



The method of handling research, development and innovation results

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Článek 1. General section

Oddíl 1.1 Purpose of the internal Regulation

Ústav termomechaniky AV ČR, v. v. i. (the Institute of Thermomechanics of the CAS, hereinafter referred to as the "Institute") is a research organisation that is, in the meaning of the provisions of Section 16(3) of Act No. 130/2002 Coll., on the Support of Research, Experimental Development and Innovation from Public Funds and on the amendment of certain related acts (the Act on the Support of Research and Development), obliged to adjust the method for handling the results of the activities in research, development and innovation¹ (hereinafter referred to as the "Results"), which is not public procurement, through its internal regulation. This regulation lays down the rules governing the handling of the results as follows:

Oddíl 1.2 Records of research results

The researchers² are required to record the results of the research through an automated [record publication system \(ASEP\)](#)³. When recording the results in this manner, the researchers are obliged to avoid the degradation of intellectual property by the early publication within the meaning of Section 2.1 of this Regulation.

The researchers are obliged to record the results and related materials, which were not recorded in the above manner, in the Register of Documents in the internal information network of the Institute (intranet) without undue delay after their creation.

In the event that the results or information covered by the obligation of confidentiality under this Regulation are recorded in the Register of Documents, the Institute shall ensure that only persons bound by confidentiality have access to such results and information.

Článek 2. Protection of research results

Oddíl 2.1 Intellectual property⁴

The owner of the intellectual property created by the researcher is the Institute. The Institute shall endeavour to identify the intellectual property contained in the research results and to ensure the legal protection of the intellectual property for which there is potential for economic or other

¹The results of research, development and innovation are:

- a) in basic research, new knowledge of the basic principles of phenomena, processes or observable facts, which are published according to the practice in the given scientific field,
- b) in applied research, new knowledge and skills for the development of products, processes or services, knowledge and skills applied as results that are protected under the laws governing the protection of the results of copyrighted, inventive or similar activities or used by the professional public or other users, or knowledge and skills for the needs of the provider, used in its activities, if they have arisen as a result of the fulfilment of public procurement,
- c) In development, the designs of new or substantially improved products, processes or services,
- d) in innovation, new or substantially improved products, processes or services introduced into practice.

² The researcher is a person who, within the framework of employment or other similar employment relationship with the Institute, has created the result of the research.

³ <https://asep.lib.cas.cz/arl-cav/>

⁴ Intellectual property is the results of intellectual and creative human activity in the industrial, artistic, literary and scientific fields and the related rights, including rights to protection against unfair competition.



appreciation. The purpose of the legal protection is to increase the likelihood that the research results will be used in practice and that their economical appreciation will be achieved.

The research results may include material, especially for inventions, technical solutions, know-how or business secrets, whose premature publication can significantly reduce the value of such intellectual property. Therefore, before publishing the research results, the researchers should ensure that the selected data concerning inventions, technical solutions, know-how and business secrets are removed from the publications or their publication is delayed.

Unless otherwise specified, the Institute shall exercise the property rights to the results of the research which are employee works pursuant to the Copyright Act.

Oddíl 2.2 Notification of the subject of industrial rights

(a) Notification obligation

A researcher who, in carrying out a task arising from his employment relationship with the Institute, creates an invention or other result eligible for the protection of industrial rights⁵, shall immediately notify the Institute by submitting the completed Form that is an Appendix to this Regulation. The notification shall be made in writing to the notification site⁶, whereas both paper form and electronic form are accepted. Together with the Form, the researcher shall submit to the notification site the materials necessary for the Institute to assess the invention or technical solution and decide whether to apply its right to a patent or utility model for the submitted invention or technical solution.

If the result is generated by more than one researcher, it is sufficient if one researcher submits the notification. The notification obligation is maintained even if the result was created in cooperation with the researchers who participated in the creation of the invention or technical solution as part of the performance of tasks arising from an employment relationship with an employer other than the Institute.

(b) Decision on the exercising of rights

(i) *Positive decision*

If the Institute exercises the right to a patent or utility model, it shall inform the researcher of that fact. They shall do so in writing (in paper or electronic form) immediately after the resolution on the decision, but no later than 3 months after receipt of the Form. In this case, the right to a patent or utility model passes to the Institute. This does not affect the right of origin.

The researcher who, when fulfilling the task resulting from his/her employment relationship, created an invention or technical solution to which the Institute exercised its right, is entitled to appropriate remuneration from the Institute, with the technical and economic importance of the invention or technical solution and the benefit achieved by its possible further use or other application being decisive for determining its amount. The method for calculating the researchers' remuneration for the creation of an invention or technical solution is the subject of Appendix No. 2 of this Regulation.

⁵ Especially a technical solution, industrial design or improvement design.

⁶ The notification site is a commission set up by the Institute's organisation rules as an advisory body of the Director, which is responsible for examining proposals for the protection of industrial rights to research knowledge (inventions, technical solutions and other items of industrial property).



(ii) *Negative decision*

If the Institute does not exercise the right to a patent or utility model by the end of the 3-month period, the right shall be transferred back to the originator and the Institute shall be entitled to use it exclusively on the basis of a written contract with the researcher.

(c) Confidentiality

The researcher and other persons who, in the process of deciding whether to exercise the right to a patent or utility model, are informed of the facts comprising the subject of the application of an invention or utility model and are mentioned in the Form, are obliged to maintain the confidentiality of such facts until the publication of the application of the invention or registration of the utility model by the given Industrial Property Office, unless the facts in question have been disclosed before the publication of the application on the basis of a decision or the consent of the Institute.

A similar procedure is to be applied in the case of an industrial design or an improvement with regard to the valid legislation.

Oddíl 2.3 Transfer of knowledge

The practical users of the results are application partners⁷. The transfer of results to the partner is usually carried out by the transfer of knowledge, i.e., by the effective cooperation in the research, providing advice, providing a license for the intellectual property or establishing spin-off companies.

Contractual research in accordance with Article 2.2.1 of the Community Framework for State aid for Research, Development and Innovation 2014/C 198/01 shall not be considered to be a transfer of knowledge under this Regulation.

Článek 3. Management and use of intellectual property

The Institute manages its intellectual property with due care and diligence. In cooperation with the researchers, the Institute seeks to find application partners for the research results. For this purpose, it uses the services of internal and external specialists for the transfer of knowledge.

The Institute may decide to terminate the financing of its legal protection for selected results in cases where the costs of the legal protection exceed the revenues from the expected appreciation of these results. In justified cases, the Institute may transfer related intellectual property to the researcher.

Článek 4. Research cooperation with application partners

Oddíl 4.1 Methods of research cooperation with application partners

The Institute supports research cooperation with application partners, which it carries out in the framework of its main activities. In the framework of research cooperation, the Institute primarily seeks *effective cooperation* in the sense of European public aid law⁸. The Institute proceeds in accordance with the recommendations and other guidelines of the CAS for this area, taking into

⁷ The application partner is interested in using the R&D&I results.

⁸ Effective cooperation means joint research carried out for the purpose of the transfer of knowledge or technology, in which the Parties share the results of such research and jointly bear both the risks and potential benefits of their future use. Contractual research and the provision of research services are not considered to be forms of cooperation. For details, see point 16 (h) of the Commission Communication – State aid Framework for research, development and innovation (published in 2022/C 414/01).



account the proven procedures and good practice of research organizations in the Czech Republic and abroad.

Oddíl 4.2 Procedure before starting cooperation with application partners

The terms of cooperation with the application partners must be governed by a contract, such as a cooperation agreement, an agreement to provide materials, etc. Only the statutory representative of the Institute (the Director or a person authorised to act on behalf of the Director) is authorised to conclude contracts with application partners.

Employees of the Institute who participate in the cooperation with the application partner shall ensure the preparation of the relevant contract with the application partner and its discussion with the Director or his authorised representative, as a rule the Deputy for Economics and Operations, before the start of the cooperation. The purpose of this measure is to ensure that the cooperation with the application partner is not concluded under conditions that are unfavourable to the Institute, in order to not harm the Institute's reputation, to prevent the violation of the Institute's legal obligations (in particular illegal public support) and to avoid the risk or damage to the Institute's intellectual property rights.

In isolated and justified cases, cooperation with the application partner may also be carried out without concluding a contract, but only to a limited extent in terms of volume and time of cooperation, in particular with a view to establishing mutually beneficial cooperation and gaining mutual trust. For these cases, it is necessary to obtain the written⁹ consent of the Director of the Institute and to inform the application partner in writing of the terms of cooperation, which must correspond to the conditions common when concluding a contract.

If information that is classified, in particular know-how or undisclosed technical solutions, is to be provided to the application partner, this may be done exclusively by means of a confidentiality agreement, whereby the representatives of the application partner commit to the confidentiality of facts subject to secrecy with which they will be informed. The confidentiality agreement must be concluded before such information is provided to the application partner and its conclusion is subject to the same procedure as for the conclusion of the cooperation agreement.

Článek 5. Remuneration of the researchers when profit is achieved from the commercial use of the results

The researcher shall be remunerated in the event that the amount already paid for creating the result is in an evident disparity with the economic benefits achieved by its later use or further application.

If the result is subject to a transfer of knowledge, the Institute shall conclude a joint commercialisation agreement with the researcher in which, in addition to the obligatory cooperation of the researcher, it shall determine the amount and method of payment of the remuneration pursuant to this Article.

Článek 6. Concluding provisions

Relations not regulated by this internal Regulation are governed by the relevant internal regulations of the CAS¹⁰ and the legal code of the Czech Republic. In the event of a conflict between the provisions of

⁹ Written (i.e., not oral) consent may be obtained in paper or electronic form.

¹⁰ Especially the Guideline of the Academic Council of the Academy of Sciences of the Czech Republic No. 3 from 19 June 2018, on the Registration and Use of Items Protected by Intellectual Property Rights.



this Regulation and the provisions of the Guidelines and Directives of the CAS binding for the Institute, these shall prevail over the internal Regulation.

This internal Regulation shall enter into force and effect on 1 January 2023 and shall replace Internal Standard No. 21/2004 (the Procedure for the Protection and Use of the Intellectual Property of the CAS) including the appendices, Internal Standard No. 26/2006 (Institute Research Knowledge Registry), Internal Standard No. 46/2008 (Internal Regulation of the Institute of Thermomechanics of the CAS, v.v.i., related to copyrighted works and employee inventions, Internal Standard No. 59/2011 (on How to Handle the Results of Research, Development and innovation) and the Order of Director No. 3/2008 on the method for calculating the commercial price of a product relating to the copyrights and employee inventions.

Článek 7. Appendices

Appendix 1: Research knowledge notification form and proposal for its protection (the "Form")

Appendix 2: The method of calculating the researchers' remuneration

Prague, 16 December 2022

doc. Ing. Miroslav Chomát, CSc.
Director of the Institute



Appendix 1

Notification of new research knowledge and proposal for its protection

I hereby notify the Institute of Thermomechanics of the CAS (hereinafter referred to as the "Institute") that during the research work resulting from my employment relationship with the Institute, I have achieved new and important knowledge with possible economic use.

Name of knowledge:

Summary of knowledge (max. 250 words):

Percentage shares of the researcher/co-researchers (hereinafter referred to as the "originator/co-originaors"):

Full name	The organisation with which the originator or co-originator has an employment relationship in which the share of the knowledge has been achieved	Percentage share in the achieved knowledge

Type of knowledge (invention, technical solution, other outcome capable of protecting industrial rights – specify type):

Expected professional and market potential of knowledge:

The knowledge is the output of the public support project for research, development and innovation: yes / no (cross out as appropriate)

Potential candidates for knowledge:

Please indicate whether any material information concerning the knowledge that could jeopardise its future economic appreciation has been published and how it has been published (include a citation for the publication or the date and title of the lecture/event, etc.):

Proposed protection method (Czech patent, international patent, utility model, confidentiality, etc.):

Please indicate the persons who are not co-originaors but have been informed of the essential facts relating to the knowledge:

I propose to make economic use of the knowledge in the name of and at the expense of the Institute. I undertake, on behalf of myself and on behalf of the other originators of the knowledge specified below, to refrain, during the time of the discussion of this proposal, from any disclosure of material facts relating to the knowledge, in particular those which might prevent its future economic appreciation.

Date:

Full name and signature of notifier:



Appendix 2

The method of calculating the researchers' remuneration

The remuneration for the creation of an invention

The researcher (hereinafter referred to as the “originator”) of an invention, for which the Institute exercises its right to a patent, and who participated in the creation of the invention alone, is entitled to **remuneration for the creation of the invention in the amount of CZK 10,000**. In the case of the creation of an invention in cooperation with co-origimators, the amount of the remuneration to all co-origimators shall be calculated **from the percentage of the co-origimator’s share** in the creation of the invention, the remuneration being paid only to the co-origimators who created the invention in the performance of the research tasks arising from their employment relationship with the Institute.

Remuneration for the creation of a technical solution

The researcher (hereinafter referred to as the “originator”) of a technical solution, for which the Institute of Thermomechanics of the CAS (hereinafter referred to as the “Institute”) exercises its right to a utility model, and who participated in the creation of the invention alone, is entitled to **remuneration for the creation of the technical solution in the amount of CZK 5000**. In the case of the creation of a technical solution in cooperation with co-origimators, the amount of the remuneration to all co-origimators shall be calculated **from the percentage of the co-origimator’s share** in the creation of the technical solution, the remuneration being paid only to the co-origimators who created the technical solution in the performance of the research tasks arising from their employment relationship with the Institute.

Additional remuneration

The originator or co-origimators of an invention or technical solution shall be entitled to additional remuneration in the event that the remuneration already paid for the creation of the invention or technical solution is in an evident disparity with the economic benefits achieved by its later use or further application (see Art. V in this Regulation).

Request for payment of the remuneration

The researcher shall request the remuneration for the creation of the invention or technical solution in writing in paper form with the Deputy Director for Economics and Operations.