

PRESIDENTIAL DECREE No. 77/1988
(FEK 33, A' of 25/2/1988)

**“Implementing regulations of the Convention on the grant of European patents
as ratified by Law N. 1607/1986”**

THE PRESIDENT OF THE HELLENIC REPUBLIC

Considering:

1. The provisions of article 23, paragraph 10 of Law N. 1733/1987 on “Technology transfer, inventions, technological innovation, and establishment of an Atomic Energy Committee” (Official Journal — FEK 171, A’).
2. The provisions of Law N. 1558/1985 “Government and Governing Bodies (Official Journal — FEK 13, A’).
3. The opinion No. 771/87 of the Council of State, issued after a proposal by the Minister of Industry, Energy, and Technology, we decide on the following:

CHAPTER 1
GENERAL PROVISIONS

Article 1.
Application field

The present Presidential Decree shall be applied for applications for the grant of European patents and for European patents causing legal effects within the territory of Greece.

Article 2.
Definitions

The following is meant for applying of the present decree:

- a. With the name of “O.B.I.”, the industrial Property Organisation (O.B.I.) with seat in Athens (art. 1, Law N. 1733/1987);
- b. Under the term “Convention”, the Convention for the grant of European patents ratified by Greece, by Law N. 1607/1986 (Official Journal 85, A’);
- c. Under the term “EPO”, the European Patent Office as defined in the Convention;
- d. Under the term “European application”, the application for the grant of a European patent;
- e. Under the term Bulletin, the Industrial Property Bulletin published by O.B.I. (art. 4, Law 1733/1987);
- f. Under the term “certified translation”, the translation made by a lawyer or an authority competent in certifying translations.

CHAPTER 2

RECEIVING OF A EUROPEAN APPLICATION BY O.B.I.

Article 3.

Filing of the application

1. European patent applications may be filed either with O.B.I. at its seat in Athens or eventually at its branches. Divisional European applications shall exempt as they are to be directly filed with EPO.
2. A European application must be filed with O.B.I. in case the applicant is a Greek citizen and there is not claimed a priority based on an earlier Greek application.

Article 4.

Language of the Application

1. The European application shall be drawn-up either in Greek or in one of the language mentioned in article 14, paragraph 1 of the Convention, i.e. German, English or French.
2. In case the application is not drawn up in Greek, a translation thereof in Greek must be attached thereto.

Article 5.

Documents of the Application

The European application must include at least the documents indicated by Article 80 of the Convention, namely:

- a. Written application indicating that a European patent is sought containing the full name and the address of residence or seat of the applicant;
- b. Designation of one at least Contracting State;
- c. Description of the invention;
- d. One or more claims.

Article 6.

Receiving of the application

1. The responsible employee of O.B.I. shall receive the European application, note the date of receiving thereon and on each supporting document as well, give registration number out of the Register Book for European applications, and immediately issue a receipt.
2. The number and the type of the supporting documents as well as the date of filing must be written on the receipt.

Article 7.

Registration of the application

1. The European application shall be registered in the Register Book kept by O.B.I. in accordance with the national legislation currently in force and the rules concerning the secrecy for the national patents.
2. The Book shall be indicated as Register Book, Volume B', "European application", part A' and shall be kept separately from the respective Book for national applications. The numbering of the pages of the Book begins on the first day of each year and the numbering of the applications received by O.B.I. follows the practice of EPO, in accordance with article 6 of the present presidential decree.

Article 8.

Forwarding of the European applications to the EPO

Following the deadlines of articles 3 and 4 of Law N. 4325/1963 "Regarding inventions concerning the national defence of the country", O.B.I. forwards without delay the European patents to the EPO.

CHAPTER 3 TRANSLATIONS

Article 9. Filing of Translations

1. The translation of the claims of the European application must be filed in duplicate with O.B.I. and be accompanied by the receipt of payment of the respective application fee. In case of non-payment of the fee, O.B.I. reserves the right of not publishing in the Bulletin the notification mention for the filing of the translation of the claims.
2. The European application number, the name and the address of the applicant, the number of the publication of the European application by the EPO and the Greek translation of the title of the Invention must accompany the translation of the European application claims and must be filed in duplicate along with the application with O.B.I. In case of priority claim the respective information must be also stated.
3. The translation together with the supporting documents are accepted by O.B.I. provided that the formal prerequisites of Rule 35, (3) to (14) of the implementing Regulations to the Convention are met.
4. The translation of the European application claims is recorded in the Register Book indicated Volume B', Part B' "European Application Translations". The numbering of the pages starts on the first day of each year.
5. After the publication date, information or copies of the translation and the accompanying documents are available for consultation.

Article 10. Translation of European patents where Greece is designated

The applicant of the European application is beneficiant of the provisional protection in accordance with article 23 (2), Law N. 1733/1987 from the date the certified translation of the claims was filed with O.B.I. As filing date is meant the date of publication of the relevant mention in the Bulletin.

Article 11. Translation of the European patent

1. Within three months from the publication in the European Patent Bulletin of the mention of the grant of the European patent or of the decision for its maintainance in force under modified form after examination of the relevant opposition, the patentee must file with O.B.I. the certified translation of the text that the EPO has been based on, in order to grant the European patent or to maintain it under its modified form.
2. The European patent shall be deemed automatically invalid in Greece, if the term set in paragraph 1 expires.

Article 12. Filing of the translation of the European patent

1. The translation of a European patent must be filed with O.B.I. in duplicate and be accompanied by the fee payment receipt. In case of failure to pay the fee, O.B.I. does not publish the mention of filing the translation of the European patent.
2. The translation and the accompanying documents are accepted by O.B.I. provided that the formal requirements of Rules 32 and 35 (3) to (14) of the Implementing Regulations of the European Patent Convention are met.
3. The translation must be accompanied by the European application number, the name, and the address of the applicant and the number of the publication of the mention of grant of the European patent. In case that the EPO maintains the European patent as modified after the examination of the respective opposition, the modified translated text is attached to the initial translation.
4. Two copies of the drawings in the European patent specification must be supplied with the translation, even if these contain no textual matter requiring translation. Moreover, two copies of the patent abstract translated into Greek must be also supplied.

Article 13.
Publication of the translation of the European patent

1. O.B.I. publishes in the Bulletin the mention of the filing of the translation of the European patent.
2. After the publication date, third parties can be supplied with information or copies of the translation and the accompanying documents upon request.
3. O.B.I. may proceed to publishing a periodical or special issue containing the translations of the European patents and/or the European applications.
4. Spelling or syntax mistakes in the text of the translations may be corrected at any time by the applicant. For the correction the applicant must designate the issue number and the date of publication of the mention in the Bulletin, if the incorrect translation has already been published.

CHAPTER 4
AUTHENTIC TEXTS — RIGHTS OF THIRD PARTIES

Article 14.
Authentic text of a European patent application or European patent

1. Authentic text for any proceedings before the Greek authorities is considered the text of the European application or European patent as compiled in the language of the proceedings of the EPO.
2. With the exception of paragraph 1, if the text translated in Greek in accordance with articles 9 and 11 of the present decree provides for a narrower protection than in the text according to the language of the procedure before the EPO, as authentic is considered the text in Greek for any procedure before the Hellenic authorities. Actions of nullification are exempt therefrom.

Article 15.
Reviewing of translation

In the case of paragraph 2 of article 14, the beneficiary of the European application or European patent may file with O.B.I., whenever desirable a reviewed translation of the European application or European patent. The reviewed translation shall be in force from the date that the prerequisites of articles 9, 10, 11 and 12 of this decree are met.

Article 16.
Rights emanating from a previous exploitation

A person using an invention in good faith or who has proceeded to all necessary action for the exploitation thereof, without infringing any right emanating from the European application or European patent based on the text of the initial translation, may continue such use without payment in the course of his business or for the needs thereof, even after the entry into force of the reviewed translation.

CHAPTER 5
FEES — REPRESENTATION

Article 17.
Payment of fees — Consequences

1. For the maintenance of a European patent in force in Greece annual fees must be paid to O.B.I. in advance. The article 24 of Law N. 1733/87 concerning annual protection fees for national patents is respectively applied thereto.
2. The first installment of annual protection fees for a European patent with force in Greece is due to O.B.I. for the year following the publication in the European Patent Bulletin of the mention of the grant of the European patent. The calculation of the years starts from the date of filing of the European application.

3. In case that article 16 of Law N. 1733/1987 is applied, the loss of rights is published in the Bulletin and registered in the common Patent Register, Volume B', "European Patents".

Article 18.

Fees

The amount of fees payable to O.B.I. for the translation of the European application or the European patent is determined by decision of the Administrative Council of O.B.I. in accordance with article 24 (6) of Law N. 1733/1987.

Article 19.

Representation

1. For the application of this presidential decree, the right of appearing in person or filing documents with O.B.I. is given solely to the beneficiary of a European application or European patent or a representative lawyer.

2. The right of filing of an application for the grant of European patents with O.B.I. is also acknowledged to the professional representatives in accordance with articles 133 and 134 of the Convention.

3. Any beneficiary with neither residence nor seat in Greece must nominate a domestic representative.

CHAPTER 6

CONVERSION — CUMULATIVE PROTECTION

Article 20.

Circumstances for conversion

The beneficiary of a European application may request in writing the conversion of the European application into a national patent application. This conversion is allowed when the European application is deemed withdrawn for one of the following reasons:

a. The application has not been sent to the EPO within 14 months following the filing or the priority date, if priority is claimed;

b. The European application has been filed in Greek and its translation in accordance with article 14 (2) has not been filed with EPO within the term imposed by Rule 36 of the Implementing Regulations of the Convention.

Article 21.

Procedure for the Conversion

1. The request for the conversion in accordance with article 20 of this presidential decree must be filed with O.B.I. in duplicate within an exclusive deadline of three months from the date that the EPO notified the applicant that the application has been deemed withdrawn. Articles 135 and 136 of the Convention are proportionally applied. Receipt of payment to O.B.I. of the filing fee and of the first renewal fee as provided by the national legislation is annexed to said request. Otherwise the request shall be deemed withdrawn.

2. Within four months of the filing of the application for conversion, the applicant must file in duplicate a Greek translation of the European application. Otherwise the application shall be deemed withdrawn.

3. Requests for conversion are entered in the Records Book, Volume A', "National applications".

Article 22.

Cases of cumulative protection

1. If a national and a European patent with force in Greece have been granted for the same invention to the same inventor or patentee under the same filing or priority date, the Greek patent shall cease being in force as from the date on which:

a. The term for filing an opposition with EPO has expired or,

b. The examination procedure of the opposition has come to an end and the European patent remains in force.

2. Later nullification or cease of force of the European patent does not affect the application of paragraph 1.

3. The Greek Courts are competent to ascertain the cease of force of the Greek patent.

CHAPTER 7

REGISTER — FINAL REGULATIONS

Article 23.

Registering

1. O.B.I. records in the patent Register, Volume B', "European Patents", the data related to European patents and included in the European Patent Register, in accordance with Rule 92 of the Implementing Regulations of the Convention.

2. The Register shall include only those European patents which have been published in the European Patent Bulletin, are in-force in Greece and for which the procedure of articles 11 and 12 of the present decree has been respected.

3. European patents recorded in the Patent Register shall be published in the Industrial Property Bulletin.

Article 24.

Entry into Force

This presidential decree shall enter into force on the date of its publication in the Official Journal of the Government.

The publication and execution of this decree shall be accomplished by the Minister of Industry, Energy, and Technology.
