

** This English translation is for informative purposes only and not an authentic translation of the original Turkish texts.*

REGULATION ON THE IMPLEMENTATION OF CONVENTION ON THE GRANT OF EUROPEAN PATENTS (EUROPEAN PATENT CONVENTION) IN TÜRKİYE

FIRST PART

Purpose, Scope, Basis and Definitions

Aim

Article 1 — The purpose of this Regulation is to determine the application principles and form of the European Patent Convention on Granting European Patents in Türkiye.

Scope

Article 2 — This Regulation covers the principles, rules and conditions regarding the implementation of the European Patent Convention on Granting European Patents in Türkiye.

Legal Basis

Article 3 — This Regulation, Decree Law No. 551 on the Protection of Patent Rights, European Patent Convention on Granting European Patents and European Patent Concerning Granting European Patents No. 4504, which entered into force by being published in the Official Gazette dated 29/01/2000 and numbered 23948. It has been prepared on the basis of the Law Regarding Our Participation in the Agreement and its Annexes.

Definitions

Article 4 – In this Regulation;

- a) Institute: Turkish Patent Institute,
 - b) Decree-Law: Decree No. 551 on the Protection of Patent Rights,
 - c) Contract: The European Patent Agreement Concerning Granting European Patents, to which Türkiye joined with the Law No. 4504, signed in Munich on 5/10/1973 and published in the Official Gazette dated 29/1/2000,
 - d) European Patent: The patent granted by the European Patent Office according to the contract,
 - e) European Patent Application: The application made for a European Patent according to the Convention,
 - f) Attorney: Patent attorney registered in the Institute registry,
 - g) **(Amendment: OG-22/5/2008-26883)** Wage Communiqué: Pursuant to subparagraph (f) of the second paragraph of Article 6 and Article 25 of the Law No. 5000 dated 6/11/2003 on the Establishment and Duties of the Turkish Patent Institute, Turkish Indicates the fee schedule to be applied by the Patent Institute.
- means.

SECOND PART

Applicable Law Provisions

Applicable Law

Article 5 – Unless otherwise specified in the Contract, the Decree-Law, the Regulation Indicating the Implementation of the Decree Law No. 551 on the Protection of Patent Rights and the provisions of this Regulation shall apply for European patent applications and European patents where Türkiye is selected.

In case of any contradiction between the Contract and the Decree-Law, the provisions of the Contract shall apply.

THIRD PART

European Patent Application

Application Place and Language

Article 6 — **(Amended first paragraph: OG-22/5/2008-26883)** Except for divided applications, the European patent application can be made to the Institute in one of the languages of the first paragraph of Article 14 of the Convention or in accordance with the second paragraph of Article 14.

European patent applications for inventions made in Türkiye and the subject of which concerns national security are made directly to the Institute.

A contact address in Türkiye is given for European patent applications made to the Institute by real or legal persons who do not reside within the borders of the Republic of Türkiye or who do not engage in industrial or commercial activities .

CHAPTER FOUR

Effects of European Patent Application and European Patent

Impact of European Patent Application

Article 7 – A European patent application in which Türkiye is selected, is accepted as a national Turkish patent application filed in Türkiye, regardless of the outcome of the application for which the priority right is claimed, together with the priority right request, if the application date is submitted.

Rights Arising from a Published European Patent Application

Article 8 – A published European patent application in which Türkiye is selected, the rights granted to national patent applications in accordance with the provisions of Article 82 of the Decree-Law, the Turkish translation of the claims of this application published in accordance with Article 10 of this Regulation or the applicant to the person using the invention in Türkiye. from the date of notification.

Submission of Turkish Translation of European Patent Application Claims

Article 9 – **(Amended paragraph: OG-26/11/2015-29544)** The translation in Article 8 of this Regulation is submitted to the Institute by the applicant or his/her representative together with the application form containing the following elements:

- a) European patent application number,
- b) Invention title and abstract in Turkish,
- c) Information of the attorney, if any,
- d) Statement that the Turkish translation is the same as the original text of the European patent application claims.

If the European patent applicant is a natural or legal person who does not reside in the Republic of Türkiye or does not engage in industrial or commercial activities, the Turkish translation of the claims shall be submitted by a proxy.

(Amended third paragraph: RG-22/5/2008-26883) The submitted translation must comply with the formal conditions specified in the second to twelfth paragraphs of Article 49 of the Regulation Indicating the Implementation of the Agreement on Granting European Patents.

Publication of the Turkish Translation of the Claims

Article 10 – The Institute publishes the Turkish requests submitted in accordance with Article 9 of this Regulation after the payment of the fee specified in the fee notification. The European patent application for which the Turkish translation of the claims is published is announced in the Official Patent Bulletin.

Impact of European Patent

Article 11 – A European patent for which Türkiye has been selected, is accepted as a national patent granted in Türkiye by the European Patent Office as of the date of the announcement of granting the European patent, provided that the conditions in Articles 12 and 13 of this Regulation are met.

Submission of the Turkish Translation of the European Patent Chapter

Article 12 – The Turkish translation of the European patent fascicle containing the description, patent claims and technical drawings, if any, is submitted to the Institute by the European patent owner or his representative within three months from the date of the announcement of the grant of the European patent.

(Amended paragraph: RG-26/11/2015-29544) Together with the translation of the European patent fascicle;

- a) European patent application number and European patent number,
- b) Invention title and abstract in Turkish,
- c) Information of the attorney, if any,

d) The petition containing the statement that the Turkish translation is the same as the original text of the European patent, and the publication page stating that the European patent has been granted, published by the European Patent Office, in its annex,
is given.

If the owner of the European patent is a natural or legal person who does not reside within the borders of the Republic of Türkiye or does not engage in industrial or commercial activity, the translation is submitted by a proxy.

The publication fee of the translation specified in the fee notification is paid within the period specified in paragraph 1 of this article.

(Amended paragraph: OG-30/3/2013-28603) In case the translation is not submitted within the period specified in the first paragraph of this article, an additional three-month period may be requested within this period, to be added to the end of this period. The additional time request fee and translation publication fee specified in the fee notification are paid together with the request.

(Amended paragraph: OG-22/5/2008-26883) The translation must comply with the formal conditions specified in the second to twelfth paragraphs of Article 49 of the Regulation Indicating the Implementation of the Agreement on Granting European Patents.

If the Turkish translation is not submitted to the Institute within the stipulated time period or the fee is not paid, the European patent is deemed invalid in Türkiye from the very beginning.

Publication of the Turkish Translation of the European Patent Chapter

Article 13 – The Institute publishes the translation submitted in accordance with Article 12 of this Regulation. The European patent, of which the Turkish translation of the fascicle is published, is announced in the Official Patent Bulletin.

Changed Text as a Result of Objection or Restriction Process

Article 14 — (Changed with its title:RG-30/3/2013-28603)

If a European patent is amended as a result of the objection process pursuant to the provision of Article 101 of the Convention or is restricted according to the provision of subparagraph (b) of Article 105 of the Convention upon the request of the patent owner, this amendment shall be accompanied by the translation publication fee of the changed text within three months from its announcement in the European Patent Bulletin. The provisions of Articles 12 and 13 of this Regulation are applied for the submission and publication of the Turkish translation to the Institute. If the Turkish translation of the changed text is not submitted to the Institute with the translation publication fee in due time or if additional time is not requested by paying the additional time fee along with this fee, the European patent is considered invalid in Türkiye from the very beginning.

CHAPTER FIVE

European Patent Application and Binding Text of the European Patent

Coverage of Protection

Article 15 – In case the Turkish translation given in accordance with Article 9 or 12 of this Regulation is narrower than the text of the European patent application or the European patent in the processing language, the Turkish translation shall be taken as the basis for determining the scope of protection, excluding invalidation proceedings.

Corrected Turkish Translation

Article 16 – The European patent or applicant may submit the corrected Turkish translation to the Institute at any time.

The corrected translation has the effect of Article 7 or 11 of this Regulation only when the provision of Article 10 or 13 of this Regulation is met.

Goodwill Use

Article 17 – In cases where the use of the person who has started to use the invention in good faith or who has made serious preparations for the use of the invention after the publication of the corrected translation is not considered an infringement according to the first Turkish translation of the European patent application or European patent fascicle, the patent owner's permission is obtained due to the requirement of the enterprise. can continue free of charge.

CHAPTER SIX

Annual Fees

Payment of Annual Fees for European Patents

Article 18 — (Amended:OJ-22/5/2008-26883)

(Amended paragraph: RG-30/3/2013-28603) Annual fees regarding the European patent are paid to the Institute by the European patent owner or his representative in accordance with the first paragraph of Article 141 of the Convention.

If the owner of the European patent is a natural or legal person who does not reside in the Republic of Türkiye or does not engage in industrial or commercial activity, the annual fees for the European patent are paid by an attorney.

the annual fees for the European patent, which are due and payable within three months after the publication of the grant of the European patent, are paid to the Institute within this period, it is deemed to have been paid in a valid manner and no additional fee is requested.

CHAPTER SEVEN

Conversion to a National Patent or Utility Model Application

Conversion

Article 19 — (Amended: OG-22/5/2008-26883)

A European patent application selected by Türkiye, which is deemed to have been withdrawn according to the third paragraph of Article 77 of the Convention, may be converted into a national patent or utility model application.

Acceptance of Conversion Request

Article 20 – The conversion in Article 19 of this Regulation, within three months from the date of receipt of the conversion request by the Institute;

a) National application fee,

b) The Turkish translation of the original text of the European patent application or the Turkish translation of the modified text of the application before the European Patent Office, if the applicant has requested that it be taken as a basis in the national proceedings,

It is accepted by the European patent applicant or his/her representative upon submission to the Institute.

If the European patent applicant is a natural or legal person who does not reside in the Republic of Türkiye or does not engage in industrial or commercial activity, the national application fee and the Turkish translation of the application are submitted by a proxy.

The provisions of the Decree-Law and the Regulation Indicating the Implementation of the Decree-Law on the Protection of Patent Rights No. 551 are applied to the applications whose conversion request is accepted.

The accepted conversion request is announced in the Official Patent Bulletin.

In the Turkish patent or utility model document fascicle resulting from the conversion of a European patent application, it is stated that this patent or utility model has been converted from a European patent application.

CHAPTER EIGHT

Double Protection

Double Protection

Article 21 - When a European patent in which Türkiye is selected and a national patent or utility model certificate are given to the same person or his successor, with the same priority date, if the same application date or if priority right is claimed, the European patent will continue without being changed as a result of the objection process. If an objection is granted or no objection is made during the objection process, the national patent or utility model provision expires at the end of the objection process.

CHAPTER NINE

Other Provisions

Information Requests

Article 22 — (Amended:OJ-22/5/2008-26883)

The Institute receives the information requests from the European Patent Office in accordance with the provisions of Article 150 of the Regulation Indicating the Implementation of the Agreement on Granting European Patents.

Force

Article 23 – This Regulation enters into force on the date of its publication.

Executive

Article 24 – The provisions of this Regulation are executed by the President of the Turkish Patent Institute.