

**AGREEMENT BETWEEN BOSNIA AND
HERZEGOVINA AND THE EUROPEAN PATENT
ORGANISATION ON COOPERATION IN
THE FIELD OF PATENTS
(COOPERATION AND EXTENSION AGREEMENT)**

THE GOVERNEMENT of Bosnia and Herzegovina, represented by Mr Dragan Doko, Minister of foreign trade and economic relations of Bosnia and Herzegovina,

and

THE EUROPEAN PATENT ORGANISATION («The Organisation»), represented by Mr Ingo Kober, President of the European Patent Office («EPO»),

HAVING REGARD

to the Convention on the Grant of European Patents of 5 October 1973 («European Patent Convention») and, in particular, Article 33(4) thereof, to Bosnia and Herzegovina's Act on industrial property, of August 27, 2002 (entry into force), and, in particular, its Article 13 (2),

TAKING INTO ACCOUNT

that Bosnia and Herzegovina's Act on industrial property provides for a level of protection for patents for invention similar to that existing in the Member States of the European Patent Organisation,

that Bosnia and Herzegovina will provide for a system enabling the effects of European patents to be extended to its territory in accordance with the provisions attached to this Agreement («Extension System»),

WHEREAS

Bosnia and Herzegovina is a party to the Patent Cooperation Treaty and has designated the EPO as International Searching and Preliminary Examining Authority under the said Treaty,

RECOGNISING

the need to apply fully the standards of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement),

NOTING

Bosnia and Herzegovina's request for administrative support by the EPO in implementing such a system,

CONVINCED

that cooperation between the Organisation and Bosnia and Herzegovina is of mutual interest and will strengthen the protection of industrial property in Europe,

HAVE AGREED AS FOLLOWS:

**Article 1
Subject of the Agreement**

The contracting parties shall cooperate within the scope of this Agreement to develop further the infrastructure for an efficient patent system in Bosnia and Herzegovina.

Article 2

Technical cooperation

Within the scope of its capabilities the Organisation shall assist Bosnia and Herzegovina, particularly in

- (a) providing basic training and specialisation for the staff at the Institute for Standards, Metrology and Intellectual Property of Bosnia and Herzegovina («the Institute») and for specialists of other government bodies whose work involves patent matters;
- (b) organising and developing its system of patent attorneys;
- (c) developing an appropriate documentation for patent information services;
- (d) producing the Institute's official publications relating to industrial property;
- (e) modernising the patent information system;
- (f) building up data-processing systems for the patent grant procedure and administration of patents.

Article 3

Legal and administrative cooperation

- (1) The contracting parties shall regularly exchange information on legal developments relating to their respective patent system.
- (2) If requested by Bosnia and Herzegovina to do so, the Organisation shall give advice on proposals for enacting or amending legal provisions relating to Bosnia and Herzegovina's patent system.
- (3) The EPO and the Institute shall cooperate in order to prepare the implementation of the Extension System.

Article 4

Processing the requests for extension

- (1) The EPO shall accept, process and publish any request for extension of European patents to Bosnia and Herzegovina and shall communicate to the Institute any necessary information regarding the proceedings relating to the European patent applications and patents concerned.
- (2) Within the scope of its capabilities, the EPO shall on request give assistance to the Institute by communicating any other useful information.

Article 5

Information concerning extended European patents

The Institute shall inform the EPO of the legal status of any extended European patent, in particular of its being void, of its lapse, renunciation or cancellation.

Article 6
Financial matters

- (1) The extension fee shall be 102 EURO for each request for extension and be collected by the EPO. 76.50 EURO of the extension fee shall be due to the Institute and be transferred into the separate bank account of the Institute in consideration of Bosnia and Herzegovina's intention to use that fee to improve the work of the Institute and to promote industrial property in Bosnia and Herzegovina, including support for patenting inventions abroad. The EPO shall keep 25.50 EURO of the extension fee to cover the costs incurred by carrying out its tasks under the Extension System.
- (2) The amount of the extension fee and the proportion thereof to be kept by the EPO may be amended by agreement between the President of the EPO and the Director of the Institute.

Article 7
Joint Committee

- (1) A joint committee shall be set up to discuss all matters arising from this Agreement and its implementation. The committee shall be composed of representatives of the EPO and the Institute. Representatives of other government bodies involved in or directly affected by the implementation of the Agreement may be consulted.
- (2) The committee shall meet on the initiative of either the Director of the Institute or the President of the EPO. The agenda for each meeting, and the venue and date thereof, shall be fixed by agreement between the Institute and the EPO.

Article 8
Implementation of the Agreement

- (1) The tasks incurred by the contracting parties in consequence of this Agreement shall be carried out by the EPO and the Institute. The EPO may entrust individual tasks under Article 2 of this Agreement to the Patent Offices of the Contracting States to the European Patent Convention, subject to their consent.
- (2) The details of the implementation of this Agreement shall be fixed by agreement between the Director of the Institute and the President of the EPO.

Article 9
Amendment of the Agreement

At the request of the Organisation or of Bosnia and Herzegovina, the contracting parties shall enter into negotiations on amending this Agreement

Article 10
Duration of the Agreement

- (1) This Agreement shall be concluded for a period of five years and shall be extended for further two-year periods unless a contracting party objects to this in writing no later than six months prior to the end of the period in force.
- (2) This Agreement may be terminated in writing by either contracting party; termination shall take effect one year after receipt by the other party of the notice of termination, unless the said notice specifies a longer period or the contracting parties agree on a shorter period.

- (3) If this Agreement is terminated, Articles 4 to 6 shall continue to apply to any European patent application in respect of which a request for extension has been filed prior to its termination, and to any European patent granted thereon.

Article 11 Entry into force

The date on which this Agreement shall enter in force shall be determined by a mutual exchange of notes between the two parties, following the enactment by Bosnia and Herzegovina of provisions provided in the Annex of this Agreement.

Done at Munich on 1 December 2003 in two originals in the Bosnian, Croatian, Serbian, English, French and German languages, each text being equally authentic.

For the Government of Bosnia and Herzegovina

For the European Patent Organisation

Dragan Doko

Ingo Kober

Minister of foreign trade and economic relations

President of the European Patent Office

Attachment

Provisions governing the extension of European patents to Bosnia and Herzegovina

Article 1 Extension of the effects of European patents

- (1) A European patent application and a European patent extending to Bosnia and Herzegovina shall, subject to the following provisions, have the effect of and be subject to the same conditions as a national patent application and a national patent under the Act on the Protection of Industrial Property.
- (2) For the purposes of these provisions,
- a) «European patent application» means an application for a European patent filed under the European Patent Convention (EPC), as well as an international application filed under the Patent Cooperation Treaty (PCT) for which the European Patent Office (EPO) acts as designated or elected Office and in which Bosnia and Herzegovina is designated;
- b) «extended European patent» means a European Patent granted by the EPO on a European patent application in respect of which extension to Bosnia and Herzegovina has been requested;
- c) «national patent application» means a patent application filed under the Act on the Protection of Industrial Property with the Institute for Standards, Metrology and Intellectual Property of Bosnia and Herzegovina («the Institute»);
- d) «national patent*» means a patent granted on a national patent application.

Article 2

Request for extension

- (1) A European patent application and a European patent granted on such application shall be extended to Bosnia and Herzegovina at the request of the applicant. The request for extension shall be deemed to be filed with any European patent application filed on or after the date on which the Cooperation Agreement between Bosnia and Herzegovina and the European Patent Organisation enters into force.
- (2) The Institute shall publish any request for extension as soon as possible after it has been informed by the EPO that the prescribed extension fee has been paid, but not before the expiry of 18 months from the filing date or, if priority has been claimed, the earliest priority date.
- (3) The request for extension may be withdrawn at any time. It shall be deemed withdrawn where the prescribed extension fee has not been paid in time, or where the European patent application has been finally refused, withdrawn or deemed withdrawn. The Institute shall publish this as soon as possible if the request for extension has already been published by it in accordance with paragraph (2).

Article 3

Extension fee

- (1) The extension fee under Article 2 (2) shall be paid to the EPO within the applicable time limits prescribed in the EPC for the payment of the designation fee.
- (2) The extension fee may still be validly paid within the period of grace laid down in the EPC for the payment of designation fees, provided that a surcharge of 50% is paid within this period.
- (3) For the payment of extension fees the EPO Rules relating to Fees shall apply *mutatis mutandis*. Extension fees validly paid shall not be refunded.

Article 4

Effects of European patent applications

- (1) A European patent application which has been accorded a filing date shall be equivalent to a regular national patent application, where appropriate with the priority claimed for the European patent application, whatever its outcome may be.
- (2) A published European patent application shall provisionally confer the same protection as is conferred by a national patent granted under Article 54 of the Act on the protection of industrial property as from the date on which a translation of the claims of the published European patent application into an official language of Bosnia and Herzegovina has been communicated by the applicant to the person using the invention in Bosnia and Herzegovina.
- (3) European patent application shall be deemed not to have *ab initio* the effects referred to in paragraph (2) where the request for extension has been withdrawn or is deemed withdrawn.

Article 5

Effects of European patents

- (1) An extended European patent shall, subject to paragraphs (2) to (6), confer from the date of publication of the mention of its grant by the EPO the same rights as would be conferred by a national patent finally granted under Article 54 of the Act on the protection of the industrial property.

- (2) Within three months from the date on which the mention of the grant of the European patent has been published, the owner of the patent shall furnish to the Institute a translation of the claims of the European patent in an official language of Bosnia and Herzegovina and shall pay the prescribed fee for the publication.
- (3) If, as a result of an opposition filed with the EPO, the European patent is maintained with amended claims, the owner of the patent shall, within three months from the date on which the decision to maintain the European patent as amended was published, furnish to the Institute a translation of the amended claims in an official language of Bosnia and Herzegovina and pay the prescribed fee for publication.
- (4) The Institute shall publish any translation duly filed under paragraph (2) or (3).
- (5) If the translation specified in paragraph (2) or (3) is not filed in due time or the prescribed fee is not paid in due time, the extended European patent shall be deemed to be void *ab initio*. Article 122 EPC shall apply *mutatis mutandis*.
- (6) An extended European patent and European patent application on which it is based shall be deemed not to have had *ab initio* the effects specified in paragraph (1) and Article 4 (2) to the extent that the patent has been revoked in opposition proceedings before the EPO.

Article 6
Authentic text of European patent applications
or European patents

- (1) The text of a European patent application or a European patent in the language of the proceedings before the EPO shall be the authentic text in any proceedings in Bosnia and Herzegovina.
- (2) However, the translation as provided for under Articles 4 and 5 shall be regarded as authentic, except in revocation proceedings, where the application or patent in the language of the translation confers protection which is narrower than that conferred by it in the language of proceedings.
- (3) The applicant or owner of the patent may file, at any time, a corrected translation of the claims of the European patent application or European patent. The corrected translation shall not have any legal effects until it has been published by the Institute.
- (4) Any person who, in good faith, uses or has made effective and serious preparations for using an invention, the use of which would not constitute infringement of the application or patent in the original translation may, after the corrected translation takes effect, continue such use in the course of his business or for the needs thereof without payment.

Article 7
Rights of earlier date

- (1) A European patent application for which the extension fee has been paid and an extended European patent shall have with regard to a national patent application and a national patent the same prior art effect as a national patent application and a national patent.
- (2) A national patent application and a national patent shall have with regard to an extended European patent the same prior art effect as they have with regard to a national patent.

Article 8
Simultaneous Protection

Where an extended European patent and a national patent having the same filing date or, where priority has been claimed, the same priority date has been granted to the same person or his successor in title, the national patent shall have no effect to the extent that it covers the same invention as the extended European patent as from the date on which the time limit for filing an opposition to the European patent has expired without an opposition having been filed or as from the date on which the opposition procedure has resulted in a final decision maintaining the European patent.

Article 9
Renewal fees for extended European patents

Renewal fees for an extended European patent shall be paid to the Institute for the years following the year in which the mention of the grant of the European patent was published.

Article 10
Applicability of the EPC

The provisions of the EPC and its Implementing Regulations shall not apply unless otherwise provided in these provisions.