

Institute of Biophysics of the CAS, v. v. i.

**Internal regulation on the protection of intellectual property rights  
resulting from research, development and innovation activities or  
created otherwise  
in the Institute of Biophysics of the CAS, v. v. i.**

Pursuant to Section 16 (3) of Act No. 130/2002 Coll., On Support of Research and Development from Public Funds and on Amendment to Some Related Acts (the Act on Support of Research and Development), as amended, an obligation of a public research institution is established to regulate, by an internal regulation, the manner in which results of research, development and innovation activities (hereinafter referred to as R&D&I) are treated.

This internal regulation regulates the procedures of the Institute of Biophysics of the CAS, v. v. i. (hereinafter referred to as IBP) and authors, originators, researchers or co-Researchers of the individual types of objects of copyright or related thereto and of the intellectual property rights arising from the activities resulting from employment or other similar contractual relationship of authors, originators, researchers or co-researchers to IBP during research, development and innovations.

**I.**

**Definitions**

1) **R&D&I project**, for the purposes of this internal regulation, means the definition of tasks, anticipated procedures and outputs and factual, time and financial, or even legal conditions leading to the fulfilment of the established objective. The objectives, tasks, procedures and anticipated outputs and conditions of the project are defined in the project documentation.

2) **Provider** is a state organizational unit, territorial or self-governing unit, natural or legal person, or EU institution, international or foreign institution which decides to provide funding for a project (hereinafter referred to as "support") and which provides such support. The Provider also determines the objectives and conditions for filing an application for project support, evaluation and principles of project management. Provider may also be IBP (internal project).

3) **Applicant** is a natural or legal person (or state organizational unit or a ministry organizational unit) submitting a project proposal and applying for support.

4) **Beneficiary** is a natural or legal person for whose benefit the Provider has decided to award the support. Relations between the Provider and the Beneficiary are governed by a written contract on the granting of support to the selected project or decision to grant the support. IBP may be an Applicant or a Beneficiary of the support.

5) **Project Participant or Partner** is a natural or legal person (or state organizational unit or ministry organizational unit) who together with the Beneficiary participates in the part of the project and their participation in the project is defined in the project proposal. The relationship between the Beneficiary and the Project Participant is governed by a written project participation contract (contract on participation on the project part), which must be concluded in accordance with the contract on the granting of support and must transfer appropriate responsibilities to the Project Participant or Partner and deal with the material settlement of the project results between all Project Participants, or those carrying out the project and team members. IBP may be a Project Participant or Partner (external project).

6) **Principal Investigator** is an employee of the IBP – the principal investigator of the team named in the project (project application). The principal investigator is accountable to both the Provider and Beneficiary (IBP) for the factual and professional aspects of the project and the proper drawing of the allocated funds.

7) **Members of the team** are listed in the project (project application).

8) **Result of R&D&I achieved at the IBP** may be in the form of a tangible thing, an intangible asset, an intangible object, intellectual property, trade secret, know-how, confidential information, scientific publication, etc. General definitions of these terms (including employee work) as well as the rights of authors, co-authors, originators and co-originators, users and other persons are included in special legal regulations. Their definition and rules for the protection and treatment of R&D&I results at IBP are set out in this Directive and in specific contracts between IBP and the Principal Investigator or team members, Participants or Providers. The R&D&I result achieved at the IBP is the result of the project or individual output from the project.

9) **Utilization of R&D&I results achieved at the IBP** means direct or indirect use of the results for research or commercial purposes (commercial use is considered to be direct or indirect use of results for product or technology development and application thereof on the market or for conception and provision of service), selling, renting or lending tangible goods, creation of asset, release (publication) of the result, transfer or other non-public disclosure of the result to a third party, transfer of rights to an intangible result (for those rights that are transferable, which is excluded, for example, in the case of copyright), providing a license to exercise the right to use the intangible result, providing the right to the result to company or other legal entity.

10) Objective of **protecting the R&D&I result achieved at the IBP** is to prevent the disclosure of trade secrets, know-how, leakage or misuse of confidential information, unauthorized use of the result for private benefit and any other violation of the IBP's interests relating to the management of the result. The protection consists of setting obligations in legal regulations and in this internal regulation and in contracts of the IBP with Principal Investigators, team members as well as with Participants and Providers, or with third parties (e.g. as holders of the licences to use the results), enforcing compliance thereof, or in the application of sanctions. The records of R&D&I results are kept by employees entrusted with keeping records of publishing activities at the IBP.

11) **Author** is a natural person who created the copyright work by creative activity.

12) **Representative of Authors** is a natural person who, as one of several natural persons, participated in the creation of the copyright work and whose designation as the representative of Authors was determined by all authors of the copyright work.

13) **Intellectual property law** means the rights and obligations arising from legislation providing protection for inventions and improvement proposals, biotechnological inventions, trademarks, industrial designs, utility models, topographies of semiconductor products, medicines, designations of origin and geographical indications.

14) **Originator** is a natural person who by their creative activity created an object protected by the intellectual property law.

15) **Co-Originator** is a natural person who, by their creative activity together with at least one other natural person, participated in the creation of an object protected by the intellectual property law.

16) **Representative of Originators** is one of the co-originators, whose designation as the representative of originators was determined by all co-originators of an object protected by the intellectual property law.

## II.

### **Ownership, use and intellectual property rights to the results of research, development and innovations at IBP**

1) If the project result is creation of tangible asset or purchase thereof from the support funds that are provided or received exclusively by the IBP, it is always the sole property of the IBP, unless otherwise agreed in writing. If the IBP is a Project Participant or Partner, such asset is co-owned with other Project Participants or Partners, unless otherwise agreed in writing by them and the IBP (e.g. in a contract on participation on the project part).

2) The project result in terms of copyright and related rights means outputs that are created as a result of the given project research. Members of the team determine who should publish the research results and how, the Principal Investigator decides in the case of a conflict. In the publication, the Principal Investigator must indicate the output of the project, stating name thereof (if any), type and registration number. Neither the Principal Investigator nor a team member is authorized to publish the research results if the IBP director decides so in writing or if it is a trade secret of the IBP (see Article III of this internal regulation).

3) In terms of intellectual property rights, the project result means an invention, utility model, industrial design or improvement proposal which was created in the process of IBP project carried out by the Principal Investigator or a team member, if the IBP exercised the right to it. Neither the Principal Investigator nor the team member is authorized to publish the project result which meets the prerequisites for intellectual property protection (e.g. patent, utility model registration, etc.) from the moment of the result creation (i.e. prior to the decision of a competent office granting protection e.g.

Industrial Property Office), if it is decided so in writing by IBP or if it is a IBP trade secret (see Article III of this internal regulation)

4) The economic copyright rights and rights related to the project results pursuant to Article II, paragraph 2 of this internal regulation shall be exercised by the IBP as the Beneficiary, Participant or Provider (moral rights of the Author remain unaffected) from the moment the result was created. The Principal Investigator or a team member may use such project result exclusively for the needs of the IBP or themselves, in case of free use and statutory licenses provided by the Copyright Act and is not authorized to grant the right of use to a third party, or to transfer the right to third parties, without the consent of the IBP. The rights to the project results as objects of intellectual property pursuant to Article II, paragraph 3 of this Directive belong to the IBP as the Beneficiary or Participant or Provider from the moment IBP exercises the right thereto, and neither the Principal Investigator nor the team member is authorized to transfer these rights to the third party without IBP consent, unless the rights of the Principal Investigator and the team members are otherwise regulated by a special contract with the IBP. The Principal Investigator is obliged to notify the director of the Institute without delay that the R&D&I result, which meets the conditions of intellectual property protection (e.g. patent, utility model, etc.), was created at the IBP. If the IBP or the director of the Institute do not exercise rights of the IBP to the result within 3 months from the notification; the rights to the result are transferred to the Originator (Principal Investigator or team members), however, the IBP may enter into a license contract with the Originator regarding the permission to use protected results free of charge, or on the IBP participation in the income from the protected result use. If the IBP exercises the right to protect the result, it bears the costs of ensuring the protection.

5) If the IBP is a Project Participant or Partner, it owns a relevant share in economic rights to the project result according to the ratio of its participation in the research, unless this ratio is determined differently in the contract on participation on the project part according to Article I, paragraph 4 of this internal regulation.

6) The Principal Investigator and the team member are always obliged to sign a contract with the IBP as Beneficiary (or as Participant or Provider), where the conditions for R&D&I project (including the legal conditions for the result use and the license granted to the Principal Investigator or the team member or the third party for the use thereof) are determined.

7) As Beneficiary or Provider, the IBP is obliged to grant access to the project result to all interested parties on equal terms, unless it is a trade secret or confidential information. In case the IBP is Participant or Partner, the conditions of access to the results shall be determined in a separate contract with other Project Participants or Partners. The project result (see Article II, paragraph 2 of this internal regulation) is subject to protection pursuant to Article 58 of Act No. 121/2000 Coll. on Copyright and Rights Related to Copyright and on Amendment to Certain Acts (Copyright Act) as a so-called employee work for which the copyright is exercised by the author's employer as a work created by the Principal Investigator or by the team member to fulfil tasks arising from employment at the IBP or as a work subordinate to employee work regime under a contract concluded in accordance with Article II, paragraph 6 of this Directive.

8) The director of the IBP decides on the provision of the IBP project result to a company or other legal entity or association without legal subjectivity.

### **III.**

#### **Trade secrets, know-how, confidential information and confidentiality**

1) The term trade secret is defined in Section 504 of the Civil Code - Act No. 89/2012 Coll., as amended. The concept of know-how is defined in EU Commission Regulation No. 772/2004. Confidential information is information classified as confidential when concluding a contract, including confidentiality obligation determined in the contract or in special regulations for some persons.

2) If the project result fulfils the conceptual characteristics of trade secret, know-how or confidential information, the Principal Investigator is obliged to mark facts (information, data) that can be considered trade secrets, know-how or confidential information and notify the director of the Institute, so that the director decided in the name of IBP that the project result is a trade secret, know-how or contains IBP confidential information and that it should not be disclosed in the interest of IBP. Both the IBP and the Principal Investigator and the team members are obliged to adequately ensure the appropriate confidentiality regarding this result.

3) Protection of the project result classified as trade secret, know-how or confidential information, lies solely with the IBP. The IBP's trade secret, know-how or confidential information may not be disclosed, provided or made available to a third party by neither the Principal Investigator nor any team member or any other IBP employee. The Director of the Institute decides on the use of the project result, which is considered trade secret, know-how or confidential information, unless the rights of the Principal Investigator and the team members are regulated otherwise by contract with the IBP, concluded pursuant to Article II, paragraph 6 of this Directive.

4) Principal Investigator, team members and other persons involved in the process of creation, use or protection of R&D&I results at the IBP, which are considered intellectual property and are to be classified under this internal regulation, are obliged to maintain confidentiality regarding all facts related to such protected R&D&I result at the IBP.

### **IV.**

#### **Liability and sanctions**

Should the Principal Investigator or the team member of the research team breach the obligations set out in this internal regulation, during the project or in the use of project results, in the project documentation or in the concluded contract, the Principal Investigator shall bear full responsibility for the damage to the IBP and the IBP may proceed with actions against them in accordance with the relevant provisions of the above-mentioned contracts or the Labour Code, the IBP is in particular entitled to demand refund of the financial support or part thereof, which was provided for the project.

## **V.**

### **Obligations of employees in protection of intellectual property, know - how and trade secrets**

- 1) Employees are obliged to protect all intellectual property of the IBP as well as related rights.
- 2) Employees are obliged to refrain from any action in conflict with legitimate interests of the IBP in relation to the intellectual property of the IBP.
- 3) Employees are obliged to ensure that all intellectual property owned by the IBP or for which the IBP has a license or other right is used only for the needs of the IBP and in legitimate interest thereof.
- 4) Employees are obliged to ensure that the fulfilment of obligations arising from their employment relations with the workplace does not violate the intellectual property rights of third parties.
- 5) Employees are obliged to keep confidentiality regarding the results of their activities, which meet the conceptual characteristics of trade secrets and know-how.
- 6) Usage of the R&D&I result achieved at the IBP including its publication by an employee (especially in oral, poster or other form of presentations at scientific conferences, by abstract publication, scientific publication, scientific discussions, statements to the media, etc.) must be in its final form reported in documentary (e.g. in the business trip report) or electronic form to the responsible person pursuant to Article VI, paragraph 1 of this internal regulation.
- 7) Heads of the research departments are obliged to keep records of R&D&I results published by employees and summarize them annually in a section of the IBP final report dedicated to that particular research department. The heads of research departments are also required to keep records of bachelor's, master's and doctoral theses that have been written in cooperation with universities and to include them in a section of the annual IBP final report dedicated to that particular research department.
- 8) Employees are obliged to protect the know-how and trade secrets of the IBP. Information on the IBP infrastructure, IBP technical equipment and IBP used technologies (instruments and equipment used for scientific activities of the IBP) are also considered as know - how and trade secrets of the IBP. Employees are not authorized to take and publish photographs or videos of the IBP infrastructure, IBP technical equipment and IBP used technologies without the prior consent of the responsible person pursuant to Article VI, paragraph 1 of this internal regulation.

## **VI.**

### **Notification and registration of works protected by copyright and intellectual property law**

1) The Secretariat of the Director (hereinafter referred to as the “Responsible Person”) is responsible for the administration of protection and registration of works protected by copyright, intellectual property law and other R&D&I.

2) Author or Representative of Authors is obliged to notify the Responsible Person in writing every six (6) months of the creation of work that meets the conditions of intellectual property protection and hand over the tangible or electronic material on which the work is recorded to the Responsible Person. This material usually includes monographs, professional articles, popularization outputs, photographs, etc. Written form also includes e-mail or data message.

3) The Originator or the representative of Originators is obliged to notify the Responsible Person without any delay in writing of the creation of every object protected by intellectual property law and to hand over the materials necessary for assessment thereof and the tangible or electronic material on which it is recorded to the Responsible Person. Written form also includes e-mail or data message. Statutory deadline to exercise the IBP’s rights as an employer to this object begins with the notification, which contains materials necessary to assess the object protected by the intellectual property law. If the Responsible Person finds the notification to be inadequate or incomplete, the Responsible Person performs only registration of such object and invites the Originator or the representative of Originators to rectify the defects or to complete the materials. The statutory period for the IBP to exercise the rights to this object begins only after the defects are completely rectified and the documents are completed.

4) For copyrighted works the IBP registers:

- a) notification of the creation of an employee work;
- b) commercial and non-commercial use of the employee work, subject to a license contract;
- c) all contracts relating to the employee work, including license contracts;
- d) accounting costs and revenues related to the use of the employee work and to the contracts for the provision of this work or invention to third parties;
- e) whether public funds have been provided for the creation of the employee work and, if so, from what source and, if possible, in what amount;
- f) whether the employee work is reported in the Index of Information on Results (IIR) pursuant to Act No. 130/2002 Coll., on Research and Development Support.

5) For objects protected by intellectual property law, the IBP registers:

- a) notification of the creation of the object of intellectual property;
- b) commercial and non-commercial use of the intellectual property object, subject to license contracts,
- c) all contracts relating to the intellectual property object, including license, sub-licence and rights transfer contracts;
- d) accounting costs and revenues related to the use of the intellectual property object and the contracts for the provision of this object to third parties,
- (e) whether public funds have been provided for the creation of the intellectual property object and, if so, from what source and, if possible, in what amount;

f) whether the intellectual property object is reported in the Index of Information on Results (IIR) pursuant to Act No. 130/2002 Coll., on Research and Development Support.

## **VII.**

### **Contracts**

1) Employees are not authorized to communicate on behalf of the IBP with third parties wishing to enter into a contract regarding the use and manipulation with the intellectual property object, in particular with publishers and editors, unless they have been explicitly instructed to do so by the IBP Director.

2) Employees must notify the IBP that a third party is interested in negotiating a contract regarding the use and manipulation with the intellectual property object as soon as they become aware of it.

## **VIII.**

### **Remuneration**

1) Employees may be granted additional remuneration for the creation of intellectual property object, the amount of which will be determined on an ad hoc basis, depending on the specific situation, on the basis of IBP Director decision.

## **IX.**

### **Consequences of breach of employee obligations in the field of intellectual property protection**

1) Breach of the obligation to report the creation of an intellectual property object pursuant to Article VI, paragraph 2 and paragraph 3 of this internal regulation is considered a serious breach of the obligations arising from the legal regulations relating to the work performed by employee.

2) A breach of the obligation specified in Article V of this internal regulation is considered a serious breach of the obligation arising from the legal regulations relating to the work performed by employee.

3) In the event that an IBP employee has become enriched without just cause at the expense of the IBP by acting as defined in this Article of the Internal Regulations, they are obliged to hand over this enrichment to the IBP.

4) In the event of IBP claim for damage compensation, relevant provisions of the Labour Code shall apply.

## **X.**

### **Common provisions**



1) The IPB Director is responsible for the protection, management and subsequent use of intellectual property created at the IBP.

2) Originators are obliged to cooperate with the workplace authorized by a patent attorney or by a person authorized in this matter at the IBP when processing the application for the intellectual property object, as well as during negotiation and defence thereof before the Czech Industrial Property Office or Patent Offices in other countries.

3) In the event that the Authors of the employee works or the Originators of the objects protected by the intellectual property law include persons without employment relationship to the workplace, the Authors and Co-Originators of this intellectual property objects (employees of the IBP) are obliged, in cooperation with the IBP Director, to take appropriate legal steps to regulate relations between Originators or Authors so that the interests of the IBP are protected.

4) The costs of intellectual property registration and its subsequent legal protection for the territory of the Czech Republic are borne by the IBP.

5) Revenues from the concluded licensing and similar contracts for intellectual property rights, the exercise of which is the responsibility of the IBP, are required to be reported by the IBP in the accounting.

6) All employees who publish the results of their work created at the IBP or with the support thereof report an institutional affiliation to the IBP with regard to the nature of the work. The correct forms of IBP affiliation (in English version) are according to the collective letter dated September 18, 2017 as follows: The Czech Academy of Sciences, Institute of Biophysics; or Institute of Biophysics of the Czech Academy of Sciences; or Czech Acad Sci, Inst Biophys.

7) Employees carrying out scientific work at the IBP and at the same time at a workplace of another institution dealing with science and research (for example, Masaryk University; CEITEC-MU; Veterinary Research Institute, v. v. i.; University of Veterinary and Pharmaceutical Sciences Brno; ICRC, etc.) are required to indicate institutional affiliations for all scientific work results based on the employment relationships with the IBP and the other organization (for example, with a 50% employment at the IBP, double affiliation is possible for each R&D&I result or exclusive affiliation for at least half of the publications). The affiliations ratio should be proportionate to the employment. At 100% employment, it is expected that in the five-year evaluation period, at least 2/3 of the scientific works will be of exclusive IBP affiliation. During the evaluation period, at least half of the scientific papers per department should be corresponded by the Author (the corresponding author) with the exclusive IBP affiliation. Exceptions are situations worthy of special consideration (e.g. the uniqueness of experimental measurement) where an employee is entitled to apply to the Responsible Person for approval of an affiliation for all science and research institutions involved in the research when submitting a draft publication of results. Such an exception must be duly justified by the staff member of the Institute Council.

8) Students of doctoral study program (as agreed with the Faculty of Science of Masaryk University; for other universities specified in the contract) who undertake

doctoral studies at the IBP as a cooperating workplace of the Academy of Sciences pursuant to Section 78 et seq. of Act No. 111/1998 Coll., on Universities and Government Order No. 274/2016 Coll. and No. 275/2016 Coll., are obliged to state the IBP affiliation together with the university where they study for the results of their scientific work. Exceptions are students of the doctoral study program (Masaryk University), who carry out scientific and research activities at the IBP beyond the framework of regular doctoral study program and beyond the content of doctoral study program, the results of which will not be a part of the student's dissertation. These students are obliged to report exclusive IBP affiliation for these results. The doctoral students will inform the head of the relevant research department about this fact. The head of the research department is obliged to discuss this fact with the relevant departmental council of the faculty, according to the cooperation agreements in the implementation of doctoral study programs and in the realization of mutual cooperation concluded between the IBP and the relevant university. Exclusive IBP affiliation will be included in the works of students of the Master's program if they are authors of scientific publications.

9) The IBP ensures that all economic rights are properly exercised in respect of intellectual property object and offers these objects for use to other workplaces, depending on their nature and focus, and seeks to use them for commercial purposes.

10) In the case of creative intellectual activity results created by the Author or Originator during tasks arising from a project or other similar relationship, and for which the protection and realization of intellectual property rights is regulated differently in the contract concluded by the IBP, relevant provisions of such contract shall apply. This contract must also be registered in relation to intellectual property objects.

11) In the case of intellectual property objects created by the IBP in non-employment relationships, the same procedures shall apply, if permitted by their purpose and nature.

## **XI.**

### **Final provisions**

This internal regulation comes into effect on November 6, 2019 and replaces all previously issued directives and regulations related to the protection of intellectual property rights as a result of research, development and innovation activities created at the IBP.

In Brno on December 11, 2019

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