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INTELLECTUAL PROPERTY RIGHTS MANAGEMENT IN DEFENCE R&D PROJECTS: IMPLICATIONS FOR THE USE OF PUBLICLY FUNDED RESULTS

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Abstract.

This article examines the legal and institutional framework governing the use of results from development projects financed by the National Centre for Research and Development in the field of national security and defence. It analyses how changes in the management of intellectual property rights and technical documentation of military equipment affect the use of project results in building the operational capabilities of the Polish Armed Forces and supporting the life cycle of military equipment. The paper addresses a research gap concerning the relationship between intellectual property rights management, technical documentation and the practical use of publicly funded R&D results in defence modernisation and logistics systems, focusing on solutions introduced by Decision No. 1/MON of 12 January 2026. The study applies a normative and comparative analysis of legal acts, competition documentation and model agreements used in selected NCBR competitions, covering different models of intellectual property rights allocation and management. The findings indicate that the new regulatory framework strengthens the conditions for using project results by clarifying the scope of rights and introducing mechanisms supporting their management, but does not itself ensure their implementation. The article contributes to defence logistics by showing that intellectual property rights and technical documentation determine whether R&D results can support maintenance, modernisation, modification and further development of military equipment throughout the equipment life cycle.

Keywords:

defence R&D projects; intellectual property rights; technical documentation; defence logistics; defence acquisition

Introduction

Development projects financed by the National Centre for Research and Development (NCBR) support technological capabilities relevant to national defence and the functioning of the Armed Forces of the Republic of Poland. Their direct link to defence needs justifies public funding and the involvement of the State Treasury in acquiring intellectual property rights. These projects operate between research and procurement, enabling decisions on the further use of developed technologies. Development projects form part of R&D activity as defined by the OECD (OECD, 2015).

The acquisition of military equipment involves a high level of risk due to its systemic and multi-stage nature. Decisions are made under significant uncertainty and have strategic, operational and financial consequences (Zamelek and Lewiński 2025). In such conditions, access to and control over technological solutions, including intellectual property rights and technical documentation, become critical for ensuring continuity and reliability in defence capability development.

In Poland, defence R&D is financed through public institutions and EU programmes, with a key role played by the National Centre for Research and Development and Military Research Institutes. Although data on private expenditure are limited, available evidence indicates growth, while funding remains driven more by dispersed initiatives than by a coherent strategy (Wroński et al. 2025).

From the perspective of the security system, the key issue is not the number of projects or funding levels, but the ability to use their results in building operational capabilities of the Armed Forces. Project outputs include technical documentation, prototypes, patentable solutions, copyrights and know-how. Their use depends on post-project management and the scope of rights enabling maintenance and further development. Thus, the management of intellectual property rights and technical documentation is linked to defence logistics and lifecycle support.

The aim of the article is to analyse solutions introduced by Decision No. 1/MON of 12 January 2026 concerning intellectual property rights and technical documentation, in the context of using results of NCBR-funded development projects.

The research question is: how do changes in the management of intellectual property rights and technical documentation affect the use of development project results in building operational capabilities of the Armed Forces of the Republic of Poland?

Research methodology

The study is based on theoretical methods, including normative and comparative analysis of legal acts, competition documentation and model agreements, combined with synthesis and logical reasoning.

The selection of three NCBR competitions reflects key stages in the evolution of intellectual property rights management in defence R&D projects. The analysis applies criteria such as rights allocation, licensing mechanisms and institutional arrangements supporting the use of results.

The study is based on publicly available documentation and legal acts. It is limited to the formal and institutional framework and does not include an empirical assessment of the actual use of project results by the State Treasury, as reliable and systematic public data on this issue are not available within the scope of the present research.

It is assumed that a clearly defined scope of intellectual property rights transfer and management may improve the implementation and development of defence technologies.

The article analyses changes in intellectual property rights transfer models in defence projects financed by the NCBR, as well as changes in the management of intellectual property rights and technical documentation. Accordingly, the study examines amendments to the Act on the National Centre for Research and Development, competition rules, and solutions introduced by Decision No. 1/MON of 12 January 2026.

Literature review

The use of R&D results in practice has been widely discussed in the literature on innovation systems, technology transfer and public innovation policy, which emphasises the role of knowledge flows, institutional arrangements and policy instruments (Chesbrough 2003; Bozeman 2000; OECD, 2011). These issues have also been analysed in the context of public procurement as an innovation policy instrument and university–industry collaboration (Edler and Georghiou 2007; Bruneel et al. 2010).

However, the relationship between intellectual property rights management, technical documentation and the use of results from publicly funded defence R&D projects remains underexplored. This issue is particularly relevant in the defence sector, where the state acts as funder, regulator and potential user of results.

In defence innovation systems, structural barriers may limit the transition from development to implementation, including the ‘valley of death’, i.e. the gap between prototype development and operational use.

This reveals a research gap concerning the relationship between intellectual property rights frameworks and institutional mechanisms governing the use of technological results. In particular, it is necessary to analyse how different models of IPR allocation and management affect the ability to use, modify and further develop technologies created in publicly funded defence R&D projects.

Legal framework of NCBR-funded defence projects

The normative basis for development projects for national defence and security is the Act of 30 April 2010 on the National Centre for Research and Development (hereinafter: the NCBR Act), which in Article 2(1) establishes the Centre as an executive agency responsible for national scientific and innovation policy. Of particular importance are Article 28, regulating strategic research and development programmes, and Article 32, which defines the rules for managing project results and safeguarding the interests of the State Treasury.

These programmes are based on priority technological areas defined for the seventh strategic direction—national security and defence—of the National Research Programme established by Resolution No. 164/2011 of the Council of Ministers of 16 August 2011 (Council of Ministers 2011).

Reference should also be made to the Regulation of the Minister of Science and Higher Education of 28 August 2020, which specifies how the Centre performs its tasks and the rules for financing or co-financing research and development for national defence and security.

Together, these regulations create a framework that treats development projects as part of the state security infrastructure rather than solely an instrument of science policy. Their objectives therefore include not only strengthening scientific and industrial potential but also building technological independence through national know-how, consistent with the concept of open innovation (Chesbrough 2003).

The scale of this instrument is reflected in 19 competitions with a total budget exceeding PLN 4.1 billion. The hybrid nature of projects, often implemented by scientific and industrial consortia, enhances technology transfer but increases the complexity of managing rights to results and technical documentation.

Article 32 of the NCBR Act regulates the allocation of rights and mechanisms protecting the State Treasury. Initially, defence and security projects assigned ownership of inventions, utility models and industrial designs to the State Treasury represented by the Minister of National Defence, but non-patentable results, including technical documentation and know-how, remained subject to contractual regulation. This created a risk that publicly funded results would not be practically available to the defence sector, a problem also identified by the Supreme Audit Office in its report on development works for the Ministry of National Defence in 2013–2016 (Supreme Audit Office (NIK) 2020).

These shortcomings led to a 2016 amendment to the NCBR Act introduced by the Act of 4 November 2016. Under the new provisions, ownership of inventions, utility models, industrial designs and economic copyrights arising from defence-related projects financed by the Centre was assigned to the State Treasury, represented by the entity specified in the project agreement.

This amendment clarified copyright ownership while preserving contractual flexibility. It also introduced a new mechanism in paragraph 3a, allowing the State Treasury to declare its intention to use project results within twelve months of project completion.

In such cases, the State Treasury may use the results free of charge within specified fields of exploitation and may use inventions, utility models or industrial designs under a full, non-exclusive licence unlimited in time and territory. This licence includes the right to modify and sublicense.

The State Treasury is represented by the entity indicated in the agreement or, failing that, by the Minister of National Defence.

This introduced a statutory licensing mechanism in favour of the State Treasury. Its legal nature resembles a compulsory public-law licence, arising not from a contract but from a unilateral declaration. Upon such declaration, the state acquires the right to use intellectual property within statutory limits.

Interpretative doubts may arise from the term “full licence”, which is not defined in copyright or industrial property law.

A further amendment introduced by the Act of 3 July 2018 made Article 32 more comprehensive, extending it to all forms of results protected under industrial property law.

In conclusion, Article 32(3)–(4) of the NCBR Act establishes a mechanism ensuring the State Treasury’s permanent access to the results of publicly funded defence research.

Role of project agreements and competition documentation

As a result, a dual model for safeguarding the state’s interests in defence and security has emerged. Contracts may assign rights to the State Treasury, while where rights remain with the contractor, the state may activate a broad statutory licence within the prescribed time limit.

However, the practical applicability of this model depends on linking legal title with effective instruments for document management, awareness of rights and procedures enabling the transition from development to implementation.

A contract for the implementation and financing of a defence project therefore performs a broader function than a standard R&D contract, determining both the management of project results and the distribution of risks associated with their use.

From the perspective of national security, such agreements influence decision-making processes and may either facilitate or hinder the transition from project completion to capability development.

This corresponds to the concept of open innovation, where knowledge flows between the public and private sectors increase the effectiveness of technology use (Chesbrough 2003).

Contractual provisions determine the definition of results, assignment of rights, scope of licensing and obligations regarding technical documentation. In practice, the key factor is not ownership, but the ability to use, modify and further develop results, including their transfer within defence acquisition systems.

Similarly, the scope and quality of technical documentation determine implementation feasibility, as insufficient documentation may prevent reproduction and further development despite broad legal rights.

Evolution of intellectual property rights models in NCBR competitions

The diversity of statutory and contractual models is illustrated by three competitions announced by the National Centre for Research and Development (NCBR) in the field of national defence and security: Competition No. 1/PS/2014 (“New Weapon and Defence Systems in the Field of Directed Energy”), Competition No. 4/SZAFIR/2021 (“Development of Modern, Breakthrough Technologies for National Security and Defence”), and Competition No. 1/PERUN/2023 (“New Technologies in the Field of National Security and Defence”) (National Centre for Research and Development 2015, 2021, 2023).

The documentation reflects a shift from a model based on the concentration of ownership rights in the State Treasury to one prioritising the state’s practical ability to use, modify and further develop project results independently of the contractor.

The rules of Competition No. 1/PS/2014 established a proprietary model, concentrating economic copyrights and rights to industrial property protection in favour of the public entity. The contractor was required to transfer copyrights to results constituting works, including modifications and further developments, together with broad fields of exploitation, derivative rights, source codes and design documentation. Although reuse by the contractor was possible, it depended on a separate licence and remained subordinated to the public interest, including the needs of the Polish Armed Forces and national security.

The transfer of intellectual property rights in Competition No. 1/PS/2014 is presented in Figure 1.

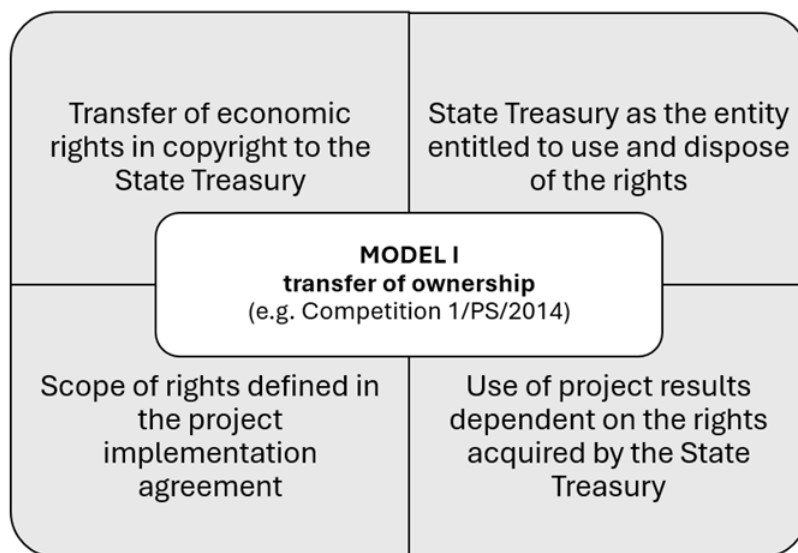


Figure 1. Model of intellectual property rights transfer in Competition No. 1/PS/2014
Source: own elaboration

In the model adopted in Competition No. 4/SZAFIR/2021 under the programme “Development of Modern, Breakthrough Technologies for National Security and Defence” (SZAFIR), there is a clear departure from the automatic acquisition of rights by the State Treasury. The documentation shifts the focus to eliminating implementation barriers through the contractor’s obligations regarding both intellectual property rights (IPR) arising from the project and those contributed by contractors, without which the use of results would not be possible.

The SZAFIR model protected the State Treasury mainly by securing the chain of rights. Although the contractor remained the owner of project results, it had to disclose IPR and “Related Rights”, provide documentation and information necessary for use, modification and further development, and secure rights from subcontractors or licences with sublicensing rights. The agreement also referred to the statutory declaration mechanism under Article 32 of the NCBR Act and obliged the contractor to grant licences for related rights after its activation.

The transfer of intellectual property rights in the SZAFIR competition is presented in Figure 2.

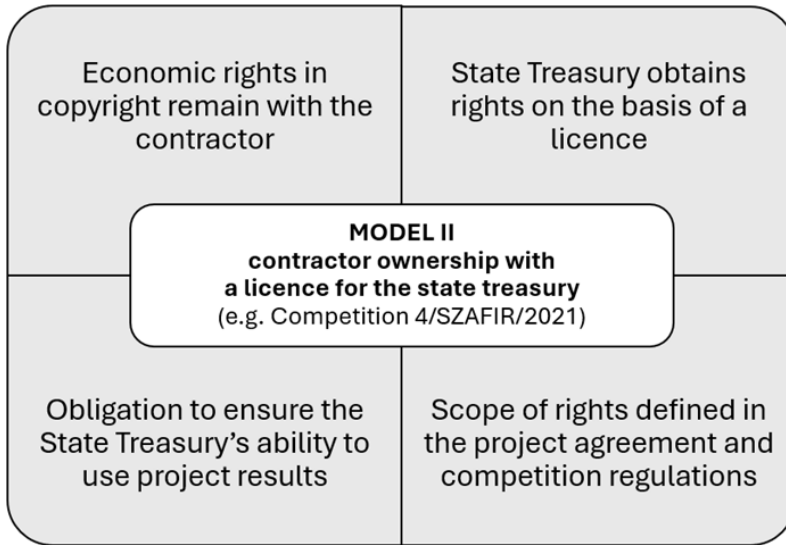


Figure 2. Model of intellectual property rights transfer in Competition No. 4/SZAFIR/2021
Source: own elaboration

The rules of Competition No. 1/PERUN/2023 under the programme entitled “New Technologies in the Field of National Security and Defence” (PERUN) place particular emphasis on the statutory regime established by Article 32 of the Act on the National Centre for Research and Development. This regime governs both the possibility of determining the ownership of rights in the project implementation agreement and the mechanism of the State Treasury’s declaration on the use of project results within twelve months of the completion of the project.

The submission of such a declaration results in the granting of a statutory licence, the scope and legal nature of which have been described above. Compared with earlier competitions, the PERUN programme strengthens the institutional dimension of intellectual property rights (IPR) management by providing for the participation of the Steering Committee in proposing an entity representing the State Treasury already at the competition stage, before the ranking list of projects is established.

This solution is preventive in nature, as the identification of the future holder of rights on the part of the state is not postponed until the post-implementation phase.

The transfer of intellectual property rights in the PERUN competition is presented in Figure 3.

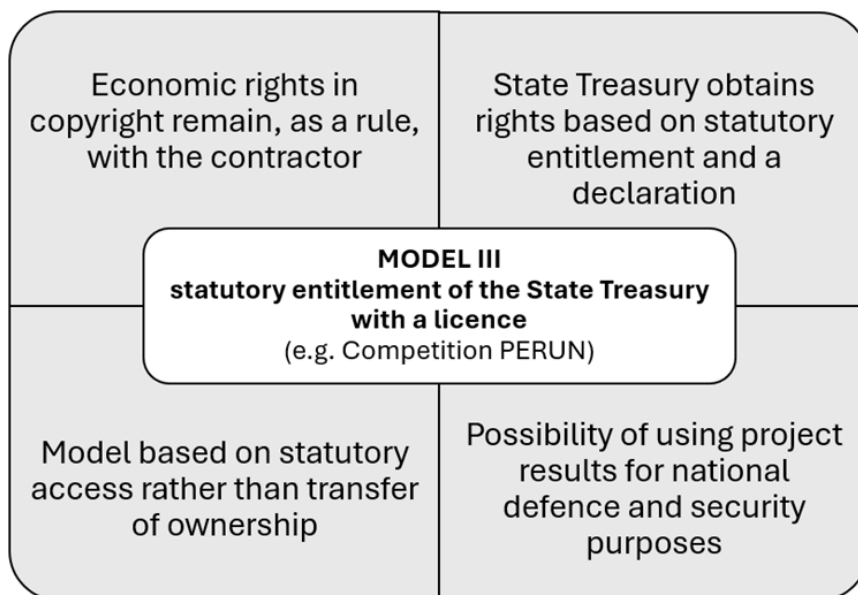


Figure 3. Model of intellectual property rights management in Competition No. 1/PERUN/2023

Source: own elaboration

A comparison of three competitions announced by the National Centre for Research and Development over a decade shows the evolution of the model for safeguarding the interests of the State Treasury, from a focus on acquiring intellectual property rights to ensuring the functional use of project results.

In the PS competition (Competition No. 1/PS/2014), these interests were secured primarily through the transfer of copyrights to an entity representing the State Treasury, ensuring full ownership control, including modification and further use.

In the SZAFIR competition (Competition No. 4/SZAFIR/2021), greater emphasis was placed on ensuring transparency and completeness of legal title. This included obligations to disclose IPR contributed to the project and to secure appropriate licensing rights, while ownership remained with the contractor.

In the PERUN competition (Competition No. 1/PERUN/2023), the key mechanism became ensuring the possibility of using results through appropriately defined licensing rights and strengthened institutional supervision, including the involvement of an entity representing the State Treasury in project selection and implementation.

This evolution reflects a broader trend in intellectual property rights management, shifting from formal ownership towards effective use and control of technological assets.

On this basis, the PERUN model appears to be the most functionally adequate of the three analysed models. This assessment is based on four criteria: the scope

of access secured for the State Treasury, the possibility of modifying and further developing project results, the preservation of contractor incentives, and the earlier institutional involvement of an entity representing the State Treasury. Unlike the PS model, which prioritised ownership control, and the SZAFIR model, which focused mainly on securing the chain of rights and licensing access, PERUN better links IPR management with future implementation needs. However, it remains incomplete, as it does not establish a binding post-project procedure for deciding whether results should be implemented, further developed, procured, licensed or archived.

Nevertheless, competition documentation and project agreements do not establish a uniform procedure for initiating or enforcing decisions on the further use of project results. They define rules for implementation, financing and settlement, but lack a coherent decision-making mechanism for subsequent use.

In particular, there is no clear identification of the entity responsible for implementation decisions, the timeframe, or the criteria to be applied, creating a “decision-making vacuum.” As a result, even where project results are legally available to the State Treasury, the analysed documentation does not ensure that such availability is followed by a formal implementation assessment or decision. Consequently, the framework creates conditions for the use of results, but does not determine whether and how they are integrated into military modernisation, equipment acquisition or further development projects.

This reveals a structural gap between project completion and the integration of results into national defence capabilities. Similar issues have been identified in the literature on research commercialisation, which highlights the importance of institutional mechanisms supporting technology transfer.

Management of intellectual property rights and technical documentation

The response to the identified systemic gap is provided by the solutions introduced by Decision No. 1/MON of the Minister of National Defence of 12 January 2026 on the management of intellectual property rights and technical documentation of military equipment. The decision establishes mechanisms for managing intellectual property rights (IPR) after their acquisition by the State Treasury.

The regulation is not limited to provisions concerning the acquisition of rights but also covers the stage of their further exercise and use. In this way, it introduces an institutional framework for the management of IPR and technical documentation of military equipment within the defence system. The IPR management process introduced by the decision is presented in Figure 4.

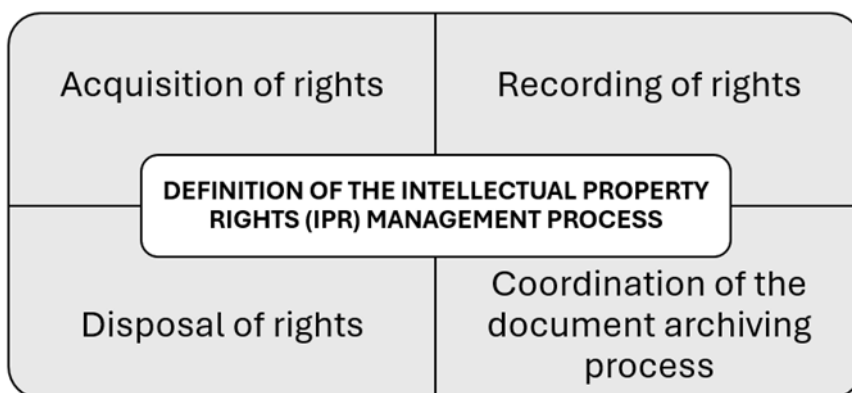


Figure 4. Model of intellectual property rights management under Decision No. 1/MON of 12 January 2026

Source: own elaboration

Under Decision No. 155/MON of the Minister of National Defence, in force until 13 January 2026, the management of intellectual property rights focused primarily on the formal acquisition, recording and registration of IPR and technical documentation following project completion. This model reflected a record-keeping approach aimed at securing the State Treasury's legal title and ensuring traceability, without establishing a comprehensive framework for the subsequent operational use of those rights.

Pursuant to § 1, the decision defined competences and rules for implementing projects in the field of IPR management for the Ministry of National Defence, as well as for managing technical documentation of military equipment.

Decision No. 1/MON of 12 January 2026 significantly expands this framework by introducing a more comprehensive and functionally oriented model of IPR management, including rights held by the State Treasury.

A key change is the definition of the IPR management process. Under § 2(5), it includes not only acquisition and recording, but also storage, protection, disclosure and development of intellectual property rights at the disposal of the State Treasury represented by the Minister of National Defence (SP-MON), thereby explicitly linking legal title with the possibility of its practical use.

The catalogue of legal definitions in § 2 has also been expanded. In particular, economic copyright is defined as rights in works within the meaning of copyright law, which normatively distinguishes this category as a separate object of management.

The regulations provided for the transfer of broadly defined rights, including derivative rights, and ensured enforceability through obligations to transfer source codes and technical documentation, as well as consent to modifications by the public entity or third parties.

The regulation introduces a mechanism allowing derogations from these rules, subject to written justification and approval by the competent authority. This enables the model of acquiring rights to be adapted to the nature of the project and the needs of SP-MON, increasing the flexibility of the system.

While Decision No. 155/MON required securing IPR for the State Treasury, it did not provide a uniform and comprehensive procedure governing all stages of this process. In contrast, § 18 of Decision No. 1/MON introduces detailed provisions covering the transfer of rights or submission of statements by SP-MON, as well as documentation, representation of the State Treasury and archiving obligations. This ensures a clear and verifiable determination of the scope of acquired rights and the legal basis for their exercise.

Another key element is the establishment of an intellectual property rights database (§ 2(3)), which serves not only as a record-keeping tool but also as an instrument supporting the exercise of rights held by SP-MON. Linked with the acquisition mechanism (§ 18) and management rules (§ 17), it enables verification of the legal status of project results, including the scope of economic copyrights, licence rights and rights to technical documentation. As a result, the database connects the formal recording of rights with their practical use in acquisition, operation and modernisation processes.

Decision No. 1/MON also introduces detailed rules for granting licences by SP-MON (§§ 28–30), establishing a uniform and normatively defined procedure, including the competences of relevant authorities and formal requirements for licence agreements.

Under § 28, licences may be granted in relation to intellectual property rights held by SP-MON without limiting licensees to defence entities. Consequently, technical documentation and other rights may be made available to external entities, provided this remains consistent with the scope of rights vested in the State Treasury.

Unlike Decision No. 155/MON of 7 November 2022, which relied primarily on contractual arrangements and case-by-case solutions, Decision No. 1/MON introduces a systematised and legally grounded licensing mechanism. Its linkage with the database and the rules on acquisition of rights enables efficient determination of legal titles and supports formalised, transparent licensing decisions.

The introduction of these regulations is of key importance for the practical use of project results, as it creates a legal basis for their broader availability, including to civilian entities. This may facilitate the development of dual-use technologies and strengthen the integration of research results into both military and non-military applications, while ensuring greater legal certainty in the licensing process (see Figure 5).

Decision No. 1/MON of the Minister of National Defence of 12 January 2026		
definition of the life cycle of technical documentation	formal procedure for granting licences by the State Treasury represented by the Minister of National Defence	linking the recording of intellectual property rights with their exercise
introduction of the intellectual property rights database	systematised procedure for the acquisition of economic rights in copyright	definition of the intellectual property rights (IPR) management process

Figure 5. Licensing procedure under Decision No. 1/MON of the Minister of National Defence of 12 January 2026

Source: own elaboration

With regard to projects financed by the National Centre for Research and Development, these solutions create a normative basis for secondary technology transfer (OECD, 2011), enabling project results to be made available to entities capable of implementing them, including those outside the defence sector. Such mechanisms form part of innovation policies aimed at increasing the utilisation of publicly funded research, particularly through demand-side instruments (OECD, 2011).

Another important solution introduced by Decision No. 1/MON is the definition of the life cycle of technical documentation in § 2(4). This life cycle covers the period from development or acquisition, through storage, updating and use, to archiving. As a result, technical documentation is managed throughout its entire life cycle, rather than only at the stage of transfer or recording.

Decision No. 155/MON of 7 November 2022 did not include such a definition. Although it provided for the acquisition, recording and storage of technical documentation in a database, it did not explicitly treat it as a resource subject to continuous management, nor did it address its subsequent use and updating.

The introduction of the life cycle concept in Decision No. 1/MON links the management of technical documentation with its practical use, particularly in the operation, modernisation and acquisition of military equipment. This confirms that technical documentation remains a reusable resource even after project completion, facilitating its further use and sharing, including through licences granted under §§ 28–30.

As a result, these solutions increase the potential for using project results generated in publicly funded projects, including those financed by the National Centre for Research and Development.

Discussion

The findings indicate that the evolution of intellectual property rights (IPR) management in defence-related development projects reflects a broader shift in innovation policy—from the formal acquisition of rights towards ensuring usability of technological results.

In the literature on innovation systems, the use of publicly funded research is associated with facilitating knowledge flows and access to technologies for further development (Chesbrough, 2003; OECD, 2011). In the defence sector, this objective is achieved not primarily through ownership, but through mechanisms ensuring access to and control over results, including licensing arrangements and institutional coordination.

The comparison of NCBR competitions demonstrates a transition from a property-based model (PS) to an access-oriented and institutionally coordinated model (PERUN). This confirms that the key factor is the ability to use and further develop results rather than their formal allocation.

The study identifies a structural gap between IPR management and decision-making on implementation. While existing research highlights the importance of technology transfer mechanisms (Bozeman 2000), their effectiveness depends on integration with institutional decision-making structures (Dodgson et al. 2006).

These findings can be situated within the broader context of defence innovation systems observed in NATO and EU countries. Similar challenges in translating research and development outputs into operational capabilities have been identified in systems characterised by fragmentation between research, requirements definition and acquisition processes. The ‘valley of death’ phenomenon reflects the structural difficulty of moving technologies from prototype to deployment, which may prevent defence innovations from being successfully used (UK Parliament, Parliamentary Office of Science and Technology 2026).

In this context, the Polish model analysed in this study illustrates a transition consistent with international trends, where the focus shifts from formal ownership of intellectual property towards ensuring functional access to and control over technological results. Comparable approaches can be observed in defence acquisition frameworks that emphasise lifecycle support, access to technical data and the ability to modify and sustain systems independently of original contractors.

Despite a developed legal framework, its link to implementation decision-making remains limited: it may ensure the legal availability of results, but does not provide a procedure for directing them towards practical use. Decision No. 1/MON strengthens the institutional dimension of IPR management by introducing mechanisms for identification, recording and licensing of rights, and linking technical documentation to its life cycle. However, it does not define how implementation decisions should be made.

This limitation is particularly relevant for defence logistics and support systems, where access to technical documentation and IPR affects maintenance, upgrades and long-term capability sustainability (Blanchard 2011). Further development therefore requires organisational and procedural mechanisms linking IPR management with decision-making in defence capability development; otherwise, the risk of underutilisation will persist (Hartley 2006).

The study is limited by its normative and comparative approach, focusing on legal and institutional conditions rather than empirical outcomes. Nevertheless, it enables the identification of systemic factors affecting the use of project results and provides a basis for further empirical research.

Conclusions

This study demonstrates that Decision No. 1/MON of 12 January 2026 introduces a more consistent and comprehensive model for managing intellectual property rights (IPR) and technical documentation than Decision No. 155/MON of 7 November 2022. It defines rules for acquiring economic copyright, establishes a procedure for granting licences, and introduces tools such as an IPR database and a definition of the life cycle of technical documentation.

These solutions enable clear determination of rights held by the State Treasury and provide a basis for their exercise, including making technical documentation available to other entities. They are particularly relevant for projects financed by the National Centre for Research and Development, as they reduce uncertainty and support decision-making on the use of results.

At the same time, Decision No. 1/MON does not establish mechanisms requiring implementation or determining the practical use of project results. Instead, it focuses on removing legal and organisational barriers, especially those related to unclear rules for exercising IPR.

As a result, the decision strengthens the legal conditions for using project results and increases the potential for their further development and application in processes related to the acquisition, operation and modernisation of military equipment. From the perspective of defence logistics, these solutions support maintenance, modernisation and lifecycle management, where technical documentation is a key resource.

However, the regulation does not eliminate the risk of underutilisation, as it does not link rights management with implementation decision-making. De lege ferenda, the framework should be supplemented by a post-project procedure requiring the authority responsible for capability development or equipment acquisition to assess whether results should be implemented, further developed, used in the acquisition process, licensed or archived. In practical terms, the IPR database and technical documentation records should support not only legal verification, but also decisions on maintenance, modernisation, lifecycle support and further development of military equipment. The effectiveness of Decision No. 1/MON will therefore depend on whether rights and documentation management becomes part of a formal implementation pathway.

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