

PRESIDENTIAL DECREE No 415

Supplement to Presidential Decree No 45/91 (Greek Government Journal 24, A) on the Legal Protection of Topographies of Semiconductor Products in compliance with Council Directive 87/54/EEC of December 16, 1986 and the Decision 90/510/EEC as amended by Decisions 93/17/EEC, 95/237/EC, 94/700/EC, 94/828/EC, and the adaptation thereof to the regulations of the Agreement on the European Economic Area (EEA) ratified by Law 2155/1993.

THE PRESIDENT OF THE HELLENIC REPUBLIC

Having regard to the Regulations of:

1. Article 4 of Law 1338/1983 on the Implementation of the Community Law (Greek Government Journal 34, A) as replaced with Article 6(4) of Law 1440/1984 on the "Participation of Greece in the Capital, Reserves, and Commitments of the European Coal and Steel Community and the EURATOM Supply Organization" (GGJ 70, A) as amended with Article 31 of Law 2076/1992 (GGJ 130, A), and Article 3 of Law 1338/1983 as replaced by Article 65 of Law 1892/1990 (GGJ 101, A);
2. Article 2, item (b) of the Agreement on the European Economic Area ratified by the first and second articles of Law 2155/1993 (GGJ 104, A);
3. the Act of Accession of the Kingdom of Spain and the Republic of Portugal to the European Economic Community and the European Atomic Energy Community (OJ 302/15.1.1985) as ratified by Law 1572/1985 (GGJ 193, A, 1985);
4. Article 1(2) of Law 1733/1987 on the Technology Transfer, Inventions, Technological Innovation, and the Establishment of an Atomic Energy Committee (GGJ 171, A);
5. Article 29, A of Law 1558/1985 on "Government and Governmental Bodies" (GGJ 137, A) as supplemented by Article 27 of Law 2081/1992 (GGJ 154, A);
6. that this amendment shall not cause expenditure to the State budget;
7. the opinion No 428/95 of the Council of State following proposal of the Minister of the National Economy and the Ministers of Justice, Industry, Energy, and Technology,

HAS DECIDED AS FOLLOWS:

Article 1

The objective of this Decree is to amend and supplement Presidential Decree 45/1991 (GGJ 24, A) in compliance with Council Directive 87/54/EEC of December 16, 1986 (EEL 24, p. 36), Council Decisions No. 90/510/EEC (EEL 285, p. 29), No. 93/17/EEC (EEL 11, p. 22), No. 95/237/EC (EEL 158, p. 38), No. 94/700/EC (EEL 284, p. 61), and No. 94/828/EC (EEL 351, p. 12) and to conform it to the regulations of the Agreement on the European Economic Area as ratified by Law 2155/1993.

Article 2

- a. Paragraph 2 of Article 5 is annulled.
- b. To cases (a) and (b) of paragraph 1 of Article 6 the term "... or Member State of the EFTA except for Switzerland" shall be added after the term "... Member State of the European Union".
- c. Paragraphs 2, 3, and 4 of Article 6 shall be amended as follows:
 - "2. The right referred to in paragraph 1 shall extend to natural persons nationals of one of the following countries or having their habitual residence in the following countries as well as to companies or other legal persons having a real and effective commercial or industrial establishment in the following countries:
 - Australia
 - Canada
 - Collectivité territoriale de Saint-Pierre-et-Miquelon
 - French Polynesia
 - French Southern and Antarctic Territories

- Iceland
 - Japan
 - Liechtenstein
 - New Caledonia and dependent territories
 - Norway
 - Switzerland
 - Wallis and Futuna Islands
- 3.
- a. The right referred to in paragraph 1 shall also extend to natural persons nationals of the United States of America or of one of the territories listed below or having their habitual residence in this country or in one of these territories:
- Anguila
 - Aruba
 - Bermudas
 - British Indian Ocean Territory
 - British Virgin Islands
 - Cayman Islands
 - Channel Islands
 - Falkland Islands
 - Hong Kong
 - Man Island
 - Montserrat
 - Netherlands Antilles
 - Pitcairn
 - Saint Helena
 - St. Helena Dependencies (Ascension, Tristan da Cunha)
 - South Georgia and the South Sandwich Islands
 - Turks and Caicos Islands
- b. The right referred to in paragraph 1 shall also apply to companies or other legal persons of the United States of America or one of the territories listed in item a. having a real and effective industrial or commercial establishment in the United States of America or in one of these territories provided that Greek Companies or other legal persons of Greece which have a right to protection under this Decree benefit from protection in the United States of America or in this very territory, and provided that this requirement is met by attestation of the Committee or the Council and is communicated to the Member States.
4. If under the terms of this Decree no right to protection is provided, this right shall also apply to natural persons nationals of a Member State or having their habitual residence in the territory of a Member State and legal persons which have a real and effective industrial or commercial establishment in the territory of a Member State who:
- a. first commercially exploit within Greece or another Member State of the Union a topography which has not yet been commercially exploited anywhere in the world; and
 - b. have been exclusively authorized to commercially exploit the topography throughout the Union by the person entitled to dispose of the topography.

Article 3

Paragraphs 1, 2, 3, and 4 of Article 7 are amended as follows:

1. Under reservation of paragraphs 2, 3, and 4, the right to protection shall be in favor of the creator of the topographies of semiconductor products.
2. In the event that the creation of a topography during the creator's employment relationship, the right to protection shall belong to the employer of the creator.

3. In the event that topographies are created on the basis of a contract other than a contract of employment, the right to protection shall belong to the party ordering the topography.

4. The right to protection referred to in paragraphs 2 and 3 shall apply provided that no other contractual regulation exists between the employee and the employer.

Article 4

Article 13(4) is rephrased as follows:

4. The exclusive right to a protected topography referred to in paragraph 1, item b shall cease to be in force and shall not apply when the topography or the semiconductor product has been put on the market in a State Member of the European Union or a State Member of the EFTA except for Switzerland by a person entitled to authorize its marketing or to this person's consent.

Article 5

Paragraphs 1, 2, and 4 of Article 14 are amended as follows:

1. The exclusive right granted under Article 13 of this Decree shall commence on the day following the day of orderly filing with the OBI of the application for registration of the topography.

2. Whenever the date of first commercial exploitation of the topography is later than the date referred to in paragraph 1, the said exclusive right shall come into existence on the day following the date of the first commercial exploitation.

3. The exclusive rights referred to in paragraph 1 shall come to an end where a topography is commercially exploited anywhere in the world within a period of 15 years from its first fixation or encoding and no further exclusive rights shall come into existence if, within this very period, no application for registration has been properly filed with the OBI, the registration being a prerequisite for the existence or further validity of the aforementioned rights.

Article 6

Entry into force

This Presidential Decree shall enter into force upon publication in the Government Gazette.

The Minister of Industry, Energy, and Technology shall be responsible for publishing this Decree.

Athens, November 6, 1995

The President of the Republic
Konstandinos Stefanopoulos

The Minister of Justice
I. Pottakis

The Minister of the National Economy
G. Papandoniou

The Minister of Industry, Energy, and Technology
A. Peponis