

ONLINE SURVEY ON INFORMATION SYSTEMS, REGISTERS AND DATABASES

Response from the Patent Office of the Republic of Poland

1. Is there any formal domestic or customary legal system in your country requiring, or at least relating to, the establishment and/or maintenance of an information system on GRs, TK and/or TCEs, such as:

- **conventional intellectual property (IP) law?**
- **a specific law for the protection of TK and/or TCEs?**
- **access and benefit-sharing legislation or legislation dealing with biodiversity, the environment, intangible cultural heritage, publicly-funded research, food and agriculture?**
- **customary laws and practices?**
- **the law of confidentiality/trade secrets/undisclosed information?**

If so, please provide details, such as the title of the law(s) and the relevant provisions.

In the Polish Industrial Property Act of 30 June 2000 there are no requirements to establish and/or maintain any system of information on GR, TK and/or TCE. There are however some provisions relating to inventions based on nucleotide or amino acid sequences and biological material.

Art. 93² (4). If the application of the invention [...] discloses nucleotide or amino acid sequences, the applicant shall send a sequence listing in electronic format complying with the World Intellectual Property Organization Standard ST.25, delivered in a form that allows further electronic text data processing.

Art. 93⁶ (1). Where an invention involves the use of biological material which is not available to the public and which cannot be described in the description in such a manner as to enable the invention to be reproduced by a person skilled in the art, the disclosure thereof may be made by reference to the material deposited, at the latest at the filing date, in a depositary institution recognized under an international agreement or in a national depositary institution, which is mentioned by the President of the Patent Office in an announcement published in the Official Gazette of the Republic of Poland "Monitor Polski".

Art. 93⁶ (2). The President of the Patent Office shall announce the acquisition of the status of the national depositary institution, referred to in paragraph (1), after having received, at the request of the institution concerned, acceptance from the minister competent in respect of the subject of deposited biological materials.

Provisions for geographical indications are set forth in Art. 174 – 195.

Rules governing compliance with access to genetic resources and sharing of benefits from their use in accordance with the provisions of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity are laid down in the Act on access to genetic resources and the sharing of benefits from their use of July 2016.

2. Is your country party to any international or regional legal instrument (such as a convention, treaty or declaration) that requires the establishment of or participation in information systems for the protection, promotion and/or safeguarding of GRs, TK and/or TCEs? If so, please indicate which international or regional legal instrument.

Poland is a member of the European Union and implemented the Regulation (EU) No. 511/2014 of the European Parliament and of the Council on compliance measures for users from the Nagoya Protocol, see Act on access to genetic resources and the sharing of benefits from their use of July 2016. Tasks related to user control and the register of collections specified in the Act are performed by the authorities of the Environmental Protection Inspection.

3. Does any information system(s) of GRs, TK and/or TCEs exist in your country (whether IP-related or not)? If so, please provide a description of such information system(s).

The following questions relate specifically to information systems that have an IP-related purpose or function.

The Polish Patent Office does keep any domestic databases/ information systems on amino acid and nucleotide sequences, microorganisms or other GRs. The Polish Patent Office has access to an external platform for searching patent and non-patent literature concerning amino acid or nucleotide sequences (STN).

In Poland, there are three depositary collections which have the status of International Depositary Authority under the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure.

The Research Centre For Cultivar Testing registers new plant varieties and provides a browser for searching thereof.

4. Which IP-related objectives are sought to be achieved through this information system(s)?

Non-applicable

5. What types of information are included in such an information system, including potentially sensitive categories of information such as sacred TK/TCEs and/or secret TK/TCEs?

Non-applicable

6. What are the roles of various stakeholders in the establishment of the information system(s):

- **who characterizes and documents GRs?**
- **who writes down, films, records, translates and compiles TK and/or TCEs?**
- **who administers the information system/database/register(s)**
- **who can add new entries/registrations?**
- **what role do Indigenous Peoples, as well as local communities as appropriate, play?**

Non-applicable

7. Which are the principles and modalities regulating access to relevant information:

- **who retains control of the information system?;**
- **who is authorized to access the content?; and**
- **are there tiered levels of access to different categories of content?**

Non-applicable

8. What are the involvement and rights of Indigenous Peoples, as well as local communities, in the process of the establishment, functioning and management of the information system(s)?

Non-applicable

9. What is the legal effect of inclusion of GRs, TK and/or TCEs, as the case may be, into the information system? For example, does inclusion establish IP rights?

Non-applicable

10. How are disputes resolved (for example, competing claims by more than one community to a certain body of GRs, TK or TCEs)? How are transboundary GRs, TK and/or TCEs dealt with?

All litigations in Poland are settled before courts.

11. Are there interoperability standards between the existing information systems in your country and other information systems or services? Do these interoperability standards concern: (i) data formats (e.g., XML, data fields, etc.); (ii) content data (e.g., characterization, function, technical use of GRs, TK or TCEs); (iii) rights metadata (e.g., right holder, subject matter, date of documentation, etc.); or

(iv) structures of the information systems and services (e.g., APIs, etc.)? If so, please provide a description of these standards.

Non-applicable

12. Do you have any other views or experiences relating to the establishment, functioning and management of information systems?

Non-applicable

13. Do you have any suggestions for future work under the auspices of the WIPO IGC and/or by the WIPO Secretariat on these issues?

The Polish Patent Office supports the creation and sharing of databases/ information systems on GRs, TK and/or TCEs.