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1. Introduction

Art. 53 EPC defines three exceptions to patentability: (a) inventions the commercial exploitation of which would be contrary to 'ordre public' or morality; (b) plant varieties or animal species or essentially biological processes for the production of plants or animals; this does not apply to microbiological processes or the products thereof; (c) methods for treatment of the human or animal body by surgery or therapy and diagnostic methods practised on the human or animal body; this does not apply to products, in particular substances or compositions, for use in any of these methods.

1.1. Amendments made to Article 53 EPC as part of the EPC 2000 revision

As part of the EPC 2000 revision, several amendments were made to Art. 53 EPC. However, these are unlikely to affect the EPO's practice (see OJ SE 4/2007): Art. 53(a) EPC was brought into line with Art. 27(2) TRIPS and Art. 6(1) of Directive 98/44/EC on the legal protection of biological inventions ("Biotech Directive"). In