

Act on filing of European patent applications and the effects of European patents in the Republic of Poland

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Chapter 1. General provisions ➔

Article 1

Any reference in this Act to:

- i. “the Convention” means the Convention of 5 October 1973 on the Grant of European Patents, as amended by Revising Acts of 17 December 1991 and 29 November 2000 and Decisions of 21 December 1978, 13 December 1994, 20 October 1995, 5 December 1996 and 10 December 1998 of the Administrative Council of the European Patent Organization;
- ii. “European patent application” means an application for a European patent filed under the Convention;
- iii. “European patent” means a patent granted by the European Patent Office under the Convention;
- iv. “Industrial Property Law” means the Act of 30 June 2000 – Industrial Property Law (Journals of Law: 2001 No 49 text 508; 2002 No 74 text 676; No 108 text 945; No 113 text 983 and No 153 text 1271);
- v. “Patent Office” means the Patent Office of the Republic of Poland;
- vi. “translation of the European patent” means a translation of a patent specification within the meaning of Article 54(2) of the Industrial Property Law.

Article 2

The provisions of the Convention, of the present Act and of the Industrial Property Law shall apply accordingly to European patent applications and European patents designating the Republic of Poland as a country of protection.

Article 3

1. European patent applications, except for divisional European patent applications, may be filed with the Patent Office.

2. A Polish citizen or a legal person with his/her place of residence or its seat, respectively, on the territory of the Republic of Poland shall be obliged to file a European patent application together with its translation into the Polish language with the Patent Office. In that case the provisions of Article 40 of the Industrial Property Law shall not apply.

Chapter 2. Effects of European patent applications ➡

Article 4

1. The provisions of Articles: 25(3), 26(2), 287 and, subject to Article 288(2) of the Industrial Property Law shall apply accordingly to any European patent application published in a manner specified in the Convention and in which the Republic of Poland has been designated as a country of protection.

2. If the claim referred to in Article 287 of the Industrial Property Law is derived from the publication of the mention of a patent application filed, the claim shall be enforceable as from the date of publication in the official gazette "Biuletyn Urzedu Patentowego" of a communication of the translation into the Polish language of the patent claims in the European patent application, filed by the applicant with the Patent Office. The provisions of Article 7(2) to (4) shall apply accordingly.

3. The communication referred to in section 2 above shall be published by the Patent Office immediately after having received the translation. The communication shall contain the title of the invention and indication of classes according to the international patent classification.

4. Third parties are allowed to consult the translation, referred to in section 2 above, as from the date of publication of the communication of the translation.

Article 5

1. Where a European patent application is refused, withdrawn or deemed withdrawn, it may, on the conditions laid down in the Convention, be deemed to be an application for the grant of a patent or of a right of protection for a utility model under the Industrial Property Law.

2. In the instances referred to in section 1 above, the applicant shall be obliged to pay, at the latest within two month-period from the date of having been served upon the invitation, the fees due in respect of applications filed with the Patent Office, and file the translation of the European patent application into the Polish language.

3. The translation of the European patent application referred to in section 2 above in part relating to the description of the invention within the meaning of Article 44(1) of the Industrial Property Law, and to the abstract, shall be filed in two copies.

Chapter 3. Effects of European patents on the territory of the Republic of Poland ➡

Article 6

1. Subject to the provisions of sections 2 and 3 below, European patents, in which the Republic of Poland has been designated as a country of protection, shall confer the same rights as those conferred by patents granted under the Industrial Property Law.
2. Right holders of European patents shall be obliged to file the translation of the European patents into the Polish language with the Patent Office and within three months from the date of publication by the European Patent Office of the mention of the grant of the patent.
3. The provision of section 2 above shall apply accordingly where in consequence of the examination of the opposition by the European Patent Office the European patent has been amended.
4. Where the conditions mentioned in sections 2 and 3 above have not been satisfied, the Patent Office shall take a decision declaring the European patent null and void on the territory of the Republic of Poland as from the date the grant.

Article 7

1. The translation of the European patent application, referred to in Article 6(2) and (3), shall be published by the Patent Office immediately after it has been received by the Office, the date of publication by the European Patent Office of the mention of the grant of the European patent being published as well.
2. In the event of the translation of the European patent, referred to in Article 6(2), conferring narrower protection than the one conferred by the patent in the language of the proceedings before the European Patent Office, the translation of the European patent shall, except for invalidity proceedings against a European patent, be regarded as authentic text.
3. The proprietor of a European patent may, at any time, file a corrected translation which, subject to the provisions of section 4, shall not have any legal effect until published by the Patent Office. The provision of section 1 above shall apply accordingly.
4. Any person who in good faith is using or has made effective and serious preparations for using an invention the use of which does not constitute infringement of the European patent referred to in section 2 above, may, after the date of publication of the corrected translation, continue such use in the course of his business or for the needs thereof without payment.
5. The proprietor of a European patent shall be obliged to pay a fee for the publication of the translation referred to in Article 6(2) within three months from the date of his being served the invitation to do that, and at the amount fixed for the fee for publication and printing of the patent specification, prescribed in the provisions adopted under the Industrial Property Law.
6. The provision of section 5 above shall apply accordingly to any corrected translation referred to in section 3 above.

[Chapter 4. Periodic fees for the protection of invention](#) ➔

Article 8

1. The protection of an invention for which a European patent has been granted shall be subject to periodic fees collected by the Patent Office starting from a year following the year in which the European Patent Office published the mention of its grant. Periodic fees shall not be collected in the cases mentioned in Article 6(4).
2. The periodic fees, referred to in section 1 above, shall be paid at the amount prescribed in the provisions adopted under the Industrial Property Law in respect of inventions, for which patents have been granted in the Republic of Poland.
3. Where the first periodic fee fixed pursuant to sections 1 and 2 above is intended to cover only a part of the protection period, the amount of that fee shall be calculated in proportion to the part of that period counted in years in respect of the whole period of protection.

Chapter 5. Final provision ➡

Article 9

This act shall enter into force on the date on which the Republic of Poland becomes bound by the Convention.