

Legislation Related to Access and Rights to Genetic Resources Czech Republic

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Introduction

Genetic resources have represented and still represent even in our modern society important sources for human existence and survival, due to their actual and potential values. This is why they are discussed during the highest international fora and dealt in important international treaties. Two of them – namely Convention on Biological Diversity (CBD) and International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) established the sovereign right of states over genetic resources on their territory. This important fact, changing previous principal of common heritage of whole mankind over genetic resources, initiated series of discussions and international negotiations. Within the Convention on Biological Diversity a special Ad Hoc Open-ended Working Group was established in 2000 with the mandate to develop guidelines and other approaches regulating access to genetic resources and their benefit sharing. The Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of the Benefit Arising from their Utilization, adopted officially in 2002, represent the first outcomes of the Group, in the form of a not legally binding instrument. The World Summit on Sustainable Development initiated the call for action to negotiate an international regime to promote the fair and equitable sharing of benefits arising out of utilization of genetic resources. The eighth meeting of the Conference of the CBD Parties (so far the last CBD highest meeting) held in 2006 (Curitiba, Brazil) supported further work of the Ad Hoc Open-ended Working Group to continue the elaboration and negotiation of the international regime and established a group of technical experts to explore options for the form and functioning of an internationally recognised certificate of origin. The Conference underlined necessary cooperation and coordination of activities in this sphere with other international organizations and conventions, especially those dealing with intellectual property rights (WIPO).

Parallel to negotiations on an international regime, regulations, including legislative norms, are developed at national level. This regards both countries of origin of genetic resources, i.e. donor or providing countries, as well as recipient countries. The presented study tries to analyze the Czech Republic legislation in force with respect to genetic resources, how related Acts reflect in their specific Articles required principals. The analysis is focused mainly to environmental and agricultural legislation, as majority of genetic resources belongs under jurisdiction of these sectors. Nevertheless legislation related to intellectual property rights applied to living organisms and biotechnology needs to be taken into account. In this respect, the Patent Act (Acts on Inventions) and related Act on Protection of Biotechnological Inventions represent a complementary legislative norms (under jurisdiction of the Ministry of Industry and Trade).

Valuable varieties and landraces of plants and animal breeds have been conserved in the Czech Republic, representing jointly with their wild relatives valuable sources for further use. They need to be protected both *ex situ* and *in situ*, depending on their character. The main genetic resources conserved and further treated can be divided into the following groups: wild plants and animals, agricultural and garden crops, forest woody species, farm animals and game.

For the Czech Republic as a member state of the European Union, the compliance of its national legislation with this of the European Union is mandatory. To these relations the preceding study (Tošovská E., 2006 – in Czech) of wider scope was focused. This analyzed legally binding instruments related to genetic resources at three existing levels: international, regional and national. The results of the first two groups analysis were identical with outcomes of similar studies done at regional or at other countries levels (cf. e.g. Pacon A.M., 2006, In: Feit U., Wolff F.: European Regional Meeting on an Internationally Recognized Certificate of Origin/Source/Legal Provenance, p. 55–72). Therefore, the presented study in English is restricted to a deeper analysis of the Czech legislation at national level.

National Legislation Analysis

The fact that international legally binding instruments give the framework for access and rights to genetic resources does not substitute role of national legislation, which has to reflect international commitments. Each Party has to create condition in its national legislation enabling access to genetic resources to other Parties and not imposing any restrictions that run counter to the objectives of the international treaties. As mentioned in the Introduction, the Czech national legislation regarding access to and benefit-sharing of genetic resources reflects the Czech Republic membership in the European Union (EU) and its status as a Party to related international treaties, especially the Convention on Biological Diversity (CBD) and International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA). Thus access and benefit sharing regulations need to respect provisions of international treaties, including principals of Prior Informed Consent (PIC) and Mutually Agreed Term (MAT). The following analysis gives a brief characterisation of the Czech legislative norms, which in different areas regulate different aspects of access and benefit sharing principles and thus they are connected with the mentioned treaties and their implementation by the Czech Republic as a Party.

A key element in access to genetic resources represents granting of protection rights to a particular developed genotype (potential genetic resource), which respects possibility of its use for further breeding and research, regardless if these rights are granted on the basis of the *sui generis* system of protection rights to plant varieties or on the basis of granting patent (as to patent protection the access to genetic resources is more complicated as discussed below). Exception in protection rights with the aim to enable breeding of further varieties or breeds, known as “breeders exception”, is an important tool of access to genetic resources. It recognizes that a real progress in breeding depends on access of all breeders to the new commercially used varieties of plants and animal breeds. Only under such conditions continuous genetic improvement and broad genetic basis of newly bred cultivars and breeds can be guaranteed in a long-time perspective. This is why that also this aspect is considered when analysing legislation on genetic resources access and benefit-sharing.

The following analysis includes access to plant genetic resources, especially to plant and microorganism genetic resources for food and agriculture, to animal genetic resources and to reproductive material of important forest woody species. Protected wild plants and animals are also included and last but not least access to biological material protected through patents.

I. Plant Genetic Resources for Food and Agriculture, Animal Genetic Resources, Genetic Resources of Forest Trees, Wild Organisms and Landscape

The *Act No. 408/2000, on Protection of Plant Varieties Rights*, as amended, plays an important role in access to plant genetic resources. This Act regulates:

- Rights and obligations with respect to new plant varieties.
- Competence and sphere of activities of the state administrative authorities in the field of rights to plant varieties.
- Proceedings for granting plant varieties rights.
- Control of varieties maintenance.
- Imposing sanctions for infringement of obligations stipulated by this Act, which are in competence of the EU member states according to EC Directive No. 2100/94, on Community Varieties Rights (Art. 1).

The plant variety rights may be granted to varieties of all plant genera and species, including their hybrids (Art. 3). The plant variety rights may be granted to the variety which satisfies requirements on: novelty, distinction, uniformity, stability (Art. 3.2). The plant variety rights could not be granted to variety to which were granted EC plant variety rights.

Breeder, who is a citizen of the Czech Republic or other member state or other member of the European Union, as well as person having his/her registered office in the Czech Republic, other member state or other member of the European Union shall be entitled to present application for granting plant variety rights to a variety (Art. 8.1). The Central Institute for Supervising and Testing in Agriculture shall grant the applicant the plant variety rights to the variety and shall approved the proposed variety denomination by issuance of breeder certificate, provided that all conditions stipulated by the Act have been met, otherwise the proceeding shall be terminated (Art. 16).

The holder of the plant variety rights has an exclusive right to use protected variety in the territory of the Czech Republic for the purposes defined in Art. 19.1 (production or propagation, conditioning for purpose of propagation, offering for sale, sale or other marketing, export, import, stocking for preceding purposes). The holder may provide his/her consent with the use of protected variety (licence) to a third person. The licence is provided in writing and must include an agreement on the licence charge (Art. 19.2).

To genetic resources access and benefit sharing, especially Art. 19.9 is related. As violation of the plant variety rights shall not be considered the use of propagation material for the following purposes: research, development of further varieties and handling with these varieties, own use of natural person.

Art. 19.10 introduces into Czech legislation principle of so called “farmers privileges”, known from international technical literature. Persons operating in agricultural

production (growers) have the right to use for their own purposes material which obtained through planting of seeds or planting material of protected variety (“farm protected seeds”) without agreement issued by holder of plant variety rights (except for a hybrid or artificial variety). In utilization the growers are not limited as to the quantity of production and they can process farmers seeds or planting material either themselves or through suppliers or processing services. The holder of plant variety rights is entitled to request information in writing from growers and seed processors on farm protected seeds. Growers are obliged to pay holder of plant variety rights remuneration for the use of farm protected seeds, which is usually 50 % of royalty in respect to licence of certificated reproduction material of corresponding variety.

On the basis of Art. 21.1 the Ministry of Agriculture “may grant a compulsory licence for use of protected variety to one or more persons ... if the holder refuses to issue a licence for such use in a required scope or if such use is in public interest.” If the compulsory licence was granted to the holder regarding use of biotechnology invention, the holder of licence is entitled to “cross-licence” for the use of protected variety (Art. 21.6).

The **Act No. 148/2003, on Conservation and Use of Genetic Resources of Plants and Microorganisms for Food and Agriculture**, as amended, is a Czech legislative norm closely corresponding to CBD diction of rules on genetic resources access and benefit sharing. The Act regulates conditions and procedures of conservation and use of plants and microorganisms genetic resources for food and agriculture in the territory of the Czech Republic, of biological and genetic diversity conservation, as well as of their use for needs of present and future generations. These conditions and procedures are defined in the National Programme on Conservation and Use of Genetic Resources of Plants and Microorganisms for Food and Agriculture (Art. 1.1). The Act regulates also “collection, evaluation and documentation of genetic resources, rights and obligations of physical and legal persons in protection, conservation and use of these resources and competence of state administration, including state supervising and imposing sanctions for infringement of commitments stipulated by the Act “ (Art. 1.2).

Collecting of genetic resources is regulated by Art. 11. “Designated person is entitled in case of need or with the aim to enlarge collection of genetic resources to ask in written a participant in the National Programme to provide sample of genetic resource” (Art. 11.1). “Participant in the National Programme shall provide a sample of genetic resource in his/her disposal to designated person on the basis of his/her written requirement. The sample should be accompanied by prescribed data on the given genetic resource, except confidential data“ (Art. 11.2). “Quantity of genetic resource sample and type of data on genetic resource provided by participant in the National Programme to applier on the basis of a written application are defined by Decree of the Ministry of Agriculture” (Art. 11.3).

Conditions for providing samples of genetic resources are set by Art. 19 of the Act. “Designated person and participant in the National Programme provide genetic resources samples:

- If they have sufficient quantity of genetic resources.

- Providing genetic resources samples does not endangered genetic resource or does not damage it in such degree which could lead to its physical destruction” (Art.1.1).

Art. 19 contains “breeders exception”: “Samples of genetic resources for breeding, research and education purposes are provided free of charge”. Ministry of Agriculture prescribes quantity of genetic resources samples provided for breeding, research and education purposes according to type and genetic character of genetic resource through a special Decree.

“Designated person or participant in the National Programme provides samples of genetic resources to foreign legal or physical persons for breeding, research or education purposes only on the basis of international treaties on genetic resources to which the Czech Republic is a Party or on the basis of principal of mutual exchange or provision of similar advantages” (Art. 19.3).

According to Art. 20: “Designated person provides information on genetic resource in line with corresponding legislation”. This represents the *Act No. 106/1999, on Free Access to Information, as amended*.

The Act on Conservation and Use of Genetic Resources defines also commitments of participants in the National Programme with the aim to protect genetic resources in favour of future generations (conservation of plant genetic resources *in situ* and conservation of plant genetic resources *ex situ* in field collections and in collections *in vitro* – Art. 13, conservation of plant genetic resources *ex situ* in gene bank – Art. 14 and conservation of genetic resources of microorganisms – Art. 15). The following activities belong e.g. to these commitments: to save duplicates of genetic resources of plants of national or local origin (Art. 14.3b), regeneration of plant genetic resources (Art. 14.3c), in emergency case transfer of endangered genetic resources or endangered collection of genetic resources to avoid their destruction, damage or misappropriation” (Art. 24.1).

The ***Act No. 154/2000, on Breeding, Improvement and Register of Farm Animals***, as amended, is a key Act with respect to farm animal genetic resources. The aim of this Act is to “define conditions and rules for breeding of selected farm animals, for protection, conservation and use of farm animals genetic resources and for register of farm animals kept in the territory of the Czech Republic in such a way that this activity shall serve for improvement of these animals populations and for their genetic diversity conservation, with support of state funds” (Art. 1.3). The regulations regard cattle, buffalo, horse, donkey, pig, sheep and goat breeds, poultry breeds, fish and honey-bee breeds, as well as placing on the market of breed animals, germplasm, embryos, honey-bees and breed fish. From these regulations breeding for research purposes is excluded.

Art. 14 is directly related to genetic resources. It refers to the National Programme on Conservation and Use of Genetic Resources of Animals for Food and Agriculture, which defines measures of protection, conservation and use of animal genetic resources. It gives conditions for register of designated persons and genetic resources into National Programme. According to Art. 14.8, “designated person, when needed, especially if necessary for conservation or use of animal genetic resources for food and agriculture,

shall ask in written form the participant in the National Programme for sample of animal genetic resource. The participant should give at disposal for free a sample of animal genetic resource in his/her maintenance, together with data on this animal genetic resource, except confidential data. Details on quantity of sample and on required data are defined in corresponding Decree.”

Designated persons are charged by *ex situ* conservation of farm animals genetic resources in gene banks through deposition of a sample of farm animal genetic resource into the gene bank. Designated persons are obliged to follow genetic resources conservation rules related to gene bank functioning (measures to avoid damage or destruction of samples, conservation of safe duplicates etc.).

Sample providing is regulated by Art. 14.19. “Designated person or National Programme participant provide samples of farm animal genetic resources to third person under condition:

- Sufficient quantity of required sample exists.
- Sample providing does not endanger farm animal genetic resource and does not cause its damage leading to physical destruction of corresponding farm animal genetic resource.”

Art. 14.15 refers to the so called “breeders exemption” defining that: “ For breeding, research and education purposes the samples of farm animals genetic resources are provided free of charge.” With this Art. 14.19(d) is closely related: “Quantity of samples of farm animals genetic resources provided for such purposes is defined by corresponding Decree.”

Art. 14.16 regulates international exchange of samples. “Designated person or participant in the National Programme provides samples of farm animal genetic resources to foreign applier only on the basis of international treaties to which the Czech Republic is a Party and which are related to genetic resources, or on the basis of principal of mutual exchange or provision of similar advantages. Designated person or participant in the National Programme cooperate with gene banks abroad or with other foreign persons to obtain or exchange samples of farm animals genetic resources, information on farm animals genetic resources and to exchange scientific and technical information.” “Transfer of animal genetic resources from the Czech Republic to other member states of the European Union or to third country has to be approved by the Ministry “of Agriculture (Art. 14.17).

The Act 154/2000, as amended, does not refer to breeding and register of animals kept in zoological gardens. Nevertheless zoological gardens contribute greatly to conservation of biological diversity of wild animals and even preservation of endangered species. For this reason, the special **Act No. 162/2003, on Conditions for Operation of Zoological Gardens**, and amendment of some other Acts (Zoological Gardens Act) was adopted in the Czech Republic, which entered into force on July 1, 2003. According to this Act the central administrative body for zoological gardens operation is the Ministry of the Environment. The Act defines conditions for granting licence for zoological gardens or,

under certain conditions, for cancellation of their licence and closing zoological garden. Among conditions required by the Ministry of the Environment to licence issuing, those defined in Art. 4.6 refer to genetic resources conservation. According to them an applicant needs to “participate in research beneficial for species conservation or in conservation skill training or in exchange of information concerning species conservation, breeding of endangered or rare animal species in human care with the aim to conserve biological diversity outside their natural habitat (*ex situ*) or in their natural habitat (*in situ*), or... in the professional reintroduction of wild animals into areas of their original distribution.” The Ministry can provide also subsidies to zoological gardens or, on the other hand, sanctions in case of nonobservance of commitments and rules done by the Act. The operator of zoological garden with a valid licence can grant or receive animals as a grant in the framework of international cooperation.

The **Act No.114/1992, on Protection of Nature and Landscape**, as amended, deals among others with protected species of wild plants and animals. The Act defines basic conditions for their protection. As to specially protected plant species “it is prohibited to collect, pick, dig up, damage, destroy or otherwise disturb the development of these plants. It is further prohibited to keep them as an own property, to plant, transfer, sell, exchange, offer them for sale or exchange” (Art. 49.1). On the basis of this Act the protection does apply to plants, if “they are growing inside other cultivated plants or if they are destroyed, damaged or disturbed in their natural development in connection with usual cultivation of these plants, if they are growing in cultivations acquired in permitted manner, if they come from import and if they are not a subject of protection according to international conventions” (Art. 49.2).

Similar rules are applied as to protected animals. “It is prohibited to harmfully intervene in the natural development of specially protected animals, especially to catch them, hold them in captivity, disturb, injure or kill them. It is not permitted to collect, destroy, damage or transfer them in any stages of their development, nor the habitat they use. It is also prohibited to keep them, breed, transfer, sell, exchange, offer them for selling or exchange purposes” (Art. 50.2). Similarly as in specially protected plants, “protection according to this Act does not apply in cases when the intervention in natural development of specially protected animals are necessary due to current management of a real estate or of other property or due to hygiene, due to protection of public health or public security or due to air traffic” (Art. 50.3). These exceptions do not apply in species highly or critically endangered.

Art. 54 on Certificate of Origin relates also to genetic resources access. It sets that: “Whoever keeps, breeds, cultivates, transports, sales, exchanges, offers for sale or exchange or processing specially protected plant or specially protected animal, or plant or animal protected on the basis of international conventions or a special legal norm on import and export of endangered species, he/she must upon the call of the nature conservation authority proof their legal acquisition (permitted import, permitted collection in nature, permitted cultivation or permitted breeding from animals with legal certificate of their origin)” (Art. 54.1).

Export and import of specially protected species of plants and animals is regulated by the **Act No. 100/2004, on Protection of Species of Wild Animals and Plants through Regulation of Trade with them and other Provisions for their Protection** (Act on Trade with Endangered Species).

In forestry, an important legal norm represents the **Act No. 387/2005 amending the Act 149/2003, on Introducing Reproductive Material of Forest Woody Plants of Important Species and Artificial Hybrids Intended for Forest Regeneration and Reforestation**, and on Amendments to some Relating Acts (Act on Trade in Reproductive Material of Forest Woody Plants). This Act “sets conditions under which the reproductive material of forest woody plants of important species and artificial hybrids may be introduced for forest regeneration and reforestation, for maintaining and enhancing biological diversity of forests including genetic diversity of trees, and for sustainable cultivation in forests” (Art. 1). Reproductive material of forest woody plants means seed material, parts of plants and planting stock, i.e. plants acquired from seed material, parts of plants or from natural regeneration. As to genetic resources, it is important that for collecting of seed material, parts of plants or planting stock from natural regeneration, the written approval of the owner of corresponding sources of reproductive material is required, for certain type of reproductive material defined by the Act also certificate of origin. Authority for issuing the certificate of origin is according to Art.6.7 the authority in which jurisdiction area the seed material, parts of plants or stock material from natural regeneration were collected. Reproductive material may only be introduced providing the supplier issues and attached the documents prescribed by the Act (such as identification of supplier including identification number and licence number, identification of customer, amount of reproductive material, information whether the reproductive material was propagated in a vegetative way) and must be labelled (as “recognized”). The supplier must possess a valid licence issued by the Ministry of Agriculture. The Ministry according to Art. 18(a) keeps the register of the national recognized sources of reproductive material.

“A complex of forests with a significant part of valuable regional population of forest woody plants covering an area sufficient for preservation of biological diversity of population that is capable of reproduction may be declared a *gene base*. The forest in the territory of the gene bank is included in the *category of special forests* according to special legal regulation” (Art. 19).

Reproductive material may only be imported if importer presents a permit to import reproductive material issued by the Ministry of Agriculture (Art. 25). The Act defines cases in which such permit is not required (e.g. reproductive material was produced in the European Union member state). If reproductive material is exported to some EU member state, the exporter needs to inform a designated person. This person shall inform officially designated authority of the EU member state, where the seat of customer is located.

Similarly as in other Acts analysed above, restrictions of this Act does not apply to “reproductive material intended for research, experimental or breeding purposes” (Art. 37.1b) – “breeders exception”. “The reproductive material intended for export to states

that are not members of the European Union must not be introduced in the territory of the Czech Republic unless it meets the conditions stipulated by this Act” (Art. 37.3).

The basic legislation in forestry field represents the *Act No. 289/1995, on Forests*, as amended (Forest Act), which deals also with reproductive material of forest woody species. The Art. 29 sets: “Seeds or seedlings of forest woody species from the same or corresponding natural forest area and from corresponding altitude shall be used for artificial regeneration of forests and for afforestation of land designated for forest functions” (Art. 29.1). “The forest owner is obliged to keep records of the source of selected, qualified and tested reproductive material used for forest regeneration and reforestation. The records shall be kept for the 20 years period following the forest regeneration and reforestation” (Art. 29.3).

Genetic resources protection regards also prohibition of certain activities in forests. According to the Art. 20, it is prohibited in forests among others: “to lift seedlings and transplant trees and shrubs of forest species, fell or damage trees and shrubs, collect seeds of forest trees and mistletoe, collect forest fruits in a manner damaging forest.”

An important tool in implementation of the Convention on Biological Diversity in the Czech Republic as well as of corresponding national legislation represents the *National Programme on Conservation and Use of Genetic Resources*, implemented since January 2004 and consisting of the following sub-programmes:

- 1 National Programme on Conservation and Use of Genetic Resources of Plants and Micro-organisms Important for Food and Agriculture: 1.1. National Programme on Conservation and Use of Genetic Resources of Plants and of Agrobiodiversity, 1.2. National Programme on Conservation and Use of Genetic Resources of Microorganisms and Small Animals of Economic Importance.
- 2 National Programme on Conservation and Use of Genetic Resources of Forest Woody Species.
- 3 National Programme on Conservation and Use of Genetic Resources of Farm Animals, Fish, Honey-bees and Game in Farm Breed.

The National Programme aims to guarantee access to genetic resources conserved in the Czech Republic for both national and foreign users, to enable use of genetic resources for improvement of biological potential and economic value of plants, animals and microorganisms and to enable access to genetic resources abroad through international cooperation for national breeders and other users. The National Programme prioritises use of genetic resources for breeding and research as well as for education purposes, landscaping, nature conservation, museums activities and other similar purposes.

The presented survey of national legislation of the Czech Republic from the environment, agriculture and forestry spheres shows that the Czech legislation in force does not impose restrictions that runs counter adopted international principals in access to genetic resources and that especially access and use for breeding purposes and for research is guaranteed.

II. Patent System

The survey on national legislation could not be considered as complex without mentioning Patent Act and related Act on Biotechnology Inventions, which deal with biological material as patent subject.

The Czech Republic became a member of the European Patent Organization on July 1, 2002, after meeting requirements for this membership. The compliance of the national patent system with the European system was a precondition of this membership. In principal, the European regulations should be reflected in the national legislation. Nevertheless each member state can, in certain respect, accommodate its legislation to national conditions and legislative background.

Described fact and entry into force of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) for the Czech Republic in 1996 resulted in necessary amendment of the *Czech Act No. 527/1990, on Inventions* (Patent Act). This reflects the general situation, as before the adoption of the TRIPS, countries were free to determine the term for patentability, the rights conferred to patent holders and the duration of patent protection. The establishment of areas of non-patentability was also left to countries own discretion. This situation resulted in diverging standards among countries, which caused tension in global trade relations. In the Czech Republic, according to amended Act on Inventions, patents are not granted to “plant varieties and animal breeds or to in their principal biological ways of plant growing or animal breeding; this regulation does not refer to microbiological procedures and to products thereof” (Art. 4b).

To this Act, the *Act No. 206/2000, on Protection of Biotechnological Inventions*, as amended, is closely related. According to its Art. 2, to “biotechnological inventions can be granted patent if it regards:

- Biological material isolated from its natural environment or produced by technical procedure, regardless it has been already present in nature.
- Plants or animals, if technical feasibility of the invention is not restricted only to certain plant variety or animal breed.
- Microbiological or other technical procedure and product of other character than plant variety or animal breed, obtained by this way.”

In line with the European Directive, patents are not granted to “inventions which commercial use does not correspond to society rules and ethics, especially not to human cloning ... nor to genetic modifications of animals which can cause their suffering without any substantial medical utility for man or animal, as well as to animals resulting from such procedures” (Art. 3a) ... “to plant varieties and animal breeds or in principal biological way of plant growing or animal breeding” (Art. 3c). As “in principal biological way of plant growing or animal breeding” is meant procedure based on purely natural ways, such as crossing or selection.

If an invention contains biological material or regards biological material, this biological material has to be deposited in recognized international depositary authority

which obtained this denomination in line with the Art. 7 of the Budapest Treaty (of April 28, 1977) on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (Art. 5a). Access to deposited biological material is possible through the sample providing (Art. 5.2). A sample could be provided if the applier fulfil the following conditions during validity of the patent:

- Sample, nor any material derived from it, shall not be granted to the third person.
- Sample, or any material thereof, shall be used only for experimental purposes, unless the patent holder... other decides” (Art. 5.3).

In restriction of the patent holder rights, “farmers privileges” are applied. Person, who has got plant reproductive material underlying patent protection from the patent holder or with this holder agreement, is entitled to use product of his/her harvest for reproduction within his/her own agriculture activities, excluding commercial use (Art. 8.1). The same principals are valid for animal reproductive material (Art. 8.2).

Art. 9 deals with so called “compulsory licence” and “compulsory cross-licence”. ”If breeder could not get or use right to plant variety or animal breed without violating an alder patent, he/she can ask for compulsory licence enabling use of invention protected by a patent. The administrative authority shall issue a licence if the holder of a breeding licence asked the patent holder to provide him/her licence and if the given plant variety or animal breed represent important technical progress of a high economic value in comparison with invention protected by a patent. In such case the patent holder has the right to a cross-licence enabling commercial use of protected variety or breed under the same conditions given to compulsory licence through the special legislation” (Art. 9.1). The same is valid *vice-versa*: “If the patent holder was granted a compulsory licence to commercial use of plant variety or animal breed on the basis of the special legislation (Act 132/1989, Art. 10), the holder of breeding licence has the right to a cross-licence enabling use of the invention patent” (Art. 9.2).

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- Important web-pages:
 - www.biodiv.org
 - www.fao.org
 - www.wipo.org
 - www.abs.eea.eu.int
 - www.env.cz
 - www.mze.cz
 - www.mpo.cz

