

Royal Decree on the Filing of a European Patent Application, its Conversion into a National Patent Application and the Registration of European Patents Having Effect in Belgium

(of February 27, 1981, as amended by the Royal Decree
of December 2, 1986, Concerning Applications for Patents
and the Granting and Maintenance of Patents)*

1.–

For the implementation of this Decree:

“European Patent Convention” shall mean the Convention on the Grant of European Patents, done at Munich on October 5, 1973;¹

“European patent application” shall mean a European patent application within the meaning of the European Patent Convention;

“European patent specification” shall mean a specification of the European patent referred to in Article 98 of the European Convention;

“Adopting Law” shall mean the Law of July 8, 1977, adopting the European Patent Convention;²

“Office” shall mean the Industrial Property Office of the Ministry of Economic Affairs.

2. [Repealed]

3.–

The Office shall make European patent applications available to the public for consultation on the date of their publication by the European Patent Office.

4.–

When a translation of the claims is filed with the Office for the application of Section 3(3) of the Adopting Law, it shall:

- (1) be filed in one original copy typewritten or printed in black characters on white A4 paper (29.7 x 21 cm) on the front side only;
- (2) state the name of the applicant and the publication number of the European patent application;
- (3) contain a translation of the title of the invention.

The Office shall make the translation of the claims available to the public for consultation as soon as it is in order with respect to form, stating on the application documents the date on which it was made available to the public.

5.–

The Office shall make the European patents available to the public for consultation, and, where applicable, the amended European patents, on the date of publication in the *European Patent Bulletin* of the mention of the grant of the patents or the decisions concerning the oppositions filed.

* *French title*: Arrêté royal relatif au dépôt d'une demande de brevet européen, à sa transformation en demande de brevet national et à l'enregistrement de brevets européens produisant effet en Belgique (du 27 février 1981).

Entry into force (of the Decree of 1986): January 1, 1987.

Source: *Moniteur belge*, March 5, 1981, pp. 2483 *et seq.* and December 6, 1986, pp. 16584 *et seq.*

Note: For the texts of the Patent Law of March 28, 1984, and of the Decree of 1986, see *Industrial Property Laws and Treaties*, BELGIUM - Texts 2-004 and 2-005, respectively.

¹ See *Industrial Property Laws and Treaties*, MULTILATERAL TREATIES – Texts 2-008 to 2-010.

² *Ibid.*, BELGIUM – Text 2-001.

6.–

The translation of the specification or of the new specification of the European patent shall:

- (1) be filed with the Office within three months following the date of publication of the grant of the patent or, in the case of a new specification, the date of publication of the decision on the opposition formulated;
- (2) meet the conditions as to form specified in Rules 32 and 35, paragraph (3) *et seq.*, of the Implementing Regulations to the European Patent Convention;
- (3) be filed in one copy;
- (4) [repealed];
- (5) state the name of the owner and the publication number of the European patent.

The Office shall make the translation of the specification available to the public for consultation without delay. It shall also notify the proprietor of the patent of the completion of the formalities referred to in this Section.

7.–

At the request of the applicant or owner or their representative, corrections to transcription errors made by one of them shall be enclosed with the translation provided for in Sections 4 and 6.

8.–

1. The register of European patents having effect in Belgium, kept by the Office, shall specify at least:

- (a) the number of the patent;
- (b) the name of the owner of the patent;
- (c) the title of the invention;
- (d) the filing date of the patent application;
- (e) the publication date of the patent application;
- (f) where applicable, the date on which the translation of the claims was made available to the public for consultation;
- (g) the date of publication of the grant of the patent in the *European Patent Bulletin*;
- (h) where applicable, the date on which the translation of the specification of the patent, and of the amended patent where appropriate, was filed with the Office;
- (i) where applicable, the date on which opposition to the patent as granted was formulated;
- (j) the transactions mentioned hereinafter that occur after recording in the register and affect the patent or the owner of the patent: change in the name of the owner, assignment of the patent, lapse or revocation of the patent.

2. Lists of registered patents and of lapsed or revoked patents shall be published in the Patent Record (*Recueil des brevets d'invention*).

9.–

The renewal fee payable to the Office for the maintenance in force of European patents recorded in the register referred to in Section 8.1 shall be payable in advance on the anniversary date of the filing of the European patent application and, for the first time in respect of the year, calculated from the filing of the application, following that of the publication of the grant of the patent in the *European Patent Bulletin*.

The rules on the amount and method of payment of fees for the maintenance in force of a Belgian patent shall apply.

10.–

1. In accordance with Section 8 of the Adopting Law, the procedure for the conversion of a European patent application into a Belgian patent application shall be initiated as soon as the request for conversion has been received by the Office.

2. Subject to Article 137(1) of the Convention, the provisions in force concerning applications for Belgian patents shall be applicable to European patent applications converted into applications for Belgian patents.

A converted European patent application shall be given a national registration number. It shall be deemed to have been filed on the date of filing of the European patent application. The renewal fees for the maintenance in force of the Belgian patent shall be calculated as from that date.

3. Simultaneously with the payment of the national application fee, effected within the time limit specified in Section 8 of the Adopting Law, the requesting party shall pay the annual fees which are due on the date of payment of the national application fee. If payment is not effected, Sections 40 and 41 of the Patent Law of March 28, 1984,³ shall apply. The methods and conditions of payment of such fees shall be those provided for under Belgian law on the subject.

4. Without prejudice to Section 3(2) of the Adopting Law, the Belgian patent resulting from conversion of a European patent application shall be made available to the public by the Office, for consultation, on the date of its grant.

11.–

The provisions applicable to Belgian patents shall also be applicable to the European patents referred to in Section 8.

12. [Repealed]

13.–

This Decree shall enter into force on the date of its publication in the *Moniteur belge*.

14.–

Our Deputy Prime Minister and Minister of Economic affairs and our Minister of Finance shall be responsible, each as far as he is concerned, for the execution of this Decree.

³ *Ibid.*, BELGIUM – Text 2-004.