

# University of Defence

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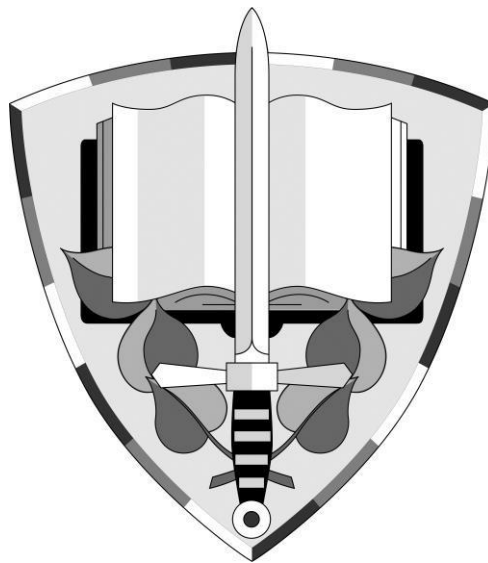
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Approved by:  
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Rector

Brno, 3 July 2018



## **MEASURE OF THE RECTOR OF THE UNIVERSITY OF DEFENCE**

**No. 6/2018**

## **INTELLECTUAL PROPERTY**

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**Brno 2018**

**PART ONE**  
**INTRODUCTORY PROVISION**

**Article 1**  
**Introductory provision**

This measure establishes the rights and obligations of the employees of the University of Defence (hereinafter referred to as "employees") and professional soldiers<sup>1</sup> assigned to the University of Defence (hereinafter referred to as "professional soldiers") in relation to intellectual property arising from the performance of work and service tasks within the University of Defence (hereinafter referred to as "University") and in relation to the intellectual property which the University is entitled to handle.

**Article 2**  
**Fundamental provision**

- (1) The University's intellectual property are mainly objects of industrial property and the right to use these objects, authorial works and the right to use these works, and other intellectual property protected by other generally binding legal regulations, in particular trade secrets<sup>2</sup> and reputation<sup>3</sup>.
- (2) For the purposes of this measure, any person who performs dependent work<sup>4</sup> for the benefit of the University is considered an employee.
- (3) Every employee and professional soldier is obliged to guard and protect intellectual property arising within the University, and the intellectual property that the University is authorized to handle and to refrain from any unauthorized handling of it, in particular, publishing unprotected results, provide them to third parties, or otherwise make them available to them. They are obliged to provide such protection even for emerging results.

**PART TWO**  
**OBJECTS OF INDUSTRIAL PROPERTY AND THEIR PROTECTION**

**Article 3**  
**Industrial property**

- (1) As part of its educational and creative activities, the University supports general technological development both independently and in cooperation with other universities and legal and natural persons through its employees, professional soldiers and students.
- (2) The cooperation with other legal entities and natural persons is performed based on a written contract. An integral part of this contract is also the regulation of the rights and obligations of the contracting parties concerning the outcomes of this cooperation that constitute an object of industrial property during their creation and after their emergence.
- (3) For the creation of an object of industrial property, the employees and professional soldiers use exclusively things which are owned by The Czech Republic or for which

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<sup>1</sup> § 2 (1) of Act No. 221/1999 Coll. on professional soldiers, as amended.

<sup>2</sup> § 504 of Act No. 89/2012 Coll., Civil Code, as amended.

<sup>3</sup> § 135 of Act No. 89/2012 Coll., Civil Code, as amended.

<sup>4</sup> § 3 of Act No. 262/2006 Coll., Labour Code, as amended.

The Czech Republic has a written licence agreement. Using other things to create an object of industrial property is allowed only with the written consent of the rector.

#### **Article 4**

##### **Notification of creating an object of industrial property**

- (1) If an employee or a professional soldier creates an object of industrial property when fulfilling a task related to labour or service laws, he/she is obliged to notify the University of this fact in writing immediately. At the same time, he/she shall submit the documents for the assessment of the object of industrial property to the University and collaborate with the University in processing the application for its protection.
- (2) An employee or a professional soldier shall notify the University of the object of industrial property and submit all documents for its assessment to the University no later than 15 days from the date of its creation using the sample form given in Appendix No. 1 of this measure (hereinafter referred to as "notification").
- (3) If the notification submitted by an employee or a professional soldier contains incomplete or incorrect data or if the employee or professional soldier does not submit any of the documents for the assessment, the expert committee for assessing industrial property objects and their use (hereinafter referred to as the "expert committee") will invite the employee or professional soldier to eliminate the shortcomings.
- (4) From the day when an employee or a professional soldier receives a call to eliminate the shortcomings in the notification or documents until the day when the employee or professional soldier eliminates them, the period for exercising the employer's right to the object of industrial property that is subject to notification does not run.
- (5) Failure to comply with the notification obligation is considered a serious breach of the employee's duties as stipulated in the Labour Code or a serious breach of service duties. If an employee or a professional soldier does not eliminate specified shortcomings in the sense of paragraph 3, he/she fails to comply with the notification obligation as well.

#### **Article 5**

##### **Expert committee**

- (1) If the University receives a notification, the rector shall immediately set up a five-member expert committee. The Rector shall appoint the members of the expert committee in such a way that:
  - a) the members of the expert committee are commonly employees or professional soldiers,
  - b) one of the members of the expert committee and, at the same time, its chairman is usually the vice-rector, whose remit includes the protection of intellectual property emerging at the University,
  - c) at least one committee member is an expert in the field related to the object of industrial property to be assessed.
- (2) The assignment of a member of the expert committee is honorary and irreplaceable, and is associated with the obligation to participate in expert committee meetings.
- (3) The meeting of the expert committee is convened by its chairman. The chairman shall convene a meeting of the expert committee immediately after the rector establishes it.

- (4) The expert committee shall assess the notification in particular from the point of view of whether:
  - a) the submitted notification and related submitted documents are complete and faultless,
  - b) The Czech Republic – Ministry of Defence, considering all the circumstances of the creation of the assessed object of industrial property, is entitled to exercise the rights to this object of industrial property,
  - c) the assessed object of industrial property meets all legal requirements associated with the proposed protection of this object of industrial property<sup>5</sup>,
  - d) a profit (benefit) in favour of The Czech Republic – Ministry of Defence is associated with the protection of the assessed object of industrial property.
- (5) After the assessment, the expert committee shall produce a written opinion with comments addressing the issues in focus and will propose the next course of action. The chairman of the expert committee will present the opinion to the rector.

### **PART THREE AUTHORIAL WORKS AND THEIR PROTECTION**

#### **Article 6 Authorial works**

- (1) At the University, authorial works such as employee works and school works are created. The University is entitled to handle the authorial works made to order on the basis of a contractual relationship and the authorial works for which it has contractually agreed usage rights<sup>6</sup> to the extent and in the manner specified in the relevant contractual relationship.
- (2) Unless agreed in writing or stated otherwise, the property rights to works by the employee are exercised by the University in its own name and at its own expense. The author's personal rights to the employee work remain preserved. After the termination of the employment or service relationship, the property rights remain with the University.
- (3) The author of an employee work is authorized to arrange its publication in a periodical or at a conference.

### **PART FOUR SPECIAL AND FINAL PROVISIONS**

#### **Article 7 Special provisions**

- (1) If a student creates an object of industrial property or authorial work to fulfil his study requirements<sup>7</sup> or as part of other studies activities<sup>8</sup> and if

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<sup>5</sup> E.g., Act No. 527/1990 Coll., on inventions and improvement proposals, as amended, Act No. 478/1992 Coll., on utility models, as amended etc.

<sup>6</sup> E.g., license agreement or free use agreement.

<sup>7</sup> E.g., as part of the final thesis.

<sup>8</sup> E.g., student works created as part of student creative activities.

the University is interested in its use, and if the student is not an employee or a professional soldier at the same time, the university will conclude a licence agreement with the student<sup>9</sup>.

- (2) The proposals for exercising the right to an object of industrial property are submitted to the Ministry of Defence in accordance with the employer's internal regulations<sup>10</sup> by the rector. The Ministry of Defence decides on the exercise of this right, on the method of the protection of the object of industrial property and its use by another entity.
- (3) The rector is entitled to call on an employee or a professional soldier who is the originator or co-creator to prepare and submit a report on the course of the creation of the object of industrial property or employee work.

### **Article 8** **Validity and effectiveness**

This measure becomes valid and effective when signed by the rector.

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<sup>9</sup> § 2358 of Act No. 89/2012 Coll., Civil Code, as amended.

<sup>10</sup> In particular, the MoD Order No. 1/2009 of the MoD Bulletin, Objects of industrial property under the jurisdiction of the Ministry of Defence.

## Notification of the creation of an object of industrial property

Reg. No. of the notification place:

Surname, first name, title, place of residence (street, locality, zip code), nationality	Personal number	Signature of the originator
1. originator		
2. originator		
3. originator		
4. originator (indicate the other originators on the next sheet)		
<p>The above-mentioned originators notify their employers that they have created an outcome at the level of an invention<sup>*)</sup>, utility model<sup>*)</sup>, industrial design<sup>*)</sup>, topography protection of semiconductor products<sup>*)</sup>, trademark<sup>*)</sup> with a working title:</p>		
<p>The object of industrial property has been created within the execution of: (project for the purposeful support (CEP number), a long-term plan for the development of the organization, specific research project, project for the purposeful support of a work/service task, contract number ..... date .... )<sup>*)</sup></p> <p>date: _____ name and signature of the direct supervisor: _____</p>		
<p>Characteristics of the novelty of the object of industrial property:</p>		
<p>The notification was submitted:</p> <ul style="list-style-type: none"> <li>- in person at the notification place of the employer<sup>*)</sup></li> <li>- by registered post (via the Information Protection Workplace) addressed to the notification place of the employer<sup>*)</sup></li> </ul> <p>date: _____ name and signature of the recipient: _____</p>		
<p>The notification place confirms:</p> <ul style="list-style-type: none"> <li>- that it received complete documents required for the submission of the applications<sup>**)</sup></li> </ul> <p>date: _____ name and signature of an authorized person: _____</p>		
<p>Employer's acknowledgement of receiving the notification:</p> <p>The employer received the notification on:</p> <p style="text-align: right;">Rector-Commandant</p>		

<sup>\*)</sup> Cross out the inappropriate ones.

<sup>\*\*)</sup> In the event that the documents do not meet the conditions for filing an application for an object of industrial property (see Methodological guidelines and Instructions of the chairman of the Industrial Property Office: [www.upv.cz](http://www.upv.cz)) and have to be clarified through mutual consultations, the date of submitting complete documents required for the submission of the application will be considered the date of notification.