

у случају да након суштинског испитивања, патент не буде признат, онда се сматра да права из пријаве никад нису ни настала.

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ADMINISTRATIVE PROCEDURE FOR THE GRANT OF A PATENT

Summary

A patent is a legal form of protection granted for an invention. In order to obtain patent protection, an administrative procedure must be carried out before the Intellectual Property Office, which is organized as a special governmental body under the supervision of the Ministry of Economy. During this procedure, it is assessed whether the criteria of novelty, inventive step, and industrial applicability are met. The procedure for granting a patent is one of many specialized administrative procedures within the domestic legal system. The necessity of distinct procedural rules in this field is generally not questioned, given the complexity of intellectual property law. A notable deviation in this type of procedure concerns the time frame for deciding on the application. This period is significantly longer than in general administrative procedures; due to the complexity of its multi-phase structure, the decision-making process often takes several years, in stark contrast to the 30- or 60-day deadlines prescribed by the General Administrative Procedure Act. Nevertheless, such duration is inherently justified, as the procedure does not rely solely on conventional legal expertise. In the substantive examination phase, legal knowledge proves insufficient, and the involvement of experts from the fields of natural, technical, or medical sciences becomes essential in order to assess whether the invention meets the substantive legal requirements for protection. Considerable attention is given to the timely payment of fees, which are by no means insignificant. A patent is granted only upon the phase of publication of the application, which represents the final stage of an exceptionally lengthy procedure. Therefore, the legislator has introduced the concept of the "right arising from the application" to address this issue. This legal mechanism provides the applicant with the same rights as if the patent had already been granted. In other words, under the deferred examination system applied in the national framework, the right is provisionally recognized before the substantive examination of the application begins. Another

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justification for this legal construct is the fact that, upon the publication of the application, third parties become aware of the invention for which protection is being sought. This leads to a loss of confidentiality, allowing third parties to potentially exploit the invention before protection is formally granted. However, if the substantive examination ultimately results in the refusal of the patent, it is deemed that the rights arising from the application never existed.

Key words: *administrative procedure, special administrative procedure, patent, invention, Intellectual Property Office, special governmental bodies.*