the German version, moreover, the term "Tierarten" in Art. 53(b) EPC 1973 was replaced by "Tierrassen" to bring it into line with the Biotech Directive and R. 23c(b) EPC 1973 (MR/2/00, 45).

In addition, the exclusion of medical methods which had previously been enshrined in Art. 52(4) EPC 1973 was transferred to Art. 53(c) EPC. These methods had formerly been excluded from patentability through the legal fiction that they were not susceptible of industrial application. However, since medical methods are excluded from patentability mainly in the light of public health considerations, it appeared appropriate to include these inventions also under exceptions to patentability (MR/2/00, 45).

1.2. Basic principles

No general exclusion of inventions in the sphere of animate nature can be inferred from the EPC (**T 49/83**, OJ 1995, 545). It was held in **T 356/93** (OJ 1995, 545) that seeds and plants per se should not constitute an exception to patentability under Art. 53(a) EPC 1973 merely because they represented 'living' matter, or on the ground that plant genetic resources should remain the 'common heritage of mankind'.

The case law indicates that any exceptions to patentability must be narrowly construed. In respect of Art. 53(a) EPC, see **T 356/93** (OJ 1995, 545) and **T 866/01**, but also **T 1374/04** (OJ 2007, 313); in respect of Art. 53(b) EPC, see **T 320/87** (OJ 1990, 71), **T 19/90** (OJ 1990, 476) and **T 315/03** (OJ 2006, 15); regarding Art. 53(c) EPC (Art. 52(4) EPC 1973) see **T 144/83** (OJ 1986, 301), **T 385/86** (OJ 1988, 308) and **G 1/04** (OJ 2006, 334).

Given the ratio legis of the individual provisions, however, this narrow interpretation produces different results: a claim which embraces plant/animal varieties, but does not claim them individually, is not excluded from patentability under Art. 53(b) EPC (**G 1/98**, OJ 2000, 111; **T 19/90**, OJ 1990, 476; **T 315/03**, OJ 2006, 15). According to the established case law of the boards of appeal, a method claim falls under the prohibition of Art. 53(c) EPC if it includes at least one feature defining a physical activity or action that constitutes a method step for treatment of the human or animal body by surgery or therapy (see in this chapter I.B.4.2.). By contrast, several method steps are required to define a diagnostic method within the meaning of Art. 53(c) EPC owing to the inherent and inescapable multi-step nature of such a method (**G 1/04**, OJ 2006, 334). In **T 19/90** it was also stated that the object and purpose of the law (ratio legis) was not merely a matter of the legislator's intention at the time when the law was adopted, but also of their presumed intention in the light of changes in circumstances which had taken place since then.

2. Breaches of "ordre public" or morality

In the past, this issue has arisen mainly in connection with biotechnological inventions.

Art. 53(a) EPC is supplemented by R. 28 EPC, which sets out four categories of biotechnological inventions excluded from patentability under that article. R. 28 EPC is part of the chapter on "Biotechnological inventions" inserted into Part II of the