which the Republic of Croatia is elected, in compliance with the provisions of the Treaty, as the State in which the applicant intends to use the results of the international preliminary examination of that application for the purpose of being granted a national patent, shall be filed with the Office as the elected office, in the Croatian language, within the time limit and in the number of copies determined by the regulations enacted by virtue of this Law.
- (3) The filing of the international patent application referred to in paragraphs (1) and (2) of this Article shall be subject to the payment of a prescribed fee.

*Procedure Concerning the International Patent Application Filed with the Office as the Designated or Elected Office*

Article 84

- (1) The international patent application filed with the Office as the designated or elected office shall be published in the Office official gazette in the manner provided for in Article 31, paragraph (3) of this Law.
- (2) In respect of the international applications referred to in paragraph (1) of this Law, the time limit within which a request referred to in Article 32 of this Law may be filed shall not expire prior to the time limit prescribed by Articles 22 or 39 of the Treaty, as the case may be.
- (3) The Office shall not carry out a substantive examination of the international application referred to in paragraph (1) of this Article in respect to the inventions which have not been the subject of the international search in the procedure before the International Searching Authority in compliance with Article 17 of the Treaty, or have not been the subject of the international preliminary examination in the procedure before the International Preliminary Examining Authority in compliance with Article 34 of the Treaty.

**XII OFFENCES**

#### Article 85

- (1) Any legal or natural person shall be punished by a fine amounting from 20.000 up to 200.000 kunas if it, contrary to the provisions of this Law:
  1. makes, offers for sale, sells, or imports and stocks for such purposes a product which is manufactured according to the protected invention (Article 51, paragraph (2), subparagraph 1),
  2. uses or offers for use a process which is the subject matter of the protected invention (Article 51, paragraph (2), subparagraph 2),
  3. offers for sale, sells, uses or imports and stocks for such purposes a product which is obtained directly from the process which is the subject matter of the protected invention (Article 51, paragraph (2), subparagraph 3),
  4. offers or supplies a product which constitutes an essential element of the protected invention (Article 51, paragraph (3)).
- (2) A responsible person in the legal entity shall be also punished by a fine amounting from 5.000 up to 20.000 kunas.

#### Article 86

- (1) The commitment of offenses referred to in Article 86 of this Law shall, in addition to a fine, be subject to the pronouncement of the protective measure ordering the seizure of products resulting from or acquired by the commitment of offenses, and of objects (tools and implements) predominantly used in the creation of products infringing a patent, irrespective of whether they are the property of the perpetrator or not.
- (2) The decision referred to in paragraph (1) of this Article will comprise the destruction of the seized products and objects.

#### Article 87

- (1) Any legal or natural person shall be punished by a fine amounting from 5.000 up to 10.000 kunas if she/he files a patent application without being entitled therefor (Article 73).
- (2) The responsible person in a legal entity shall be also punished for the offense referred to in paragraph (1) of this Article by a fine amounting from 1.000 up to 5.000 kunas.

#### Article 88

- (1) Any legal or natural person shall be punished by a fine if she/it fails to mention the inventor in the application or if she/he mentions him falsely (Article 73).
- (2) The responsible person in a legal entity shall be also punished for the offense referred to in paragraph (1) of this Article by a fine amounting from 1.000 up to 5.000 kunas.

### **XIII TRANSITIONAL AND FINAL PROVISIONS**

#### *Validity of Granted Patents*

##### Article 89

- (1) The patents entered into the Office patent register up to the day determined for the application of this Law shall remain in effect and the provisions of this Law shall apply to them.
- (2) The owner of the patent, protecting the invention of the medicine for humans and animals or the invention relating to the application of substances and compositions in the treatment of humans and animals, for which the application was filed up to December 31, 1992 or the priority for such application was claimed up to December 31, 1992, may, in the procedure concerning the infringement of a patent, claim through an action only a remuneration for the period after January 1, 1993.

#### *Pending Granting Procedures*

##### Article 90

- (1) The provisions of this Law shall apply to all initiated granting procedures in which, up to the day of application of this Law, the final decision has not been made.
- (2) The applicants who had filed with the Office a request for the substantive examination of the application may within 6 months as of the day of application of this Law, file the request referred to in Article 32, paragraph (1), subparagraph 3, if it is more favourable for them.

#### *Pending Civil Procedures*

##### Article 91

The procedures concerning the infringement of a patent or of rights arising from a patent application which are pending on the day of application of this Law shall be completed under provisions being in effect up to the day of application of this Law.

*Implementing Provisions Enacted by the Director of the Office*

Article 92

The Director of the Office shall enact provisions referred to in: Article 13, paragraph (9); Article 17; Article 26, paragraph (2); Article 27, paragraph (2); Article 31, paragraph (3); Article 36; Article 38, paragraph (3); Article 39, paragraph (4); Article 45, paragraph (3); Article 47, paragraph (2); Article 48, paragraph (2); Article 49, paragraph (3); Article 81, paragraph (2); Article 82, paragraph (2); Article 83, paragraphs (1) and (2).

*Implementing Provisions Enacted by the Director of the Office with the Consent of the Minister*

Article 93

The Director of the Office, with the consent of the minister competent for the financial matters, shall enact the provision on the amounts of fees provided for by the provisions of: Article 13, paragraph (3); Article 25, paragraph (1), subparagraph 2, and paragraphs (6) and (9); Article 27, paragraph (3); Article 31, paragraph (6); Article 32, paragraph (3); Article 39, paragraph (3); Article 40, paragraph (1); Article 41, paragraph (3); Article 42, paragraph (3); Article 43, paragraph (4); Article 44, paragraph (5); Article 46, paragraph (4); Article 47, paragraph (3); Article 48, paragraph (3); Article 49, paragraph (4); Article 50, paragraph (2); Article 61, paragraphs (1), (2), and (3); Article 62; Article 66, paragraph (3); Article 67, paragraph (7); Article 71, paragraph (3); Article 77, paragraph (1), subparagraph 3; Article 77, paragraphs (2) and (3); Article 82, paragraph (3); Article 83, paragraph (3).

*Time Limit for Enacting Implementing Provisions*

Article 94

The provisions referred to in Articles 92 and 93 of this Law shall be enacted within 3 months as from the day of entering into force of this Law.

*Lapse of the Validity of Other Provisions*

Article 95

With the day of application of this Law the following shall lapse:

1. The Industrial Property Law (“Official Gazette of the Republic of Croatia” No. 53/91, 19/92 and 26/93) in the part relating to patents, except for the provisions on the confidential inventions (Articles 104 to 116) and representation (Article 172a) which shall apply up to the enactment of separate laws.
2. The Law Governing Administrative Fees in the Field of Industrial Property (“Official Gazette of the Republic of Croatia” No. 55/96 and 59/96) in the part relating to patents.

*Entry into Force and Application*

Article 96

This Law shall enter into force on the eight day as from the day of publication thereof in the Official Gazette of RH, and shall be applied after the expiration of 3 months as from the day of its entry into force.