

## 4.2 Surgery, therapy and diagnostic methods

See ISPE Guidelines 9.08-9.10. However, under the Agreement between the EPO and WIPO these fall within the EPO's discretion to exclude matter which would be excluded under Art. 53(c) EPC. Generally, no search or preliminary examination is carried out by the EPO as ISA/IPEA. Section G-II, 4.2, in the Guidelines for Examination in the EPO applies *mutatis mutandis*.

Rule 39.1(iv),  
Rule 67.1(iv)  
OJ EPO 2017, A115  
OJ EPO 2018, A24

## 5. Exclusions and exceptions for biotechnological inventions

### 5.1 General remarks and definitions

"Biotechnological inventions" are inventions which concern a product consisting of or containing biological material or a process by means of which biological material is produced, processed or used. "Biological material" means any material containing genetic information and capable of reproducing itself or being reproduced in a biological system.

Rule 39.1(ii),  
Rule 67.1(ii)  
OJ EPO 2017, A115  
OJ EPO 2018, A24

### 5.2 Biotechnological inventions

See ISPE Guidelines 9.06. However, under the Agreement between the EPO and WIPO these fall within the EPO's discretion to exclude matter which would be excluded under Art. 53(b) EPC. Generally, no search or preliminary examination is carried out by the EPO as ISA/IPEA. Section G-II, 5.2, in the Guidelines for Examination in the EPO applies *mutatis mutandis*.

OJ EPO 2017, A115  
OJ EPO 2018, A24

### 5.3 Exceptions

The PCT, unlike the EPC, does not explicitly exclude carrying out an international search or an international preliminary examination on specific subject-matter related to biotechnological inventions. However, under the Agreement between the EPO and WIPO these fall within the EPO's discretion to exclude matter which would be excluded under Art. 53 EPC. Generally, no search or preliminary examination is carried out by the EPO as ISA/IPEA. Section G-II, 5.3, in the Guidelines for Examination in the EPO applies *mutatis mutandis*.

OJ EPO 2017, A115  
OJ EPO 2018, A24

### 5.4 Plant and animal varieties, essentially biological processes for the production of plants or animals

See ISPE Guidelines 9.06. However, under the Agreement between the EPO and WIPO these fall within the EPO's discretion to exclude matter which would be excluded under Art. 53(b) EPC. Generally, no search or preliminary examination is carried out by the EPO as ISA/IPEA. Section G-II, 5.4 and subsections, in the Guidelines for Examination in the EPO applies *mutatis mutandis*.

Rule 39.1(ii),  
Rule 67.1(ii)  
OJ EPO 2017, A115  
OJ EPO 2018, A24

### 5.5 Microbiological processes

See ISPE Guidelines 9.06. GL/EPO G-II, 5.5, applies *mutatis mutandis*.

Rule 39.1(ii),  
Rule 67.1(ii)  
OJ EPO 2017, A115  
OJ EPO 2018, A24