

# MATEJ BEL UNIVERSITY IN BANSKÁ BYSTRICA



## **Directive no. 8/2019 on the Protection of Intellectual Property at Matej Bel University in Banská Bystrica**

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## **Part one**

### **Introductory provisions**

1. Matej Bel University in Banská Bystrica (hereinafter referred to as "MBU") is a higher education institution which values the protection of intellectual property rights and which supports the transfer of the results of intellectual work created in its environment into practice.
2. The Department of Development and Structural Projects (hereinafter referred to as the "relevant department") is a department of the of the MBU Rectorate with full competence, one of whose tasks is to collect information on intellectual property created at MBU and to provide advice on the proper protection of intellectual property rights. The relevant department also facilitates the conclusion of licence agreements, assignment agreements, and other agreements implementing the settlement of rights and the commercialisation of intellectual property (hereinafter also referred to as the "subject-matter of the IP").

### **Article 1**

#### **Directive subject matter and objectives**

1. The subject matter of this Directive on the Protection of Intellectual Property (hereinafter referred to as the "Directive") is to regulate the procedures to be followed by employees, students, and third parties in identifying intellectual property created, and to regulate their rights and obligations in connection with the creation, protection, and transfer of intellectual property created in scientific research and other activities. This area in particular complies with the following legislation:
  - a) Act No. 435/2001 Coll. on Patents, Supplementary Protection Certificates and on amendments and supplements to certain acts (Patent Act), as amended,
  - b) Act No. 517/2007 Coll. on Utility Models and on amendments and supplements to certain acts, as amended,
  - c) Act No. 444/2002 Coll. on Registered Designs, as amended,
  - d) Act No. 506/2009 Coll. on Trade Marks, as amended,
  - e) Act No. 146/2000 Coll. on the Legal Protection of Topographies of Semiconductor Products, as amended
  - f) Act No. 527/1990 Coll. on Inventions, Industrial Designs and Improvement Proposals, as amended
  - g) Act No. 185/2015 Coll. on Copyright, as amended,
  - h) Decree of the Industrial Property Office of the Slovak Republic No. 223/2002 Coll., implementing Act No. 435/2001 Coll. on Patents, Supplementary Protection Certificates and on amendments and supplements to certain acts (Patent Act),
  - i) Decree of the Industrial Property Office of the Slovak Republic No. 1/2008 Coll., implementing Act No. 517/2007 Coll. on Utility Models and on amendments and additions to certain acts,
  - j) Decree of the Industrial Property Office of the Slovak Republic No. 629/2002 Coll., implementing Act No. 444/2002 Coll. on Registered Designs,
  - k) Decree of the Industrial Property Office of the Slovak Republic No. 567/2009 Coll., implementing Act No. 506/2009 Coll. on Trademarks,
  - l) Act No. 131/2002 Coll. on Higher Education and on amendments and additions to certain acts, as amended.
2. This Directive applies to all MBU employees and students. This Directive applies to third parties in cases of a specific agreement between the third party and MBU.

3. The Vice-Rector for Development and Informatization shall supervise compliance with the rights and obligations under this Directive.

## **Article 2**

### **Definition of terms**

For the purposes of this Directive the following terms and their meanings apply:

1. **An audiovisual recording** is a recording of both sounds and images that are perceptible by hearing and sight, irrespective of the manner and the medium on which those sounds and images are recorded.
2. **The author** is the natural person who created the work. The author is also the natural person whose name and surname appear on the work or in relation to the work in the usual way as the designation of the author, unless the contrary is proved. This shall also apply where the work is designated by a pseudonym, provided that there is no doubt as to the identity of the author. An author is also a person who, after the expiration of the proprietary rights, publishes a previously unpublished work, thereby exercising the proprietary rights to that work.
3. **Copyright** governs relations in respect to the creation and use of literary and other artistic works or scientific works.
4. **A database** is a collection of independent works, data or other materials systematically or methodically arranged and individually accessible by electronic or other means. A computer program used in the construction or operation of a database accessible by electronic means shall not be deemed a database. A database may be protected by copyright (collective work) or by a special database right (sui generis database).
5. **A work** is an object of copyright in literature, art or science which is the unique result of the author's creative mental activity perceptible to the senses, irrespective of its form, content, quality, purpose, form of expression or degree of completion. A work is in particular a literary work, a verbal work, a theatrical work, a musical work, an audiovisual work, a work of visual art, an architectural work, a work of applied art, a cartographic work or any other kind of artistic work or scientific work.
6. **A work of fine art** is a painting, drawing, collage, tapestry, engraving, lithograph or other printmaking, sculpture, ceramic, jewellery or other work of fine art and photographic work.
7. **The registered design** is the external arrangement of a product or part of a product consisting of features, in particular the contours, colours, lines, shape, texture or material of the product itself or its decoration.
8. **Intellectual property** consists of intangible goods (ideal objects) that are eligible to be the subject of private law dispositions of their owners and have a certain, at least potential, property value (hereinafter also "IP"). For the purposes of this Directive, intellectual property is the results of activities created by the author in the performance of tasks resulting from their employment or other employment relationship with MBU, or in the performance of their study duties. This concerns mainly the following:
  - industrial property - intellectual property protected by the legislative provisions referred to in Article 1 of this Directive as well as by other legislation,
  - original works,
  - applied results of science and research not subject to proceedings before registration offices.

Intellectual property protected by this Directive also includes the results of activities which the author has not created within the scope of their employment or other employment relationship with MBU, but has decided to transfer these rights to MBU.

9. **A photographic work** is the capture of an image by means of a photographic technical device if it is the result of the creative mental activity of the author.
10. **Know-how** consists of knowledge, information, experience, and expertise, especially in the field of production, trade, research and development, services, economics but also law, etc., production, technical, business and other knowledge, expertise, experience and information that can be protected as know-how. Knowledge and experience may be in the field of business, research, scientific, development, exploration, expertise, construction, design, technology, consulting, advisory, consultancy, experimental and other similar activities. Data or information on the sale/purchase of goods, business and economic calculations, the maintenance and content of business books, market research results, lists of sellers, buyers or customers, statistical data, maps, business and business plans, business contacts, business contracts, production and operating programs can also be considered know-how, as well as production and working procedures, manuals or recipes, any information on the manufacture of products or on production and working procedures, as well as the results of research and development, design, construction, technological and other technical documentation, the results of any technical expertise, calculations, samples, models, prototypes, and as various databases. All solutions that would otherwise meet the conditions, e.g. for the grant of a patent or for the registration of a utility model, but for which protection has not been applied for (e.g. patentable solutions) may also be regarded as know-how; these solutions may be regarded as know-how until an application for the relevant subject-matter of the industrial right has been filed.
11. **A logo** is an unregistered graphic sign or emblem, used mainly by businesses, organizations, but also by individuals.
12. **A property right** is the right to consent to the use of an intellectual property object and other rights that have an economic dimension (e.g. the right of the author to consent to the use of a work, the right of the maker of a sui generis (one-of-a-kind) database to consent to the extraction and reutilization of the database, the right of the originator of an invention to receive additional remuneration, etc.).
13. **The owner** is a natural or legal person who exercises industrial property rights and is registered as the owner in the relevant register.
14. **Unfair competition** is a prohibited act in competition which is contrary to the competition decency and is capable of causing injury to MBU or to a third party. In particular, unfair competition is the creation of a risk of confusion with MBU or its workplace or facilities, products or services (e.g. unauthorised use of MBU's name or any logo or unregistered mark belonging to MBU), free-riding on the reputation of MBU, its products or services (taking advantage of the reputation of MBU, its products or services in order to obtain a benefit in one's own or someone else's business that would not otherwise be obtained), bribery, belittling (disseminating false information about MBU's circumstances, products or performance that is likely to cause harm to MBU) and infringement of trade secrets.
15. **A trademark** is any designation that can be represented graphically. It consists in particular of words, including proper names, letters, numerals, drawings, the shape of a wrapper or packaging, or a combination of these, and is capable of distinguishing the goods or services of one person from those of another person.
16. **Moral rights** consist of the rights of the author, performer, and originator, which are of a personal nature and can only be exercised by that person, e.g. the right to inviolability of the work, the right to be named in a patent as the originator of an invention, etc.
17. **A patent** is a public document issued by a competent authority (e.g. the Industrial Property Office of the Slovak Republic, the European Patent Office, etc.) which grants the owner of the patent the exclusive right to the use of the invention for a certain period of time and in a certain territory.

18. **The originator** is the natural person who has created the industrial property by their own creative intellectual activity. The originator is in particular an MBU employee who has created the subject of industrial property while performing tasks under an employment relationship. The originator may also be MBU student who has created the object of industrial property while performing tasks under a relationship similar to an employment relationship, including agreements on work performed outside the employment relationship.
19. **Industrial property** consists of the results of creative intellectual activity, in particular patent-protected inventions, technical solutions protected by a utility model, designs, new plant varieties, topographies of semiconductor products, trademarks, designations of origin of products and geographical indications (hereinafter also referred to as "IP").
20. **The applicant** is the natural or legal person who has filed the application for the object of industrial property.
21. **An artistic performance** is a demonstration, recitation or other creative execution of a work of art or folklore by singing, acting, recitation, dancing or other means.
22. **A utility model** is a form of legal protection for new industrially exploitable technical solutions that are the result of inventive activity in the field of technology.
23. **An invention** is an innovative solution to a technical problem as a result of inventive activity and is suitable for industrial application.
24. **The author of the database** is the natural or legal person on whose initiative, account and responsibility the sui generis database was created.
25. **An innovation** is a technical, technological, production or operational improvement, as well as a solution to occupational health and safety and environmental problems, which the employee has created by their own creative activity and which the employee has the right to manage. No innovation rights shall be granted if they are precluded by the rights of a patent or registered utility model. Improvements made in the course of employment are not considered to be an innovation, as the rights to them belong directly to MBU as the employer.
26. **A sound recording** is a recording of sounds only, perceptible by the ear, irrespective of the manner and the medium on which those sounds are recorded; a sound recording contained in an audiovisual work shall not be considered a sound recording.

## **Part two**

### **Intellectual property**

#### **Article 3**

#### **Intellectual property objects**

1. The objects of intellectual property under this Directive are in particular:
  - a) objects of copyright and rights related to copyright under the Copyright Act, in particular literary and other artistic work and scientific work which is the result of the author's own creative intellectual activity (copyright work), artistic performance, sound recording, audio-visual recording, broadcast and database protected by a special database right (sui generis database),
  - b) objects of industrial property rights, in particular patent-protected inventions, technical solutions protected by utility models, designs, trademarks,
  - c) objects of rights analogous to industrial property rights, in particular an improvement, know-how, a logo, a new process and other objects of rights.
2. For the purposes of this Directive, a distinction shall be made between the following types of intellectual property:

- a) MBU employee IP,
  - b) MBU student IP,
  - c) IP belonging to a third party.
3. In particular, Articles 10 to 12 of the Directive apply to the intellectual property of employees, unless a different regime for the exercise of rights is agreed in the employment contract or performance agreement.
  4. Article 13 of the Directive applies to the intellectual property of students.
  5. Intellectual property of MBU shall be understood as such intellectual property to which MBU exercises rights. Intellectual property under this Article includes, in addition to employee IP objects, in particular such objects of IP to which MBU exercises rights on the basis of a transfer agreement or a licence agreement.
  6. Intellectual property of third parties means such IP to which a third party exercises rights. A third party also means an MBU employee and student insofar as they themselves exercise the rights to an employee work pursuant to Articles 10-12 of this Directive or to a school work pursuant to Article 13 of this Directive.

### **Part three**

#### **Notification duty**

#### **Article 4**

##### **Reporting of intellectual property under the Copyright Act**

1. The employee, as author or other rights holder under the Copyright Act, is obliged to notify MBU of any creation or production of IP object as defined in Article 3(1)(a) of the Directive to which the legal regime of employee IP object under Article 10 of the Directive applies.
2. The student, as author or other rightholder under the Copyright Act, shall be obliged to notify MBU of any creation or production of an IP object pursuant to Article 3(1)(a) of this Directive which is covered by the legal regime for school IP pursuant to Article 13 of this Directive.
3. Notification under this Article of the Directive shall be made by the employee/student in the form of a *Notification of Creation of Intellectual Property under the Copyright Act*, a specimen of which is attached as Appendix 1 to the Directive, within thirty (30) working days of the creation or production of the IP. Notification pursuant to this Article of the Directive shall be made in writing or electronically to the relevant department. The notification obligation of students for works created in the school mode is fulfilled by means of the procedure of registering the work in the appropriate electronic systems.
4. Where the IP referred to in Article 3(1)(a) of the Directive has been created by the collaboration of two or more employees, it shall be sufficient if the notification referred to in Article 4(3) of the Directive is made by one of the employees, indicating also the other employees (rightholders) and their co-authorship or other interests resulting from the Declaration of Interests in Rights under the Copyright Act, a specimen of which is set out in Appendix 3 of the Directive, or from the Agreement on the Determination of Interests in Intellectual Property Rights, a specimen of which is set out in Appendix 4 of the Directive. Staff members shall be jointly liable for any breach of an obligation under this provision. The determination of shares is binding for the further process of implementing IP rights protection as well as its transfer, commercialisation, and remuneration.
5. Article 4(4) of the Directive also applies mutatis mutandis to the situation where the subject-matter of IP as referred to in Article 3(1)(a) of the Directive has been created in the context of a collaboration between two or more students or in the context of a

collaboration between the employee(s) and a third party or in the context of a collaboration between the student(s) and a third party.

6. An employee is not obliged to report the subject of IP pursuant to this Directive if, within the time limit pursuant to Article 4(3) of the Directive, the subject is included in the records kept by MBU, in particular the Central Register of Publication Activity, or if the IP is reported or recorded at MBU on the basis of other facts.

## **Article 5**

### **Reporting of industrial property**

1. The employee, as the originator of the industrial property (hereinafter also referred to as the "IP"), is obliged to notify MBU of any creation of an IP pursuant to Article 3(1)(b) of the Directive which is covered by the legal regime of employee IP pursuant to Article 11 of the Directive.
2. The employee, as the originator of the industrial property (hereinafter also referred to as the "IP"), is obliged to notify MBU of any creation of an IP pursuant to Article 3(1)(b) of the Directive which is covered by the legal regime of employee IP pursuant to Article 11 of the Directive.
3. Notification under this Article of the Directive shall be made by the employee or student in the form of a Notification of the Industrial Property Creation, together with a description of the subject matter of the IP, a specimen of which is attached as Appendix 2 to the Directive, within thirty (30) working days of the IP creation. Notification pursuant to this Article of the Directive shall be made in writing or electronically to the relevant department.
4. If the PV has been created on the basis of the collaboration of two or more employees (co-creators), they shall have the right to the the PV to the extent that they have contributed to its creation. The co-creators shall be required to sign an Agreement on the Determination of Interests in Intellectual Property Rights, specifying the percentage of their participation in the creation of the PV, before the notification of the PV creation. A template of the Agreement on the Determination of Interests in Intellectual Property Rights is attached as Appendix 4 to this Directive.
5. The provisions of Article 5(1)-(4) of the Directive also apply mutatis mutandis to research, development and other projects with another organisation (third party). In these cases, it is necessary to agree in advance and in writing which of the parties will exercise the rights to the created IP. The determination of shares is binding for the further process of implementing the protection of IP rights, as well as its transfer, commercialisation, and remuneration; a model Agreement on the Determination of Shares in Intellectual Property Rights and the Allocation of Profits is attached as Appendix 7 to this Directive.

## **Article 6**

### **Reporting of other intellectual property**

1. Article 5 of the Directive shall also apply mutatis mutandis to any IP pursuant to Article 3(1)(c) of the Directive in the creation or production of which an employee participates in connection with the performance of their duties arising from their employment relationship or in the creation or production of which a student participates in connection with the performance of their school or study duties arising from their legal relationship to MBU.

## **Article 7**

### **Notification of the confidentiality obligation and notification of confidential information**

1. The employee/student is obliged to disclose to MBU information to which the obligation of confidentiality or the obligation to protect confidential information pursuant to Article 17 of the Directive is to apply.

## **Article 8**

### **Notification of infringement and threat to rights**

1. The employee/student is obliged to notify MBU without delay of a threat to or infringement of IP rights of which they become aware and which concerns an IP to which the employment regime under Articles 10-12 of this Directive, the school regime under Article 13 of this Directive, or to which MBU exercises rights, applies. Notification pursuant to this Article of the Directive shall be made through the relevant department in writing or electronically.
2. The employee/student is obliged to inform MBU without delay if they become aware of a threat to or breach of the obligation of confidentiality and/or a threat to or breach of the protection of confidential information pursuant to Article 17 of this Directive. Notification pursuant to this Article of the Directive shall be made through the relevant department in writing or electronically.

## **Article 9**

### **Cooperation**

1. The employee/student is obliged to provide full and truthful information to MBU through the relevant department about the IP they have created or over which they exercise rights, which is covered by the legal regime of employee or school IP according to Articles 10-13 of this Directive.
2. Together with the notification pursuant to Article 5(3) of the Directive, the employee shall be obliged to submit to the relevant department all relevant documentation and supporting documents relating to the IP concerned; the documentation and supporting documents pursuant to this Article of the Directive shall be used by MBU, in particular, to assess the possibility of protecting the notified IP and to evaluate its commercial potential.
3. The employee/student is obliged to provide assistance beyond the scope of this Article of the Directive upon the request of the relevant department, the statutory representative of MBU, the legal representative of MBU, who represents MBU in relation to the relevant IP.

## **Part four**

### **Exercise of intellectual property rights**

## **Article 10**

### **Employment regime of the IP under the Copyright Act**

1. A work of authorship created by an employee for the performance of their duties under the employment relationship is subject to the legal regime of an employee's work. Agreements for the performance of work within the meaning of the Labour Code may not be concluded for activities that are subject to protection under the Copyright Act.



2. In its activities, MBU uses mainly literary, scientific, photographic, audiovisual and cartographic works which are protected by the Copyright Act. Computer programs, journals, magazines, exhibitions, databases, etc. are also considered to be works subject to the Copyright Act.
3. An artistic performance created by an employee to fulfil their obligations under the employment relationship is subject to the legal regime of an employee's artistic performance.
4. In the case of an employee's work and an employee's artistic performance, all property rights shall be exercised by MBU, unless otherwise agreed with the employee in individual cases in writing or in another demonstrable form. The exercise of these rights is carried out in particular: MBU may publish the work, modify it, process it, including translation, combine it with another work, include it in another work, and present it to the public under the name of MBU; it may also complete an unfinished employee's work in case the author is late in relation to the agreed deadline, despite the set deadline, or if the author's obligation expires, for example as a result of their death.
5. If MBU exercises the author's or performer's property rights to an employee work, the author/performer shall be deemed to have consented to the publication of the work and to MBU's public performance of the work under their name, unless otherwise agreed in writing or in other demonstrable form with the employee in individual cases; the author's/performer's moral rights to the employee work shall not otherwise be affected.
6. During the exercise of the author's/performer's property rights to an employee work by the MBU, the author/performer is obliged to refrain from exercising the property rights to this very work/performance on their own.
7. The legal regime of an employee work under Article 10(3) of the Directive also applies mutatis mutandis to sound recordings, audiovisual recordings, broadcasts, and sui generis databases created by an employee for the performance of their duties arising out of their employment with MBU.
8. For employees for whom the activity leading to the creation of works does not arise explicitly from personal employment documents, the work created is not defined as an employee work.

## **Article 11**

### **Employee regime of industrial property**

1. The employee regime under this Article of the Directive shall apply to the results of creative intellectual activity in the field of industry of which the employee is the originator, namely inventions, technical solutions, and designs.
2. In the case of IPs created under the employee regime under Article 11(1) of the Directive, the right to a solution (including the right to file an application) passes to MBU upon exercise, unless otherwise agreed between the employee and the employer in the employment contract. The employee's right of origination shall not be affected.
3. The employee is obliged to inform MBU of the creation of the IP in accordance with Article 5 of the Directive and to submit to MBU all documents necessary for the assessment of the IP subject in accordance with Article 9(2) of the Directive.
4. The assessment process for the exercise of an industrial property right under this Article shall follow the application of the information obligation of the originator of the IP under Article 5, i.e. the receipt of a complete notification fulfilling all the requirements laid down in this Directive.

5. MBU may assert its right to the IP against the employee in writing within three months of notification pursuant to Article 5 of the Directive. The Rector decides whether or not to exercise this right based on the proposal of the relevant department.
6. If MBU claims rights to the IP pursuant to point 5 of this Article, the relevant department shall inform the originator of this fact within a period of no more than three months from the fulfilment of the information obligation pursuant to Article 5 of this Directive. The originator is informed by registered letter or by a letter confirmed by their signature upon receipt.
7. If MBU does not claim its right to the IP within three months of the notification pursuant to Article 5 of this Directive, the right shall revert to the originator and MBU shall be entitled to use the IP only on the basis of a written agreement with the originator.
8. The Rector decides on the termination of the legal protection of the IP at the proposal of the relevant department. The originator or their legal successor shall be informed of this fact in writing by registered letter. If the originator is interested in the continuation of the legal protection, it is possible to conclude an agreement under specified conditions taking into account the economic circumstances related to the IP.
9. Both the employee and MBU are obliged to maintain the confidentiality of the created IP towards third parties until the moment of filing of the respective IP or until the information becomes public by the will of the person who has the right to the solution.

## **Article 12**

### **Employee regime of other intellectual property**

1. In the case of IP other than those referred to in Articles 10 and 11 of the Directive which are created under the employee regime, the provisions of Article 11 of the Directive shall apply *mutatis mutandis*.

## **Article 13**

### **School regime**

1. A work of authorship created by a student to fulfil their study obligations arising from their legal relationship to MBU is subject to the legal regime of a school work. This includes works protected by the Copyright Act.
2. Copyright-related items created or made by a student to fulfil their study obligations arising from their legal relationship to MBU are subject to the legal regime of a school artistic performance, school sound recording, school audio-visual recording, or school broadcast. A *sui generis* database created by a student to fulfil their study obligations arising from their legal relationship to MBU is subject to the legal regime of a *sui generis* school database.
3. In the case of a school work, MBU may enter into a licence agreement with the student for the use of the school work under the usual terms and conditions (the Licence). If a student refuses to enter into a licensing agreement without good cause, MBU may request that a court determine the agreement content. A student may use their school work themselves or grant a license to another only if it is not contrary to the legitimate interests of MBU; failure to do so may result in disciplinary action being taken against the student, which may lead to expulsion from their studies. MBU may require the student to make a reasonable contribution from the remuneration received in connection with the use of the work or the granting of a licence to cover the costs incurred in the creation of the work, up to the actual amount of such costs.

4. Article 13(3) of the Directive applies mutatis mutandis to school performances, school sound recordings, school audio-visual recordings, and school broadcasts.
5. If MBU has not entered into a license agreement with the student, it may use the school work or other IP under the Copyright Act only if the rights to such IP have expired, if no one exercises these rights (the subject is free), if the IP is distributed under an open license, or if the use is covered by a legal license under which the IP can be used without the student's consent (e.g., use in the free performance of tasks belonging to the school's subject matter).

#### **Article 14**

##### **Common provisions on the acquisition of the industrial property protection**

1. In relation to the IP pursuant to Article 3(1)(b) of the Directive to which UMB has claimed a right or to which it exercises a right by law, the relevant department shall prepare an application, which MBU shall file with the Industrial Property Office of the Slovak Republic. If MBU assumes the use of the IP outside the territory of the Slovak Republic, on the recommendation of the relevant department, the statutory body may also decide to file an application (request) in other countries through a foreign authority, a European office (OHIM - European Union Intellectual Property Office) or an international office (WIPO) that registers the relevant IP. The employee/student is obliged to provide assistance to the relevant department upon request in the preparation of the application form.

#### **Article 15**

##### **Payment of industrial property fees**

1. The fees for the IP are administrative fees and maintenance fees. Other related fees are mainly legal services fees, court fees, professional assistance fees those for advice of patent attorneys.
2. All costs (in particular fees) associated with the application/registration procedure as well as costs incurred during the period of validity of the registration shall be borne by the faculties/departments where the originator is enrolled, unless otherwise agreed.
3. The relevant department is obliged to notify the management of the MBU in writing of the date, amount, and method of payment of fees according to this Article of the Directive and at the same time to keep a record of the acts and proceedings subject to fees and of the amounts of administrative fees.

### **PART FIVE**

#### **Rights and obligations of employees and students**

#### **Article 16**

##### **Remuneration**

1. In the case of transfer of IP in question, which is mainly licensing and transfer of rights, the commercial share of the profit is divided so that 70% is transferred to the employee as the author/originator of the IP in the form of remuneration and 10% to UMB and 20% to the faculty/its part. The allocation ratio between MBU and faculty/its parts may be changed on an ad hoc basis to reflect the actual costs involved.
2. In the case of other transfers for consideration, in particular consultancy, contract research and collaborative research, Article 16(1) of the Directive shall apply mutatis mutandis.

## **Article 17**

### **Confidentiality and protection of confidential data**

1. Employees and students are obliged to maintain confidentiality regarding any information relevant to MBU in the process of creation, protection, transfer, and commercialization of IP. The obligation of confidentiality pursuant to this Article of the Directive shall also apply to third parties who have been bound to this obligation, either by means of a declaration by MBU or on the basis of a confidentiality agreement; a *Confidentiality Agreement* template is attached as Appendix 5 to the Directive.
2. Employees and students have a special obligation to protect confidential data, which for the purposes of this Directive mean information of particular relevance relating to the creation, protection, transfer and commercialisation of IP and/or information that has been designated as confidential by MBU or a third party, in particular information that MBU and a third party have communicated to each other in the course of the contract negotiation process or after the conclusion of the contract and that has been designated as confidential by MBU or a third party through a declaration by the relevant department or a third party, or that MBU or a third party has been obliged to adhere to. The protection of confidential data for the purposes of this Directive means, in particular, the obligation of staff/students to keep confidential information confidential, to safeguard confidential information from disclosure, not to disclose (divulge) confidential information to a third party, not to use confidential information in a manner inconsistent with its purpose and not to use confidential information for their own purposes. The obligation to protect confidential data under this Article of the Directive also applies to third parties who have been obliged to do so, either by means of a declaration of MBU or by means of a Confidentiality Agreement; a *Confidentiality Agreement* template is attached as Appendix 6 to the Directive.
3. MBU, via the relevant department, keeps a record of related confidential information, confidentiality agreements and agreements on the protection of confidential data.

## **Article 18**

### **Duties of senior staff**

1. A senior member of MBU staff is obliged to ensure, within their workplace, the effective protection of information covered by the obligation of confidentiality and protection of confidential data pursuant to Article 17 of the Directive, in particular:
  - a) identify the content and scope of the data covered by the obligation of confidentiality and of the obligation of confidence and report it without delay to the register provided for in Article 17(3) of the Directive;
  - b) mark the medium containing confidential data with a prominent warning CONFIDENTIAL DATA;
  - c) designate subordinate staff authorised to have access to specific confidential data and immediately communicate that information to the relevant department;
  - d) at the reasoned suggestion of the project leader of the collaborative research project, to ensure, in cooperation with the relevant department, to conclude a confidentiality or non-disclosure agreement with external collaborators or partner organisations in the framework of the collaborative research, the subject of which is the terms and conditions of access to specific data;
  - e) technically ensure the confidentiality of confidential data by preventing unauthorised persons from gaining access to media containing those;

- f) not to disseminate confidential data in non-secure electronic communications and to supervise the fulfilment of this obligation by subordinate staff.

### **Article 19** **Other duties**

1. The employee/student is obliged to refrain from any interference with the rights of third parties, including unfair competition, in particular interference with the rights of the IP (precautionary obligation). The employee/student is required to ensure that the employee and school IP regime does not include IP subjects to which the employee, student, or MBU do not exercise rights. In the event that the use of third-party IP in an employee or school IP is unavoidable, the employee/student is required to inform the relevant department in advance, which may grant permission for such action.
2. The employee/student is obliged to act in such a way that they do not commit plagiarism, regardless of the interference with the rights of third parties. For the purposes of this Directive, plagiarism means the use of another person's original ideas and creative expressions with the intention of presenting them as one's own ideas and expressions. For the purposes of this Directive, plagiarism is also understood to include the use of IP which do not require the consent of the rightholder (in particular free items of IP) but which the employee/student publishes, presents or distributes as their own, in particular under their own name.
3. The obligations under Article 19(1) and (2) of the Directive apply to any conduct of an employee/student, regardless of the IP covered by the employment or school legal regime; this includes, for example, infringements of rights when downloading and distributing content on the internet using MBU internet connection, equipment owned by MBU, etc.
4. If conditions arise within the activities of the MBU where the need for protection in the form of a trademark arises in the interest of the MBU, the faculty or department concerned is obliged to submit a proposal for the registration of such a trademark to the Registrar without undue delay.
5. If a conflict of interest arises (e.g. if the employee as the originator should at the same time participate in the transfer of the IP as a shareholder/statutory body of the commercial company with which MBU should conclude a contract), the employee is obliged to immediately notify the relevant department in writing or in electronic form.

## **PART SIX** **Transfer of intellectual property**

### **Article 20** **Transfer prerequisites**

1. MBU makes transfers only in relation to those IP to which it exercises rights. The transfer shall be implemented in particular by the conclusion of a transfer agreement, a licence agreement, a joint research agreement, a contract research agreement and a consultancy agreement.
2. If MBU does not exercise property rights to the subject IP, it may use it only on the basis of a licence agreement concluded with the rights holder. If MBU does not exercise property rights to the subject IP, it may use it only on the basis of a licence agreement concluded with the rights holder. This does not apply, in particular, if the rights to the IP have expired, if the IP is distributed under a public licence, or if the use is subject to a statutory licence under which the subject-matter may be used without the consent of the rightholder.

**Article 21**  
**Licensing procedure (internal process)**

1. As part of the internal process, the relevant department identifies the IP subject matter for licensing purposes.
2. In order to determine in advance the appropriate remuneration for the grant of a licence, the competent department may have the subject-matter of the IP professionally appraised. The estimation of the price of the IP serves mainly for the internal needs of the department and as an internal basis for the negotiation of the licence agreement.
3. As part of the internal process, the relevant department will identify potential licensees.
4. The relevant department shall approach potential licensees with an offer of a licence, ensuring in advance the confidentiality of potential licensees and the protection of confidential information.
5. Based on the bids submitted and/or other preferences, the relevant department shall select a potential licensee and enter into negotiations with them for the conclusion of a licence agreement or an unnamed agreement pursuant to Article 269(2) of the Commercial Code. (pre-contractual negotiations).
6. A licence for the use of IP under the Copyright Act may be granted by a licence agreement in accordance with the provisions of Section 40 et seq. of the Copyright Act. A licence for the use of IP, e.g. an invention, a technical solution protected by a utility model, a design, the topography of a semiconductor product, a trademark and a trade name may be granted by a licence agreement pursuant to the provisions of § 508 et seq. Commercial Code. A licence for other IP, i.e. unregistered IP, may be granted by an unnamed contract in accordance with the provisions of Section 51 of the Civil Code or Section 261(2) of the Commercial Code. The licence agreement and the unnamed agreement referred to in this Article of the Directive must be in writing.
7. If the relevant department agrees the terms of the contract with the prospective licensee and proceeds to conclude a licence agreement or an unnamed contract pursuant to Article 5 of the Directive, the contract shall be valid from the date of its signature by the parties to the contract. The contract shall enter into force on the first day following the day on which the contract is published in the Central Register of Contracts; this shall not apply if the parties have agreed on a later entry into force of the contract.
8. If the pre-contractual negotiations do not result in the conclusion of a contract, the authorised representative shall draw up a record to that effect, describing the conduct of the pre-contractual negotiations and the reasons for not concluding the contract.

**PART SEVEN**  
**Penalties**

**Article 22**  
**Fundamentals**

1. Proceedings in cases of breach of obligations under this Directive shall be conducted by the MBU at the suggestion of the relevant department or the Department of Legal Services and Internal Control.
2. A breach of an obligation under this Directive may qualify as a breach of work discipline in the case of an employee.
3. Violation of an obligation under this guideline may qualify as a disciplinary offence in the case of a MBU student.

4. MBU shall be entitled to compensation in the event of a breach of duty under this Directive by an employee/student.

## **PART EIGHT**

### **Concluding and final provisions**

#### **Article 23**

1. This directive was approved by the Rector's Panel on 18 December 2019.
2. This Directive shall enter into force on the date of its approval by the Rector's Panel and shall come into force on 17 January 2020.
3. This Directive may be amended only by written amendments to the Directive.
4. The following Appendices form an integral part of this Directive:
  - Appendix 1 Notification of the creation of an intellectual property under the Copyright Act
  - Appendix 2 Notification of the creation of an intellectual property
  - Appendix 3 Declaration of rights shares under the Copyright Act
  - Appendix 4 Agreement on the determination of shares in intellectual property rights
  - Appendix 5 Non-disclosure agreement
  - Appendix 6 Agreement on the protection of confidential data
  - Appendix 7 Agreement on the determination of shares in intellectual property rights and the allocation of profits

doc. Ing. Vladimír Hiadlovský, PhD.  
Rector of MBU

## Notification of the creation of an intellectual property under the Copyright Act

	<b>Author</b>
Employee	yes / no
Student	yes / no
Author (rightbearer)	yes / no
Author (compiler)    yes / no	
Performer	yes / no
Maker of the sound/AV recording	áno / nie
Broadcaster	yes / no
Database creator	yes / no

Name and surname, title:

University workplace, department:

Telephone:                      E-mail:

**I hereby declare that I have created an intellectual property that may be subject to legal protection under Act No. 185/2015 Coll. The Copyright Act as amended**

IP protection name:

IP name in English:

### IP protection subject

Original work

x<sup>1</sup>

- verbal work
- computer programme
- a work of fine art (painting, drawing, sketch, illustration, sculpture, photographic work, etc.
- a musical work or other work created for publication
- an audiovisual work, e.g. a cinematographic work
- a theatrical work or dramatic work, other work made for publication
- a collective work (a collection, journal, encyclopaedia, tape, exhibition or other database)

*Note: The list of works that have been included or arranged in a collective work shall be submitted separately*

- other (more details)

Artistic performance

Audio recording

Broadcasting

Database

x<sup>1</sup> – cross out the chosen option



**Other people involved in the IP creation:**

Name and surname, title:

University workplace, department:

or a person not involved with MBU:

Telephone:                    E-mail:

Name and surname, title:

University workplace, department:

or a person not involved with MBU:

Telephone:                    E-mail:

Other IP information:

In Banská Bystrica,

.....  
Author (rightbearer)

## Notification of the creation of an intellectual property

### Originator

Employee	yes / no
Student	yes / no

Name and surname, title:

University workplace, department:

Telephone:                      E-mail:

**I hereby declare that I have created an industrial property which I believe may be protected by registration with the competent registration office.**

**I also declare that I will keep the subject matter of the industrial property mentioned in this notice confidential from third parties, unless I am released from confidentiality by MBU.**

**By my signature, I undertake to provide the necessary cooperation in proceedings before any registration office, if I am called upon to do so by MBU.**

### Industrial property type:

Invention / technical solution                      x<sup>1</sup>

Registered design

Other:

*x<sup>1</sup> – cross out the chosen option*

Industrial property name:

IP name in English:

Field of the IP use:

IP theoretical description:

*(explanation of the essence, detailed description, annotation...)*

Practical description and possibilities of the solution applications:

*(what problem the relevant IP solves, how the problem has been solved so far, what is its novelty and industrial applicability, etc., advantages/disadvantages compared to the state of the art, examples of use, other areas of use, possibilities of application of the IP in other fields of human activity, description/explanation of appendices, etc.)*

**Other people involved in the IP creation:**

Name and surname, title:

Address:

University workplace, department:

or a person not involved with MBU:

Telephone:           E-mail:

Share in the IP creation:

Name and surname, title:

Address:

University workplace, department:

or a person not involved with MBU:

Telephone:           E-mail:

Share in the IP creation:

*...fill in other pax as needed*

The relations between the co-authors are regulated by the following:

*(please list all agreements and contracts concluded with the project partners or funding parties and attach copies of these documents):*

Agreement on the use of research results:

*(please list all agreements and contracts concluded with the project partners or funding parties and attach copies of these documents):*

In Banská Bystrica,

.....  
Originator

## Declaration of rights shares under the Copyright Act

### Subject (rightbearer) 1

Employee	yes / no
Student	yes / no
Third party	yes / no

Name and surname, title:

Address:

University workplace, department:

Telephone:                      E-mail:

### Subject (rightbearer) 2

Employee	yes / no
Student	yes / no
Third party	yes / no

Name and surname, title:

Address:

University workplace, department:

Telephone:                      E-mail:

*...fill in other pax as needed*

We hereby jointly declare that we are the copyright holders of the copyright work 2 entitled: ....., the creation of which was notified to MBU on ....., and that no other person exercises copyright in this copyright work and that the work does not infringe any rights of third parties (in particular intellectual property rights, general personality rights and data protection rights).

At the same time, we jointly declare that our shares in the creation of the aforementioned work of authorship are as follows:

Subject (rightbearer) 1: ..... %

Subject (rightbearer) 2: ..... %

*...fill in other pax as needed*

**Instruction:** The declaration may also be submitted by one person from the authors' collective or the collective of other rightholders.

In Banská Bystrica,

.....  
Subject (rightbearer) 1

.....  
Subject (rightbearer) 2

<sup>2</sup> Other IP under the Copyright Act may be named.

## Agreement on the determination of shares in intellectual property rights

### Subject (rightbearer) 1

Employee	yes / no
Student	yes / no
Third party	yes / no

Name and surname, title:

Address:

University workplace, department:

Telephone:            E-mail:

### Subject (rightbearer) 2

Employee	yes / no
Student	yes / no
Third party	yes / no

Name and surname, title:

Address:

University workplace, department:

Telephone:            E-mail:

*...fill in other pax as needed*

(hereinafter referred to as "Subject 1" and "Subject 2", or collectively as the "Contractual Parties")

1. The Contractual Parties hereby jointly declare that they exercise the rights to the IP<sup>3</sup> entitled ....., which was notified to MBU on ....., and that no other person exercises the IP rights to this IP, and that this IP does not infringe any third party rights (in particular intellectual property rights, general moral rights and data protection rights).

2. The Contracting Parties agree that their respective shares in the creation of the Intellectual Property under Article 1 of this Agreement shall be as follows:

Subjekt 1: ..... %

Subjekt 2: ..... %

*...fill in other pax as needed*

In Banská Bystrica,

.....  
Subject (rightbearer) 1

.....  
Subject (rightbearer) 2

<sup>3</sup> Other IP under the Copyright Act may be named.

## Non-disclosure agreement

	Obligor
Employee	yes / no
Student	yes / no
Third party	yes / no

Name and surname, title:

Address:

University workplace, department:

Telephone:                      E-mail:

(hereinafter referred to as the "Obligor")

Matej Bel University in Banská Bystrica

Národná 12, 974 01 Banská Bystrica

Telephone +421 48 446 1111                      E-mail:

(hereinafter referred to as "MBU")

jointly labelled as „contractual parties“)

1. The Obligor hereby undertakes to maintain the confidentiality of all information of which it becomes aware in connection with the performance of its duties arising from its employment relationship and which is or may be material to MBU in the process of origination, protection, transfer and commercialization.
2. The Obligor hereby agrees to use the information subject to this Agreement only for the purpose for which it was provided to the Obligor.
3. In the event of a breach of its obligations under this Agreement, the Obligor agrees to pay a contractual penalty in the amount of .... EUR<sup>4</sup>.

In Banská Bystrica,

.....  
The Obligor

.....  
MBU

<sup>4</sup> The parties may agree on other terms of the agreement.

## Agreement on the protection of confidential data

	<b>Obligor</b>	
Employee		yes / no
Student		yes / no
Third party		yes / no

Name and surname, title:

Address:

University workplace, department:

Telephone:            E-mail:

(hereinafter referred to as the "Obligor")

Matej Bel University in Banská Bystrica

Národná 12, 974 01 Banská Bystrica

Telephone +421 48 446 1111            E-mail:

(hereinafter referred to as "MBU")

jointly labelled as „contractual parties“)

1. Confidential data within the meaning of this Agreement shall include all information exchanged or made known to the Parties in connection with the creation, filing, commercialisation of the subject matter of the intellectual property, if designated as confidential by either Party, and also such material information the disclosure of which to third parties may cause material or non-material damage to either Party, where such consequences are foreseeable with the exercise of reasonable care, in particular information which has come to their knowledge in the course of the negotiations for the conclusion of the contract and after the conclusion of the contract, or information of a particularly significant nature which requires special care and is clearly marked as confidential.
2. The Parties hereby undertake to keep the Confidential Data confidential, to safeguard the Confidential Data from disclosure, not to disclose (divulge) the Confidential Data to third parties, not to use the Confidential Data in a manner inconsistent with its purpose, and not to use the Confidential Data for their own purposes.
3. In the event of a breach of the obligations under this Agreement, the Parties agree to pay to the other Party a contractual penalty in the amount of .... EUR<sup>5</sup>.

In Banská Bystrica,

.....  
The Obligor

.....  
MBU

<sup>5</sup> The parties may agree on other terms of the agreement.

## Agreement on the determination of shares in intellectual property rights

Matej Bel University in Banská Bystrica  
Národná 12, 974 01 Banská Bystrica  
Telephone +421 48 446 1111 E-mail:  
(hereinafter referred to as "MBU")

Name and surname, title:  
Address:  
University workplace, department:  
Telephone: E-mail:  
(hereinafter referred to as "parties")

jointly labelled as „contractual parties“)

1. The Parties agree that in the event of the creation of the intellectual property on the basis of mutual cooperation within the meaning of ....., their respective interests in the intellectual property rights shall be as follows:  
MBU: ..... %  
Partner: ..... %
2. In the event of a transfer for consideration of the intellectual property arising from the mutual cooperation within the meaning of ....., which is in particular the granting of a licence and the transfer of rights, the Parties shall be entitled to a share of the profits from the commercial exploitation in the proportions set out in Article 1 of this Agreement. The relevant share shall be calculated on the net profit and the Party having the relevant funds shall transfer the share attributable to the other Party to its bank account.
3. The Partner undertakes that the MBU Directive on the Protection of Intellectual Property at the MBU No. ... shall apply to matters not covered by this Agreement or a separate cooperation agreement between MBU and the Partner.
4. In the event of a breach of the obligations set out in this Agreement, the Partner undertakes to pay to MBU a contractual penalty in the amount of ... EUR<sup>6</sup>.

In Banská Bystrica,

.....  
Partner

.....  
MBU

<sup>6</sup> The parties may agree on other terms of the agreement.