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PATENT EXAMINATION GUIDELINES

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This Guideline is prepared to reflect the practice of the Agency in examining the patent applications and relevant operations of the Agency with respect to the tasks and responsibilities set out in the Law.

“Patent Examination Guidelines” provides practical information on the process of patent applications and requests examined by the Agency. The main aim is to ensure a standardized and systematic approach to be adopted in examining the applications and dealing with requests thereof.

Explanations and information given in each Chapter of this Guideline is intended to serve as a base for practical use by the Agency in their procedures, as well as the applicants and users of the patent system in Kosovo.

This Guideline include Chapters following the order of provisions related to the procedures in line with the Law and Administrative Instructions and is categorized in 11 main Chapters:

CHAPTER 1; provides general information on rules for application procedure

CHAPTER 2; defines the content of patent application and the formal requirements of the elements of patent application

CHAPTER 3; deals with the formal examination procedures of patent applications

CHAPTER 4; deals with the granting procedure of patents

CHAPTER 5; provides information on amendments to the patent application

CHAPTER 6; explains the procedures for reinstatement of rights

CHAPTER 7; explains the process for continuation of patenting procedure

CHAPTER 8; provides information on maintenance and termination of a patent

CHAPTER 9; explains the procedure for Supplementary Protection Certificate

CHAPTER 10; deals with the invalidity proceedings

CHAPTER 11; defines procedures for revocation of patent

Relevant articles for each item in the Chapters are noted with the indication as:

- “LAW” for the articles in “LAW NO. 08/L – 059 ON PATENTS”,
- “ADM. INS.” for the articles in “ADMINISTRATIVE INSTRUCTION (MTI) NO. 13/2016 FOR ON THE PROCEDURE FOR REGISTRATION OF PATENTS”

It should be noted that information included in this Guideline merely serves as an explanatory document of practices and procedures of the Agency in examining the applications and requests made by users. This Guideline should not therefore be seen a legal text or advice for the procedures within the Agency.

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CHAPTER 1. Application procedure

1.1 Where and how to apply for a patent?

LAW. Article 49

ADM. INS. Article 3

Patent application must be filed in writing, in 3 copies, directly at the Industrial Property Agency.

The electronic version (in WORD text format) of the application documents must be submitted within 2 weeks by the applicant.

Patent application shall be filed in the official languages of Kosovo. Application may be filed in a foreign language, however the translation of the application in the official languages of Kosovo, shall be submitted within 6 months from the submission of the application.

1.2 Who can file an application?

LAW. Article 3

ADM. INS. Article 4.2.3

A patent application may be filed by any natural or legal person.

The application may be in the name of one person or several persons may be named as joint applicants.

Persons who are not citizens of or have no residency in Kosovo have the right to have patent protection. Foreign applicants shall be represented by authorized representatives.

1.3 Receipt of the application

ADM. INS. Article 4.2

Upon receipt of the application, the date of receipt and application number shall be marked on the application documents by the Agency and a copy will be issued to the applicant.

1.4 Filing Date

LAW. Article 51, Article 69

Filing Date is the date on which the application is submitted with the minimum requirements to get a date for protection of the patent applied.

The Agency shall check the following requirements in order to accord a filing date:

Checklist for the elements to accord a filing date	Yes	No
Request to be granted a patent		
Information identifying the applicant or allowing the applicant to be contacted		
A description of the invention, even though such description does not comply with all the requirements prescribed by this Law and the bylaw.		

Actions to be taken by the Agency

- All requirements to accord a filing date is satisfied		
Yes	The Agency accords the filing date and starts formal examination (see section 3.2)	
No	The agency invites the applicant to correct the deficiencies determined in the checklist above, within 2 months from the date of receipt of the invitation.	
	Are the deficiencies indicated in the invitation corrected within 2 months?	
	Yes	The Agency accords the filing date as the date on which the deficiencies are corrected. The Agency notifies the applicant about the new filing date.
	No	The Agency rejects the application and notifies the applicant.

Explanations:

- Request to be granted a patent is made by filling the application form provided by the Agency. The application form itself constitutes the request to be granted a patent. However, the request may be filed by a written and signed document which shall be completed by the application form within the time period given by the Agency.
- Details of applicant(s) given in the application form meet the requirement for the information identifying the applicant, also contact information of applicant(s) is necessary for communication and recording the right holder.
- Content of the description should be sufficient to explain the invention. At the stage of determining a filing date for the application, a document that includes a description satisfies the requirement.
 - o Applicant may make a reference to previously filed patent or utility model application, instead of filing the description document. In this case the applicant must indicate the following details:
 - The filing date of the previous application
 - Application number
 - The office where it was filed
 - An indication that this reference replaces the description and any drawings.

CHAPTER 2. Content of the application

The application on recognition of a patent shall be filed in the form prepared by the Agency.

2.1 Application form

LAW. Article 49, Article 54

ADM. INS. Article 4.1

Patent application shall be submitted with the completion of “APPLICATION FORM FOR PATENT REGISTRY” provided by the Agency.

2.1.1 Request to be granted a patent

LAW. Article 50.1.1

ADM. INS. Article 4.2.1

The request to be granted a patent (application on recognition of the patent) is given by the completion of “APPLICATION FORM FOR PATENT REGISTRY”.

Application form constitutes a formal requirement, however if the documents filed contain an implicit indication that an attempt is being made to file an application for a patent, this can be regarded as having been complied with.

2.1.2 Title of invention

LAW. Article 54.1.2

ADM. INS. Article 4.2.1

The title must be short and indicate the technical designation of the invention. Title of invention should be indicated on the application form. The length of the title to be incorporated in the application form is recommended to be maximum 158 characters.

The title should not contain:

- A fancy or trade name,
- A person's name,
- The word “patent” or
- The abbreviation “etc.” or vague terms,
- Titles such as “Method”, “Apparatus”, “Chemical Compounds” alone or similar vague titles

The Agency checks the formal requirements as for the title, however, if any obvious failure is noted, there should be no need to take action at this stage. Deficiencies determined regarding the title of the invention shall be fixed during the substantive examination of the application.

2.1.3 Applicant's details

LAW. Article 51.1.2

ADM. INS. Article 4.2.3

The applicant's name and address should be entered in the Form. An applicant may be a natural or legal person. The Form must contain sufficient information to enable contacting the applicant.

Contact information to meet the requirement will be considered as one of the following:

- The name and address of the applicant's representative
- Fax number
- Phone number

Where the application is filed by more than one applicant, the requirement must be satisfied for each applicant.

- In case of more than one applicant, a written statement indicating the joint representative shall be submitted as an attachment to the application form.

The Agency considers the entitlement of the person named as applicant to apply for a patent.

The Agency checks the information given in the form as to the details of the applicant.

When an application filed, which does not give the applicant's name and address, the applicant must be notified of the failure, and the Agency may refuse the application if the applicant fails to file their name and address within two months of such a notification.

2.1.4 Inventor's details

LAW. Article 21

ADM. INS. Article 4.2.4

Information on inventor shall be incorporated in the application form. Details of the inventor shall be:

- Name, surname
- Address,
- Tel, fax and e-mail

Inventor has the option to waive from the right to be mentioned as inventor in the published patent data. In case of this waiver, this option shall be marked in the application form.

If the inventor is the applicant at the same time, this shall be indicated in the application form. Where there is more than one inventor, and the applicants are the inventors, this statement should be made for each inventor on the application form.

If the Agency determines any failure or deficiency in the above-mentioned elements, this should be notified to the applicant in the deficiency letter, together with the other ones if so.

2.1.5 Representative details

LAW. Article 50.2.1

ADM. INS. Article 4.2.5

If the applicant has appointed a representative, name and contact details should be provided in the application form.

The Agency checks the requirement for a representative as to whether:

- The applicant who does not have residence or headquarters in the territory of Kosovo is represented by an authorized representative
- The applicant who has residence and headquarters in Kosovo has appointed an authorized representative
- The applicant is represented by any of the employees or by a representative who has no obligation to be registered in the Representatives Registry.

2.1.6 Priority right

LAW. Article 63

ADM. INS. Article 4.2.6

Applicant may claim the priority of an earlier first application. Following elements should be indicated on the application form to claim a priority right:

- The date of the previous application,
- The number of applications
- The state or WTO member in or for which it was filed and

the Agency checks the claim for priority right as to whether:

- The date of previous application is correct
- The state is correct
- The file number is supplied and it is correct

2.1.7 Exhibition priority

LAW. Article 12.1.1

ADM. INS. Article 4.2.7

Applicant may claim exhibition priority. In this case, priority claim shall be indicated on the application form. In this case, the certificate on exhibition at the international exhibition must be annexed to the application form.

The certificate shall be issued by the competent authority declaring that the invention is actually presented at the place of exhibition. The certificate shall include the opening and closing dates of the exhibition and state the date and place of the display of the invention in the exhibition.

The certificate shall include sufficient information about the invention to identify that exhibited invention is the same with the invention applied for patent.

2.1.8 Division of application

LAW. Article 58

ADM. INS. Article 4.2.8

Patent application may be a divisional application separated from an earlier application. In this case, number of the first application shall be indicated on the application form. The request for an earlier filing date must be made when filing the application.

2.1.9 Address

ADM. INS. Article 4.2.9

An address for correspondence is required to be given in the application form. The address for correspondence must be in Kosovo.

2.1.10 Checklist for examination

The content of the application and the annexes shall be indicated on the relevant part of the application form. The Agency checks the elements of the application form and documents in the checklist given below. The checklist provides a practical and standardized way of controlling the formal requirements for a patent application, through following a step-by-step approach in determining if the formal requirements have been fulfilled.

Title of the invention	
The title of invention is not indicated in the application form	

The title contains: <ul style="list-style-type: none"> - A fancy or trade name, - A person's name, - The word "patent" or - The abbreviation "etc." or vague terms 	
The title is not the same as the title in the description	
Title is given with indication alone such as "Method", "Apparatus", "Chemical Compounds" or similar vague titles	
The title does not meet the requirement to clearly state the technical designation of the invention	
Applicant's details	
Information about the applicant(s) is missing	
Contact information is missing: <ul style="list-style-type: none"> - The name and address of the applicant's representative (if appointed) - Fax number - Phone number 	
Information about other applicants is missing (if there is more than one applicant)	
Written statement indicating the joint representative of the applicants is missing	
Inventor's details	
The inventor(s) are not specified	
Information about the inventor(s) is missing	
There is no statement that the inventor is the same person as the applicant (for each inventor)	
Information about other inventors is missing (if there is more than one inventor)	
Representative details	
A representative is appointed, however information about representative is missing	
Representative is not authorized	
The applicant has no residence nor headquarters in the territory of Kosovo and is not represented by an authorized representative	
Priority right	
A priority right is claimed, but the information on priority right is missing.	

Information on priority right is missing or incorrect	
<ul style="list-style-type: none"> - The date of previous application - The file number - The state 	
Exhibition priority	
An exhibition priority is claimed, but the certificate on exhibition is not submitted.	
Divisional application	
Application is divided from a previous application	
<ul style="list-style-type: none"> - Number of previous application is not indicated on the form - Date of previous application is not indicated on the form 	
Correspondence address	
Correspondence address is not indicated in the application form	
Address details are missing	
Signature	
Signature or stamp of the applicant is missing	
Signature or stamp of the representative is missing (if representative is appointed)	
Application documents	
Application form (request for patent recognition) is not submitted	
Description is not submitted	
Claims document is not submitted	
Abstract is not submitted	
Drawing(s) is/are not submitted	

While considering the elements in the checklist, if any missing element or part has been determined, the Agency shall note the deficiencies in the invitation letter to the applicant, to be remedied within two months from the receipt of the letter.

The invitation letter shall include any other deficiencies in the content or format of other documents set out in other Chapters of this Guideline, if relevant and necessary.

2.2 Attachments to the application form

LAW. Article 54

ADM. INS. Article 5

Patent application shall be accompanied by the attachments required if the necessity for an attachment arises. Further to the checklist for application content, the Agency will check the attachments listed below, with the explanations indicated for each element.

Attachments to the application form	
Certified copy of priority document is not submitted (if priority right is claimed in the application)	
Authorization for representative is not submitted (if a representative is appointed)	
Declaration on the joint representative of applicants is not submitted	
Certification on exhibition at the international exhibition is not submitted (if exhibition priority is claimed)	
Declaration of inventor on not to be mentioned in patent documents (if marked on the form)	
Proof of payment for administrative fees is not submitted	
Other relevant attachments	
Proof or indications related to a sample of applicable biological material	
Sequence list of nucleotide or amino acid (if the application contains exposure to one or more nucleotide or amino acid sequences)	

2.3 Description

2.3.1 General remarks

ADM. INS. Article 6.2, 3.1

The description must disclose the invention in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art.

The “person skilled in the art” is considered to be a technically competent person who is aware of what was common general knowledge in the art at the filing date (date of priority) of the application.

Sufficiency of disclosure must be assessed on the basis of the application as a whole whether:

- The application contains sufficient technical information to enable a skilled person to put the invention as claimed into practice; and
- The skilled person understands the contribution to the art of the invention as claimed

Since the skilled person is presumed to have the general technical background knowledge in the relevant art, the description shall not contain explanatory information regarding the technical field itself, as well as the knowledge common to the field obtained from literature. Furthermore, the explanations based on theoretical assumptions shall not be contained in the description.

In principle, each part with given titles in the subsections should be included in the description. However, there may be flexibilities or exemptions for specific cases where the content provides a better clear understanding of the invention disclosed.

2.3.2 Title of invention

ADM. INS. Article 6.1

The description shall first mention the title of the invention. Title of the invention to be included in the description shall be the same that is provided in the application form (see Section 2.1.2).

The title must be short and indicate the technical designation of the invention. The length of the title that is incorporated in the application form is recommended to be maximum 158 characters.

The title should not contain:

- A fancy or trade name,
- A person's name,
- The word "patent" or
- The abbreviation "etc." or vague terms,
- Titles such as "Method", "Apparatus", "Chemical Compounds" alone or similar vague titles

2.3.3 Technical field

ADM. INS. Article 6.1.1

The second part of the description shall specify the technical field of the invention to which it relates. Technical field may be specified with the terms in the relevant International Classification of Patents, if the exact class can be determined by the applicant.

2.3.4 Background art

ADM. INS. Article 6.1.3

In principle, the description should mention the closest prior art to be regarded as the background art which is known to the applicant. This kind of reference can be considered to be useful information for understanding the invention and its relationship to the prior art.

2.3.5 Technical problem and its solution

ADM. INS. Article 6.1.2, 6.1.4

The description shall define the technical problem and its solution in order to clearly understand the invention. Any advantageous effects of the invention with respect to the prior art should be stated to explain more specifically the solution to the technical problem.

2.3.6 Brief description of the drawings

ADM. INS. Article 6.1.5

If the application includes drawings, they should be briefly described in the description in a manner to identify the relation with the reference used in the description.

The description and drawings need to be consistent with one another, especially in the matter of reference numbers and other signs, and each number or sign must be explained.

2.3.7 Industrial application

LAW. Article 14

ADM. INS. Article 6.1.6, 6.1.7

The description should indicate explicitly the way in which the invention is capable of exploitation in industry, if this is not obvious from the description or from the nature of the invention.

Industrial application of the invention should be explained by way of realization of the invention as from the specifications given in the description and drawings, if provided in the application.

2.3.8 Method/procedure inventions

ADM. INS. Article 6.3.2, 6.3.4

If the invention relates to a method or procedure, the description should contain the key characteristics and specifications of the method that allows to be understood clearly and implemented, as such.

Where there are several methods of implementation of the same invention, the description shall specify each of them as separately.

2.3.9 Computer programs

ADM. INS. Article 6.3.3

Computer programs are excluded from patentability if claimed as such. However, the exclusion does not apply to computer programs having a technical character. In order to have a technical character, and thus not be excluded from patentability, a computer program must produce a “further technical effect” when run on a computer. A “further technical effect” is a technical effect going beyond the “normal” physical interactions between the program (software) and the computer (hardware) on which it is run.

Examples of further technical effects which confer technical character to a computer program, are the control of a technical process or of the internal functioning of the computer itself or its interfaces.

“Computer-implemented invention” is an expression intended to cover claims which involve computers, computer networks or other programmable apparatus wherein at least one feature is realized by means of a computer program.

The description for the inventions in the computer field should include the key components and interactions thereof as well as the functioning of the computer program itself.

The invention should not be deemed to be disclosed sufficiently where only the listing in computer programming language is provided. Therefore, the description should not contain the listing of the program, however the flow diagrams and other supporting information could be used with the description so as to understand and implement the invention.

Checklist

The Agency will perform formalities control within the format and context of the description, with the points in the checklist given below.

The checklist provides a practical and standardized way of controlling the formal requirements for the description, through following a step-by-step approach in determining if the formal requirements have been fulfilled.

In principle, each part with given titles in the subsections should be included in the description. However, there may be flexibilities or exemptions for specific cases where the content provides a better understanding of the invention disclosed.

The description doesn't contain the part on “Title of invention”	
Title of invention is not included in the description	
Title of invention is not the same as indicated in the application form	
The description doesn't contain the part on “Technical field”	
Technical field of the invention is not included in the description	

Relevant International Patent Classification code is not indicated (not compulsory)	
The description doesn't contain the part on "Background art"	
Background art as the closest prior art is not indicated in the description	
The description doesn't contain the part on "Technical problem and its solution"	
Title is missing in the description	
Technical problem and its solution is not explained in the description	
Brief description of the drawings	
The description doesn't contain the part on "Brief description of the drawings"	
Brief description of the drawings is not included in the description (if any)	
Reference list of elements is not included in the description	
Reference to elements in the drawings are mismatching	
The description doesn't contain the part on "Industrial application"	
Industrial application of the invention is not explained sufficiently	
Characteristics and specifications of the method is not explained sufficiently (where the invention relates to a method or procedure)	
The description contains the listing of the program (where the invention is in the computer field)	

2.4 Claims

2.4.1 General remarks

Art 56

ADM. INS. Article 7

Patent application must contain one or more claims. Patent claims shall define the technical characteristics in a manner to specify exclusively the technical features of the invention for which protection is sought.

2.4.2 Technical characteristics/features

ADM. INS. Article 7.1

The claims shall include the "technical features of the invention". Content of the claims must not contain explanations or statements other than technical features, such as the commercial advantages or any other matters not relevant to the sole technical characteristics.

2.4.3 Number of claims

ADM. INS. Article 7.2

The number of patent claims shall be realistic in relation to the nature of invention for which protection is sought. In principle there is no limitation as to the number of claims, however any case that causes complexity with the excessive number of claims that is not justified by the nature of the invention shall be taken into consideration.

Claims should be structured in a manner to be clear and concise in defining the subject matter of protection. Claims should not contain multiple unrelated inventions or multiple independent claims in one category.

In cases when there are several patent claims, they should be sequenced based on Arabic numeration.

2.4.4 Claim format (two-part form)

ADM. INS. Article 7.3

Claim format shall comprise two-part form:

- The first part or “introduction part (preamble)” should contain the technical features attributed to the prior art that defines the subject-matter of the invention. This statement can only be used in the independent claim.
- The second part or “characteristics part” should contain the additional technical features of the invention which relates to the new features for the prior art. This part, in combination with the first part defines the technical features of the invention for which protection is sought.

2.4.5 Claim categories

ADM. INS. Article 7.4

In general terms, claims are categorized in two main kinds as; product claims and process claims. If the invention is specified in a unique concept, but relates to both product and process, patent application may contain independent claims of different categories.

2.4.6 Independent/dependent claims

LAW. Article 56.2

ADM. INS. Article 7.5, 7.6

Independent claim contain the technical features of the invention and it is essential to use two-part form in drafting the independent claim. Inessential or optional features should not be included in the independent claim.

The independent claim should include sufficient details of interrelationship, operation or utility of the essential features to enable the scope of the claim. In principle, the number of independent claims is limited to one independent claim in each category.

Dependent claims contain each specific feature of the invention defined in the independent claim. If the two-part form is used for the independent claim(s), dependent claims may relate to further details of features not only of the characterizing portion but also of the preamble. Each dependent claim shall be in relation to the independent or other dependent claims.

2.4.7 Claim content and description

ADM. INS. Article 7.7

The content of the claims and the technical features specified in the claims shall be based on the features defined in the description. Therefore, the technical features in the claims should be consistent with the description. The claims must be clear and supported by the description.

It is essential that, claims shall not repeat the definitions and explanations given in the description. The claims shall solely define the technical features of the invention and the terms such “as defined in the description” or “as shown in the figure” shall not be used in the claims.

2.4.8 Reference to drawings

ADM. INS. Article 7.8

The claims shall not contain the terms like “as shown in the figure” if the application contains drawings. Technical features defined in the description and drawings can be cited with the reference numbers given in the respective documents. It shall be used in format indicating in the brackets.

2.4.9 Claims for Interrelated inventions

ADM. INS. Article 7.9

Where the invention meets the unity requirement but the invention relates to interrelated products or processes, independent claims could be structured for each.

The term “interrelated” is interpreted to mean “different objects that complement each other or work together”. This could apply for apparatus, products, systems or methods as well. For example; “plug and socket”, “transmitter – receiver”, “intermediate(s) and final chemical product”.

When the invention relates to alternative solutions, it is possible to cover in one independent claim.

2.4.10 Practical information / sample claims

As the claims are the most essential element of the patent in determining the scope of protection, claim construction is an important part of both for the applicants and for the patent offices in examining the patent application.

In order to make a better understanding for a claim construction, some basic samples from different technical fields are included in this Guideline. The samples are extracted from the “Patent Teaching Kit” published by the EPO.

Sample 1:

The invention:

A heating element for a washing machine which is cheap and compact and helps to reduce water consumption.

The heating element is a foil heating element at the bottom of the tub of a washing machine.

Claim 1: A washing machine with a foil heating element for heating a medium inside the tub of the washing machine, wherein the heating element is fitted to and adapted in its shape to the tub.

Claim 2: The washing machine of claim 1, characterized in that the foil heating element is glued to the inside of the tub.

Claim 3: The washing machine of claim 1, characterized in that the foil heating element is an integral constituent of the tub and has been in the tub during injection molding thereof.

Sample 2:

Invention

The invention is a new compaction material for a synthetic lawn which has reduced skin abrasiveness and is waterproof, ozone-resistant and stable to UV rays so as to ensure sports ground a long lifetime. It is shock-proof and has dewatering capabilities. It is ecological, i.e. it can be recycled and is environmentally friendly and non-allergic.

Synthetic turf for sport fields is normally made out of a mat onto which a plurality of plastic (usually polypropylene) fibers is mounted to simulate grass. The fibers are compacted with a layer of sand and rubber. The rubber may be mixed with the sand or added as a separate layer on a layer of sand. The most commonly used rubber is made of reclaimed tires. The invention relates to the use of a new rubber as compaction material for the synthetic lawn, all other elements of the synthetic lawn (mat, fibers and sand) being conventional.

Claim 1: ~~Compaction material for synthetic lawn, characterized in that said material comprises at least a thermoplastic elastomer chosen from among block styrene elastomers.~~

Claim 2: Material according to the claim 1, characterized in that said block styrene elastomers are hydrogenated.

Claim 3: material according to claim 2, characterized in that said block styrene elastomer is chosen from the group;

Styrene-Ethylene-Butylene-Styrene, (SEBS);

Styrene-Ethylene-Propylene-Styrene, (SEPS);

Styrene-Ethylene-Ethylene-Butylene-Styrene, (SEEBES)

Sample 3:

Invention

An isolated power converter with a damping network to protect the main switch against high voltage peaks created at the blocking time.

The invention is based on a switched-mode power supply as depicted. This type of power supply is used in particular as a flyback converter in entertainment electronics equipment, for example in television sets and video recorders, to provide a regulated DC output voltage. Note that the secondary circuit is not pictured here.

AC system, voltage peaks of up to 1 000 V may occur, presenting a risk for the switching transistor or difficulties when designing it. The invention therefore aims to provide an efficient damping network with few components and low losses.

Claim 1: A switched power supply with a subdivided primary with at least one tap, and a capacitor in each case in parallel with the two sub-windings.

Claim 2: A device according to claim 1, characterized in that the capacitances and the numbers of windings are selected such that oscillations arising upon deactivation of the switch have different resonant frequencies.

Claim 3: A device according to claim 1, characterized in that the capacitor which is connected to the switching transistor is smaller than the second capacitor.

Sample 4

Claim 1: A computer-implemented method of determining oxygen saturation in blood, comprising:

- *receiving data representing first and second electromagnetic radiation signals acquired by an electromagnetic detector from a blood-perfused tissue portion corresponding to two different wavelengths of light;*
- *normalizing the data representing said electromagnetic signals according to steps A, B and C to provide normalized data;*
- *determining oxygen saturation based on said normalized data according to steps D and E.*

Claim 2: A data processing apparatus comprising means for carrying out the method of claim 1.

Claim 3: A computer program [product] comprising instructions which, when the program is executed by a computer, cause the computer to carry out the method of claim 1.

Claim 4: A computer-readable medium having stored there on the computer program [product] of claim 3.

2.5 Drawings

ADM. INS. Article 8

Graphic representation of the invention, mainly technical drawings can be used as part of a patent application. This can include, for instance, perspectives, exploded views, sections and cross-sections, details on a different scale, etc.

Drawings may also cover “flow sheets and diagrams”, that can be used as means of drawing, where invention relates to computer programs, or in any circumstance to specifically explain the invention in this respect.

2.5.1 General conditions

ADM. INS. Article 8.1

General conditions and format of drawing is set out with the checklist below.

The surface used in the A4 sheet is bigger than 26,2 x 17 cm.	
The sheets contain frames round the usable or used surface.	

Margins of the page are under the minimum scales for: <ul style="list-style-type: none"> - Top margin 2.5 cm - Left margin 2.5 cm - Right margin 1.5 cm - Bottom margin 1cm 	
Lines in the drawings are not black and in the same thickness	
The space between the lines is colored or filled	
Shaded parts impair the visibility of the main lines (if cross-cuttings are shaded)	
The quality of drawings is not suitable for electronic or photographic reproduction	
Numbers, characters and reference signs placed in the drawings are not clear and simple	
Brackets, circles or parenthesis are used with number or characters placed in the drawing	
The scale of the figure (2/3 size) is not enough to be clearly distinguished for essential details (if necessary, the figure must be redrawn to larger scale)	
The height of characters and number placed in the figures is smaller than 0,32 cm	
The figures of a whole picture drawn on two or more pages are not suitable or understandable when assembling the sheets	
Figures are not placed in a reasonable way on the sheet	
Figures are not numbered (or not sequenced in proper order)	
Reference signs not mentioned in the description are used in the drawings (or vice versa)	
Reference signs used in the drawings don't match with the description or other documents of application	
List of reference signs is not submitted (recommended where drawings contain high number of reference signs)	
Textual part is contained in the drawings (except in cases when this is necessary, the drawing can contain short words such as "water, steam, closed" or block-diagram of short words, which are of importance and are necessary to understand the drawing)	

2.6 Abstract

LAW. Article 50.1.5, Article 57

ADM. INS. Article 9

Patent application must contain an abstract. The abstract gives brief technical information about the invention as disclosed in the description, claims and any drawings.

The abstract is merely for use as technical information and it should be an instrument for search purposes in the relevant technical field.

2.6.1 Content of the abstract

ADM. INS. Article 9.1, 9.2, 9.5

The abstract:

- Contains the title of the invention
- Indicates the technical field of the invention
- Contain a concise summary of the invention that allows a clear understanding of the technical problem, solution of the problem through explaining the simple use of the invention. Where applicable, it should contain the formula which best characterizes the invention.

The abstract shall not contain statements on the alleged merits or value of the invention or its speculative application.

The abstract shall not contain more than one hundred and fifty (150) words.

2.6.2 Reference to drawings

ADM. INS. Article 9.4

If the application contains drawings, the abstract shall indicate the most relevant figure (exceptionally more than one figure) to be accompanied with the abstract.

If the Agency considers that other figure(s) better characterize the invention, it can decide to display that figures are accompanied by the abstract.

Each main feature mentioned in the abstract and illustrated by a drawing needs to be followed by a reference sign in parenthesis.

2.6.3 Purpose of the abstract

ADM. INS. Article 9.5

The abstract is merely for use as technical information and it should be an instrument for search purposes in the relevant technical field. The abstract shall be drafted in a manner to give a concise summary that allows a clear understanding of the invention.

2.7 Biological material

LAW. Article 55.2

ADM. INS. Article 13

“Biological material” means any material containing genetic information capable of reproducing itself or being reproduced in a biological system.

2.7.1 Deposition of biological material

ADM. INS. Article 13.1.1, 13.1.2, 13.1.3, 13.1.4

The Agency checks the requirements mentioned in the list below.

2.7.2 Time limits for presenting biological material

ADM. INS. Article 13.2.3

Checklist for biological material	Yes	No
Invention includes the use of or concerns biological material		
The biological material is not available to the public and cannot be described in the application in a manner as to enable the invention to be implemented by a person skilled in the art		
Applicant states that a sample of biological material was deposited in accordance with the Budapest Treaty, no later than the date of application submission		
Depository institution and the entrance number of the deposited biological material are noted in the application		
Where the biological material has been deposited by a person other than the applicant, the name and address of the depositor is indicated in the application		
The depository information is provided within sixteen months from the date of filing the application or, if priority is claimed, after the priority date. This time limit is deemed to have been met if the information is submitted: <ul style="list-style-type: none">- Before completion of the technical preparations for publication of the patent application, or- If a request for early publication of the application is submitted, up to the date of such submission		

2.7.3 Selection of expert

ADM. INS. Article 14

Applicant may notify the Agency that the availability of the biological material is to be affected only by the issue of a sample to an independent expert nominated by the request of the applicant:

- Until the publication of recognition of patent issuance, when applicable,
- For twenty years from the filing date, if the application was rejected or withdrawn or was considered as withdrawn.

2.7.4 Availability of biological material

ADM. INS. Article 15

As from the date of publication of patent application related to biological material, the biological material deposited will be made available on request to any person having the right to inspect the files.

Such availability will be affected by the issue of a sample to the person making the request or, when the applicant has so requested, to an expert nominated by the requester.

2.7.5 New deposition of biological material

ADM. INS. Article 16

When the biological material is no longer available at the recognized depository institute, the availability requirement shall be deemed not to have been met if the new deposition of that material was made at a recognized depository institute under the same conditions set out in the Budapest Treaty.

In this case:

- A copy of receipt of the new deposit issued by a depository institute shall be submitted to the Agency within four months from the date of the new deposition, which contains the patent application or patent number, and
- The new deposit is accompanied by a statement signed by the depositor which verifies that the new biological material deposited is same as the original deposit.

CHAPTER 3. Examination procedure

Filing date is the date on which the application is submitted within the minimum requirements to get a date for protection of patent applied.

3.1 Determination of the application filing date

LAW. Article 69

The Agency shall check the requirements mentioned in the checklist below, in order to determine a filing date.

3.1.1 Requirements for filing date

LAW. Article 51

The Agency shall check the following requirements in order to accord a filing date:

Checklist for the elements to accord a filing date	Yes	No
Request to be granted a patent is submitted		
Information identifying the applicant or allowing the applicant to be contacted is provided		
A description of the invention is submitted (even though such description does not mean that all the requirements are met, but explains the invention)		

3.1.2 Correction of deficiencies for filing date

LAW. Article 69.2, 69.3, 69.4

Actions to be taken by the Agency for the correction of deficiencies are listed below:

- All requirements to accord a filing date is satisfied		
Yes	The Agency accords the filing date and starts formal examination (see section 3.2)	
No	The agency invites the applicant to correct the deficiencies determined in the checklist above, within 2 months from the date when invitation is received.	
	Are the deficiencies indicated in the invitation corrected within 2 months	
	Yes	The Agency accords the filing date as the date on which the deficiencies are corrected. The Agency notifies the applicant about the new filing date.
	No	The Agency rejects the application and notifies the applicant.

3.2 Formal examination

LAW. Article 70.1

Once the application has been accorded a filing date, the Agency shall examine whether the elements are submitted with the application listed in the checklist below:

Checklist for formal examination	Yes	No
The administrative fee for filing is paid		
The administrative fee is paid within one month from receiving the invitation by the Agency to pay the fee		
The translation of the application in the official languages of Kosovo is submitted within six months from the application (if the application is filed in a foreign language)		
The applicant who is a foreign natural or a legal person shall be represented by the authorized representative		
The application contains all the elements and necessary attachments as required:		
- Application form (request to be granted a patent) is submitted		
- Description of the invention is submitted		
- One or more patent claims are submitted		
- Drawing(s) referred in the description claims are submitted		
- Abstract of the invention is submitted		
- Power of attorney is attached (if the application has been filed by a representative)		
- Certified copy of priority documents is attached (if priority right is claimed in the application)		
- Certification on exhibition at the international exhibition is attached (if exhibition priority is claimed)		
- Declaration on the joint representative of applicants is attached		
- Declaration of inventor on not to be mentioned in the patent documents (if marked on the form) is attached		
- Proof of payment for administrative fees is attached		
- Proof or indications relating to a sample of applicable biological material (if the invention includes biological material)		
- Sequence list of nucleotide or amino acid (if the application contains exposure to one or more nucleotide or amino acid sequences) is attached		

3.2.1 Invitation to correct the deficiencies

LAW. Article 70.2, 70.3, 70.4, 70.5

If the Agency, during the examination, establishes that any of the formal requirements listed in the checklist in the Section 3.2 are not complied with, the steps defined below will be followed.

Actions to be taken by the Agency

- All requirements listed in the checklist in Section 3.2 are followed.		
Yes	The Agency makes a decision to grant the patent	
No	The agency invites the applicant to correct the deficiencies expressly indicated in the invitation, within 2 months from the date that the invitation is received.	
- Does the applicant requests to extend the time limit (request shall be made within 2 months from the receipt of the invitation)		
Yes	Are the deficiencies indicated in the invitation corrected within 3 months	
No	Are the deficiencies indicated in the invitation corrected within 2 months	
	Yes	The Agency makes a decision to grant the patent
	No*	The Agency rejects the application and notifies the applicant.
*If any deficiency regarding the priority claim is determined and notified in the invitation letter, non-compliance of this deficiency shall only result in the loss of priority right		

3.2.2 Additional documents

LAW. Article 70.6

The Agency has the right to require applicants to file any additional documents necessary for examining the application, by notification in writing and set a deadline for disposing them when it is deemed necessary.

3.3 Missing elements

LAW. Article 71

If the Agency determines that a part of description or drawing is missing, the following steps shall apply:

- The Agency shall notify the applicant to complete the missing parts within two months from the receipt of the letter
- If the missing part of the description or a missing drawing is filed with the Agency within the given time limit:

- That part of the description or drawing shall be included in the application, and the filing date shall be the date on which the Agency has received that part of the description or that drawing.
- If the missing part is not completed within the given time, it will be considered that the applicant is not referring to drawings or to the part of its description.

3.4 Examination for refusal grounds

LAW. Article 72

The Agency will examine the application whether the subject matter of application is not considered as invention, or the invention falls under the unpatentable subject matter content.

3.4.1 Excluded subject matter

LAW. Article 7.2, 8, 9,10

During this examination the Agency may use the checklist below:

The subject matter of application relates to:	
- Discovery	
- Scientific theory	
- Mathematical method	
- Aesthetic creations	
The invention is excluded from patentability if the subject matter relates to:	
- Schemes, rules and methods for performing mental acts	
- Schemes, rules and methods for playing games	
- Schemes, rules and methods for doing business	
- Programs for computers	
- Presenting of information	
A patent shall not be granted in respect of:	
- Inventions, the commercial exploitation of which would be contrary to public or moral order; such exploitation shall be deemed to be contrary to them, even if it is not prohibited by Law	
- Plants or animal variety, or biologic essential procedures for producing of planes or animals; this provision shall not apply to the micro-biologic procedure or their product	

- 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	
- Substances that are a result of internal nuclear transformations for the military purposes	
Patent shall not be granted in respect of biotechnological inventions which, in particular, concern the following:	
- Processes for cloning human beings;	
- Processes for modifying the germ line genetic identity of human beings;	
- Uses of human embryos for industrial or commercial purposes;	
- 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;	
- 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, do not constitute patentable inventions.	

Actions to be taken by the Agency

Is the subject matter of the application not considered as invention, or the invention falls under the unpatentable subject matter content?	
Yes	The Agency notifies the applicant with the reasons that due to which the patent shall not be granted, and shall invite the applicant 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.
No	The Agency performs the formal examination as defined.

- Does the applicant request to extend the time limit (request shall be made within 2 months from the receipt of the invitation)	
Yes	Are the responses of the applicant to the invitation submitted within 4 months
No	Are the responses of the applicant to the invitation submitted within 2 months
Yes	The Agency examines the responses and makes a decision on the grounds for the first notification.
No	The Agency rejects the application and notifies the applicant.

3.4.2 Industrial applicability

LAW. Article 14

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

“Industry” is understood in its broad sense as including any physical activity of “technical character”, i.e. an activity which belongs to the useful or practical arts as distinct from the aesthetic arts; it does not necessarily imply the use of a machine or the manufacture of an article.

3.4.3 Secret inventions

LAW. Article 15, 16, 18

An invention may be considered to be a secret invention, if it concerns state interests such as national defense or the security of the State.

If the Agency, when examining the application, considers that the invention concerns a secret invention, the application shall be forwarded to the Security Council of Kosovo (Competent Authority).

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

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 Agency.

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 them.

If the Competent authority considers that the invention is not secret, the procedure shall be carried out by the Agency.

CHAPTER 4. Grant of the Patent rights

4.1 Grant decision

LAW. Article 74.1

If it has been established that the patent application complies with all the requirements listed in the Sections 3.1; 3.2 and 3.4, the Agency shall issue a decision on the grant of a patent and enter the patent in the Register of patents.

4.2 Time to issue the decision

LAW. Article 74.2

The decision to grant a patent shall be issued:

- After the expiry of eighteen (18) months from the filing date, or if priority is claimed, the earlier date of priority.

4.3 Fees required

LAW. Article 48, Article 74.2

The below mentioned fees shall be paid before the decision on grant, or within two (2) months period after notification issued by the Agency:

- o The maintenance of a patent,
- o Printing of the publication, and
- o The fees for issuance of the patent certificate and patent specification have been paid

4.4 Effect of patent

LAW. Article 74.3

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

The scope of protection shall be determined by the contents of patent claims as applied.

4.5 Publication of patent

LAW. Article 75.1

Decision to grant a patent shall be issued after the expiry of eighteen (18) months from the filing date. The Agency shall publish the granted patent after the grant decision. The publication is made on the Official Bulletin of the Agency.

4.6 Time of publication

ADM. INS. Article 75.2

Patent is published after the decision on grant. However, the applicant may request that the decision for grant to be issued and the patent to be published even before the expiration of

the time limit of 18 months from the filing date, but not before ninety (90) days as from the filing date, or if priority is claimed, the date of priority. In this case of early publication, the additional fee shall be paid.

4.7 Content of publication

ADM. INS. Article 26

The content of publication of a registered patent shall cover the following elements:

- Patent number
- Patent application number
- Patent application filing date
- Date of patent publication
- Information regarding the priority right granted:
 - o The number of first application
 - o Date of first application
 - o The state or international or intergovernmental organization when the application was initially submitted
- Information regarding the owner of the patent:
 - o Surname, name and permanent residence for natural persons
 - o Company name and principal place of business for legal persons
- Information regarding the representative:
 - o Surname, name and permanent residence for natural persons
 - o Company name and principal place of business for legal persons
- Information regarding the inventor:
 - o Surname, name and permanent residence of the inventor, or
 - o Information concerning the declaration of the inventor in the sense that they do not want to be mentioned in the patent application
- Title of the invention
- Classification code according to international patent classification (ipc)
- Number and date of original application, in case of a separated (divisional) application
- Abstract of the invention
- Drawing or drawings referred to in the description of the application, respectively the chemical formula which, among all formulas contained in the application, best characterizes the invention.

4.8 Patent Certificate

LAW. Article 76

ADM. INS. Article 27

Patent certificate shall contain:

- Patent number
- Title of the invention
- Information on the patent owner:
 - o Surname and name for natural persons
 - o Name of company and principal place of business for legal persons
- Information on the inventor:
 - o Surname and name
- Date of certificate issuance
- Patent specification

4.9 Patent Specification

LAW. Article 77

ADM. INS. Article 28

Patent Specification shall contain:

- An indication that the patent is in force
- Number of patents
- Classification code according to international patent classification (ipc)
- Date of patent publication
- Information regarding the owner of the patent:
 - o Surname, name and permanent residence of a natural person
 - o Company name and principal place of business for a legal person
- Information regarding the inventor:
 - o Surname, name and permanent residence of the inventor
 - o Information concerning the declaration of the inventor in the sense that he does not want to be mentioned in the patent application
- Information regarding the representative:
 - o Surname, name and permanent residence of a natural person,
 - o Company name and principal place of business for a legal person
- Title of the invention
- Filing date of the application
- Particulars of the right granted priority
- Description
- Claims
- Drawings, if any, respectively formulas, if the patent is granted for inventions related to the field of chemistry.

4.10 Evidence on registered patent

LAW. Article 78

Patent owner shall submit to the Agency the written evidence that the patented invention complies with all the patentability requirements as to substantive content. The evidence should be based on search and examination reports that proves the invention complies the requirements to be granted a patent.

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.

4.10.1 Time limit for submission/extension (9 years)

LAW. Article 78.1, 78.4

The evidence on registered patent shall be submitted to the Agency no later than the expiry of the ninth year of the patent term. If the patent owner fails to submit the evidence in due time, the patent shall lapse on the expiration date of the tenth year of the patent term.

If the granting proceedings in a relevant office have not yet been finalized, the applicant shall inform the Agency accordingly within the time limit of the ninth year from the filing date.

Time limit for submission of evidence may be extended by the Agency for a period of maximum 90 days after the finalization of substantive examination procedure in the respective office.

If the evidence is not submitted in due time, applicant may request reinstatement of rights.

4.10.2 Submission fee

LAW. Article 78.2

Patent owner shall pay the submission fee for the evidence of the registered patent.

4.10.3 Requirement for evidence

LAW. Article 78.3

The written evidence shall be:

- A translation into an official language of a patent granted for the same invention by the European Patent Office, or

- One of the national and international offices which:
 - o Have the status of International Searching and Preliminary Examining Authority for international patent applications,
 - o And other offices, with whom, the Agency has signed a cooperation agreement.

4.10.4 Decision of the Agency

4.10.4.1 Examination of evidence

LAW. Article 79.1, 79.2, 79.3

The Agency checks the evidence as to the content and when:

- It finds that all the requirements of patentability requirements are met, it shall issue the decision declaring that the patented invention meets requirements on patentability
- The evidence is clear that the invention as claimed partly meets the requirements on patentability
 - o After this, the Agency shall issue a decision that declares that the invention partly meets the requirements conditions, and
 - o Amend the form request for patent recognition, respectively re-issue the Patent Specification after the relevant fee is paid
- The Agency finds that the invention does not meet the requirements on patentability, it shall issue the decision declaring the patent invalid.

4.10.4.2 Communication by the Agency

LAW. Article 79.4

The Agency shall communicate to the patent owner the decisions on partly or fully declaring the patent invalid (with respect to evidence submitted), and invite him to submit a written comment within two (2) months as from the day of receipt of the invitation.

4.10.4.3 Failure to reply

LAW. Article 79.5

If the patent owner does not reply to the invitation within 2-month time limit, the Agency shall issue a decision, where it declares that the patent and application did not have any effect.

4.10.4.4 Division of application

LAW. Article 79.6

If the Agency establishes, on the grounds of the submitted evidence, that the patent does not comply with the unity of invention requirement, it shall divide the patent into one or more patents preserving the filing date of the initial application or the date of priority if such priority is claimed, provided that prescribed fees are paid.

4.10.4.5 Publication the Agency decision

LAW. Article 79.7

Decisions of the Agency in respect of the results from the evidence submitted, shall be published in the official Bulletin of the Agency.

CHAPTER 5. Amendments to the patent Application

LAW. Article 59

ADM. INS. Article 21

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

The request for registration of an amendment in the registry shall be submitted in the form provided by the Agency and must contain:

- Number of patent application or patent
- Information regarding the applicant or patent owner (surname, name and permanent residence in case of a natural person, or company name and principal place of business in case of a legal person)
- Information regarding the representative (surname, name and permanent residence of the representative of a natural person, or company name and principal place of business of a legal person)
- Signature of the person submitting the request or his representative
- An indication regarding the type of amendment

The request shall be accompanied by:

- Evidence for the legal basis of amendments for which registration is requested (a

- contract or document) if there was any amendment regarding the applicant or patent owner
- Authorization, if the procedure regarding the registration in the registry was created through a representative
 - Evidence on payment of administrative fees
 - A new authorization for the new applicant or the patent owner (if the amendment in registry, changes the applicant or patent owner who is a foreign citizen or a legal person)

The contract or public document that identifies the legal basis of the amendment shall be:

- Provided in the original or on a certified copy, in its entirety or in part which clearly demonstrates that the amendment is performed
- Translated into official languages

When a request for registration of an amendment is related to several applications of the same applicant or owner, a single application may be submitted with:

- Application numbers and/or patent numbers for all applications or granted patents in question are listed in the request
- Appropriate number of documents copies and proofs, and also the marked number of the application or patent in which the original documentation has been filed
- Payment of fee for each application

Amendments or changes related to the representative and any changes related to the correspondence address shall be entered in the Register.

Procedures for amendments and changes shall apply the same as for the registration of transfer of rights, licenses, privileges, tax execution and bankruptcy.

5.1 Entry of changes in the Registers

LAW. Article 60

ADM. INS. Article 21,22, 23

The Agency checks the requirements for entry of changes in the Register, and if it determines any deficiency, the Agency invites the requesting party to remedy deficiencies within sixty (60) days of receipt of the invitation. Upon request, the time limit may be extended for an extra 60 days.

If the requesting party complies with the invitation within the limit, the Agency shall issue a decision on registration of the amendment.

If the requesting party does not respond to the invitation within the time limit, the request for the amendment shall be deemed withdrawn.

Having completed the procedures, the Agency shall issue a decision on the entry of changes in the Register 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.

The changes, as entered in the Register, shall be published in the Bulletin of the Agency. Information published in the Bulletin will be presented by international INID codes for patents.

5.2 Correction of deficiencies in the Documents

LAW. Article 61

Formal errors in the documents filed with the Agency, shall be corrected by a written request filed by the applicant or owner of the patent owner. The request shall be processed after the payment of the relevant fee.

Only linguistic and technical errors in the decisions of the Agency may be corrected.

CHAPTER 6. Re-establishment (Reinstatement) of Rights

LAW. Article 80

An applicant or the owner of a patent who, despite the due diligence required by the circumstances, failed to perform, within a time limit prescribed by the Law or sub-legal act, may request to have their rights re-established.

Checklist for the request on re-establishment of rights	Yes	No
Request is made upon failure to observe a time limit		
The request for re-establishment of rights is filed within three (3) months: <ul style="list-style-type: none"> - From the day on which the reason of failure ceased to exist, and - From the day they became aware of the failure (if the applicant has later learned of the failure) 		
The request is filed after the expiration of one (1) year from the date of failing to comply with the time limit. (If "yes" the request is inadmissible)		

The request contains: - Number of patent application or patent number - Information regarding the person who submits the request - Information regarding the representative, if any - Signature of the person who submits the proposal or his/her representative		
Relevant fee is paid for the request		
Legal grounds and the facts are presented		
Evidence for justification of the request is submitted		
Applicant fulfilled the actions that have not been undertaken within the prescribed time limit. (the actions that caused the loss of right shall be fulfilled with the request)		
Re-establishment of rights shall not be requested in connection with the failure to comply with the time limit for the following actions. The Agency checks whether the re-establishment of right is requested for: - Time limit after re-establishment of rights expired - The extension of a time limit - The priority rights - Restoration of priority right - Correction or addition of the priority right - Continuation of procedure - Any decision in the procedures before the Agency, involving several persons.		

Actions to be taken by the Agency

Formal requirements in the checklist are fulfilled	
Yes	The Agency examines the request for making its decision.
No	The Agency shall invite the person who has submitted the request to fulfill the formal requirements within a period of 2 months from receipt of the invitation.
	Are the deficiencies indicated in the invitation corrected within 2 months
Yes	The Agency examines the request for making its decision
No	The Agency shall issue a decision to refuse the request for restoration of rights
Is the request, together with the grounds and evidences justifiable.	
Yes	The Agency shall issue a decision approving the request for re-establishment of rights.

No	The Agency rejects the request entirely or partially. Agency shall inform the person that submitted the request for the reasons of rejection, in whole or in part, and will invite him/her to provide comments regarding those reasons, within a period of 60 days.
	<ul style="list-style-type: none"> - If the person who submitted the request does not provide comments for the reasons within the time limit, it shall be considered that they agree with them, and the Agency will issue a decision rejecting the request for restoration of rights. - If the person who submitted the request provides the comments, the Agency will examine the facts on which it is based and shall issue an appropriate decision

Indications regarding the re-establishment of the rights will be published in the Bulletin. Information published in the Official Bulletin will be presented by INID codes.

Any person who has in good faith used or made effective and made serious preparations for using an invention which is the subject of a granted patent in the period between the loss of rights and publication of indication regarding the re-establishment of rights, may without payment continue such use in the course of their business or for the needs thereof.

CHAPTER 7. Continuation of the Procedure

LAW. Article 81

The applicant for or owner of a patent may request continuation of a procedure when the applicant has failed to comply with a time limit for an act in a procedure with the Agency and when that failure has the direct consequence of causing a loss of right.

Request for the continued processing may be filed within two (2) months from the day on which the applicant learned about the legal consequences of loss of the right.

The Agency shall authorize the continued processing, provided that the applicant:

- Files a request for the continued processing,
- Performs all the required acts within the prescribed time limit, and
- Pays the fee in accordance with article 48 of this law.

If the omitted acts have not been performed within the time limit, or if the fees 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 Agency.

A request for the continued processing shall not be filed, if the applicant has failed to fulfill the following conditions:

- A request for continuation of procedure after time limit thereof expires
- A request for extension of time limit
- A payment on administrative fee and payment fee on patent maintenance
- Filing the request for:
 - o The priority rights
 - o Restoration of priority right
 - o Correction or addition of the priority right
- For all the decisions in the procedures before the agency involving several parties.

If the Agency approves the request for continuation of procedure, the proceeding shall be restarted from the last action.

CHAPTER 8. Maintenance and termination of a patent

LAW. Article 83

The term of a patent shall be twenty (20) years from the filing date of the application. The maintenance of rights conferred by a granted patent shall be subject to payment of annual fees.

The annual fees referred shall be payable for the third and every subsequent year, calculated from the date of filing of the application. The fees for maintenance of the patent can be paid by any person.

The due date for the payment of an annual fee is the day of the relevant year and corresponds to the day of the filing date.

If the patent owner fails to pay the annual fees within due date, the fee may be paid within an extra period of six (6) months, subject to an additional fee.

If the patent owner will not pay the annual fee for the maintenance of a patent, the validity of patent shall end on the first day after the date foreseen for payment has expired.

The maintenance of rights conferred by a granted patent shall be subject to payment of annual fees prescribed by a sub-legal act issued by the Minister.

CHAPTER 9. Supplementary Protection Certificate

9.1 Supplementary Protection Certificate

LAW. Article 84-96

ADM. INS. Article 33

Supplementary certificate for protection of pharmaceutical products and plant products may be granted 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.

The Certificate shall take effect promptly after the expiration of the term of the basic patent.

The rights conferred by the Certificate shall run for a period equal to the period which elapsed between the filing date 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.

The duration of the Certificate may not exceed five (5) years from the date on which it takes effect and shall be specified in the decision issued by the Agency.

The duration of the Supplementary Protection Certificate shall be extended by six months in the cases that Article 36* of Regulation (EC) No 1901/2006 applies (*where the holder proves with the documents that an application includes the results of all studies conducted in compliance with an agreed pediatric investigation plan and only if the product is authorized in all EU Member States).

9.2 Request for Supplementary Protection Certificate

Request for granting a supplementary protection certificate shall be submitted in the form, which shall be prepared by the Agency.

Data on medical products intended for human beings and animals and for plant protection products will be registered in the Supplementary Protection Certificates Registry (hereinafter: Certificates):

- Number of applications for issuance of the certificate
- Filing date of the application
- Product name, for which the application was submitted for issuance of certificate (chemical or general name)
- Certificate number (application and registration number)
- Date when the decision was issued for the issuance of the certificate
- Information regarding the application for extending the duration of the certificate

- Information regarding the applicant (surname, name and permanent residence for a natural person, or company name and principal place of business for a legal person)
- Information regarding the owner of the Certificate (surname, name and permanent residence for a natural person, or company name and principal place of business for a legal person)
- Information regarding the representative (surname, name and permanent residence for a natural person, or company name and principal place of business for a legal person)
- Application number and date of the basic patent application and the title of the invention
- Number and date of first authorization for placing the product on the market of Kosovo, and the product name
- Number, date and place of the first authorization for placing the product on the Community market (if any)
- Duration of the certificate
- Information regarding annual fees paid for maintenance of the Certificate
- Information regarding how and conclusion of administrative procedure by the decision of the Agency
- Information regarding the termination of rights due to failure to pay annual maintenance fees
- Information regarding amendments in relation to:
 - o The applicant or owner of the Certificate (name, principal place of business, permanent residence, representative and others)
 - o Transfer of rights, licenses, privilege, tax execution and bankruptcy
- Information regarding the procedure for declaration of the certificate as invalid (filing date, the applicant, type and date of decision)
- Information regarding the termination of validity of the certificate; legal basis and the date of termination and the extent of termination in case of partial termination due to cancellation of filing procedure
- Other information regarding the application, if necessary

9.3 Publication of Supplementary Protection Certificate

Information included in the application for certificate will be published in the Official Gazette as follows:

- Application number for Certificate issuance;
- Application filing date;
- Basic patent number;
- Invention title;
- Product name, for which the application for issuance of certificate was submitted;
- Information regarding the applicant (surname, name and permanent residence for a natural person, or company name and principal place of business for a legal person)
- Information regarding the representative (surname, name and permanent residence for a natural person, or company name and principal place of business for a legal entities)

- Number and date of authorization for placing the product on the market and product name
- Number, date and country of the first authorization for placing the product on the market, or information on the number and date of first authorization if the authorization, as filed, is not the first authorization for placing the product on the market.
- In case of publication of the decision on rejection of application, regarding the issuance of the Certificate, the information shall be published together with the date of issuance of the decision
- In case of publication of the decision of issuance, the information shall be published together with:
 - o Date of issuance of the decision
 - o Certificate number
 - o Certificate duration
 - o Certificate owner
- In case of publication of the termination of validity of the certificate, the information shall be published together with the legal basis and the date of termination of the Certificate

9.4 Maintenance of Supplementary Protection Certificate

Annual fee for maintenance of the Certificate shall be paid to the Agency for each year of its effective duration in an amount determined in the list of fees.

The annual fee for maintenance of the Certificate relates to a 12-month period which begins on the day and month of filing the basic application for patent, starting from the time the basic patent was terminated, and every year is charged separately.

If the final period is shorter than twelve months, the annual fee shall be paid for the entire year.

If the certificate owner does not pay the annual fee in due time, it can be paid in an additional period of six months provided that the additional administrative fee is paid.

The Agency shall notify the owner that they did not include the payment of annual fee for maintenance of the certificate and for the consequences of such exclusion, as well as for the opportunity of payment within 60 days from the date of invitation.

The owner shall pay the first annual fee for maintenance of the certificate within 60 days from the date of invitation made by the Agency.

CHAPTER 10. Invalidity proceedings

Any interested party may submit a request for declaration of invalidity of a patent. The procedure regarding the declaration of validity of a patent, is initiated with a written request to the Agency.

10.1 Request for invalidity declaration

Article 101.2

The request for declaration of invalidity shall contain:

- The information related to the application submitter
- Number of patents against the application is submitted, the patent owner's name and title of the invention
- 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 and support the base
- The information regarding with the authorized representative of patents if the application is submitted by the representative
- Proof of payment of administrative fees for application for declaration of invalidity, as referred to in article 48 of this law.

10.2 Grounds for invalidity

LAW. Article 102

Any interested party may submit a request for declaration of invalidity of a patent on the grounds that:

- Invention is related to an excluded subject matter defined by the Law
- Invention is excluded from patentability
- Invention is contrary to public order or moral
- Invention relates to unpatentable biotechnological invention
- Invention relates to plants or animal variety
- Invention relates to methods of treatment/diagnosis
- Invention relates to nuclear transformations
- Invention relates to processes on human body
- Invention relates to discoveries of human body and its elements
- Invention is not sufficiently disclosed in a very clear and complete way that can be performed by a person with knowledge in that area
- Invention is not new as defined in the Law
- Invention does not have inventive step, as defined in the Law
- Invention is not applicable in the industry

10.3 Time limit – entitled persons

LAW. Article 103

Request for declaration of invalidity of the patent can be filed at any time during the time of patent protection from any natural or legal person, or ex-officio from the Agency.

The procedure for declaring the patent invalid is conducted by the Agency, through the offices with which the Agency has signed a cooperation agreement in search and examination work.

10.4 Examination of conditions for declaration of invalidity

LAW. Article 104

The Agency checks the formal requirements for the request for invalidity. If the Agency determines deficiencies with the request, the applicant shall be invited to correct deficiencies within two (2) months from the date of receiving the invitation.

If the applicant does not correct the deficiencies within the time limit, the Agency shall refuse the application.

The Agency will communicate a copy of the request for declaration of invalidity together with the evidences, to the patent owner to respond and make changes when necessary, in the description, patent request and drawings within sixty (60) days from the date of receipt of the invitation.

The Agency invites both parties, whenever necessary, to submit their objections in submissions of opposing party within sixty (60) days from the receipt of invitation.

During the procedure of the request declaring the patent invalid, all written communications results of the examining offices and the responses will be submitted to all parties in the proceedings.

Upon reasonable request, the Agency may extend the time limits which will not exceed sixty (60) days.

10.5 Decision regarding the declaration of invalidity of the Patent

LAW. Article 105

Having completed the formal requirements for the request for declaration of invalidity, the Agency starts the proceedings with the examination of the request through the examining offices (with which the Agency has signed a cooperation agreement in search and examination work). The Agency decides on the basis of the results of the substantive examination, and makes a decision:

- To declare the invalidity of a patent, entirely or partially, if determined that the requirements for grant of a patent are not met
- To refuse the request if it determines that the requirements for the grant of a patent are met

Before the decision of partial invalidity, the Agency informs the parties that the amended text of the patent will remain in the patent and invites the 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.

If parties agree with the text which the Agency will keep it on the patent or if the parties do not respond to the invitation, the Agency invites patent owner to pay an administrative fee within sixty (60) days from the date of receiving the invitation for reissuing a detailed description of the patent. If the fee is not paid on time, patent will be declared invalid.

If the patent is declared invalid, all legal effects from the filing date shall be deemed nonexistent.

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

CHAPTER 11. Revocation of patent

11.1 Basis for Revocation

LAW. Article 106

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

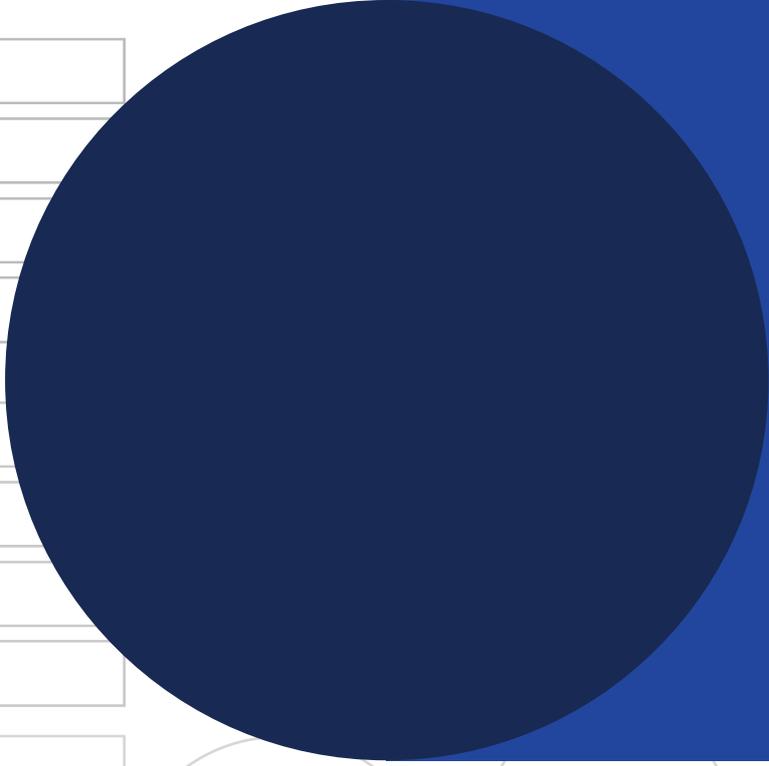
- That practical biological material that is deposited in an authorized institution no longer exists or the mentioned material is not available to public
- That its availability to the public through the authorized institution in which it was deposited was discontinued in the period longer than foreseen.

11.2 Request for Cancellation

LAW. Article 107

Proceedings for cancellation of the decision granting the patent begin with the submission of the request for cancellation at the Agency.

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 the annulment of the decision that grants the patent.



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