

A.L. 99 ta' l-2007**ATT DWAR IL-PRIVATTIVI INDUSTRIJALI U D-DISINNI
(KAP. 417)****Regolamenti ta' l-2007 dwar il-Konvenzjoni Ewropea dwar
il-Privattivi**

BIS-SAHHA tas-setgha moghtija bl-artikolu 59 ta' l-Att dwar il-Privattivi Industrijali u d-Disinni, il-Ministru ghall-Kompetittività u l-Kommunikazzjoni ghamel dawn ir-regolamenti li ġejjin:-

1. (1) It-titolu ta' dawn ir-regolamenti hu Regolamenti ta' l-2007 dwar il-Konvenzjoni Ewropea dwar il-Privattivi. Titolu u bidu fis-sehh.

(2) Dawn ir-regolamenti ghandhom jitqiesu li bdew isehhu fl-1 ta' Marzu, 2007.

2. F'dawn ir-regoli, u kemm-il darba r-rabta tal-kliem ma tkunx tehtieg xort'ohra - Tifsir.

“applikazzjoni ghal privattiva Ewropea” tfisser applikazzjoni ghal privattiva Ewropea li tiġi preżentata skond il-Konvenzjoni;

“l-Att” tfisser l-Att dwar il-Privattivi Industrijali u d-Disinni, u kliem u frażijiet użati f'dawn ir-regolamenti ghandu jkollhom l-istess tifsir kif moghti lilhom fl-Att;

“il-Konvenzjoni” tfisser il-Konvenzjoni fuq l-Ghoti ta' Privattivi Ewropej, maghmula fi Munich fil-5 ta' Ottubru, 1973 kif riveduta u l-Konvenzjoni maghmula fi Munich fid-29 ta' Novembru, 2000;

“privattiva Ewropea” tfisser privattiva moghtija mill-Uffiċċju Ewropew tal-Privattivi skond il-Konvenzjoni;

“l-Uffiċċju” tfisser l-uffiċċju nazzjonali responsabli ghall-hruġ ta' privattivi f'Malta.

3. Il-hlas li ghandu jsir fil-każ ta' applikazzjoni, reġistrazzjoni jew kull haġa ohra taht dawn ir-regolamenti ghandhom ikunu daww imniżżlin fl-annessa Skeda ta' Drittijiet li tinsab ma' dawn ir-regolamenti. Hlas.

Ligi li tapplika.

4. (1) Privattivi Ewropej u applikazzjonijiet ghal privattivi Ewropej li jsemmu lil Malta ghandhom jigu regolati b'dawn ir-regolamenti u bl-Att kemm-il darba ma jigix provdut xort'ohra fil-Konvenzjoni.

(2) Fil-każ ta' konflitt bejn id-disposizzjonijiet tal-Konvenzjoni u dawk ta' dawn ir-regolamenti jew ta' l-Att, ikunu d-disposizzjonijiet tal-Konvenzjoni li jiprevalu.

Prezentata ta' applikazzjonijiet ghall-privattivi Ewropej.

5. (1) L-applikazzjonijiet ghal privattivi Ewropej, hlief applikazzjonijiet divizorji, jistghu jigu prezentati fl-Uffiċċju f'kull lingwa li hi ammissibbli taht l-artikolu 14 (1) u (2) tal-Konvenzjoni.

(2) Dawn li ġejjin jehtiegu traduzzjoni ghall-Ingliż li ghandha tigi prezentata fi żmien xahar minn meta tigi prezentata l-applikazzjoni ghal privattiva Ewropea:

(a) indikazzjoni li tkun qed tintalab privattiva Ewropea;

(b) l-informazzjoni li twassal biex l-applikant ikun identifikat.

(3) L-applikanti li jkollhom ir-residenza taghhom jew il-post prinċipali ta' negozju f'Malta, ghandhom jipprezentaw applikazzjoni ghal privattiva Ewropea dwar xi invenzjoni li tista' tolgot is-sigurtà nazzjonali ta' Malta fl-Uffiċċju; hlief f'dawk il-każi fejn tintalab prijorità fuq l-ewwel prezentata f'Malta.

Effetti ta' applikazzjoni ghal privattiva Ewropea.

6. (1) Applikazzjoni ghal privattiva Ewropea, li tkun issemmi lil Malta u li tkun inghatat data tal-prezentata, ghandha tkun ekwivalenti ghal applikazzjoni nazzjonali regolari, meta dan ikun adatt, bil-prijorità mitluba ghall-applikazzjoni ghall-privattiva Ewropea u jkun xi jkun ir-riżultat ta' dik l-applikazzjoni.

(2) Applikazzjoni ghall-privattiva Ewropea li tkun ġiet pubblikata u li tkun issemmi lil Malta ghandha taghti l-protezzjoni moghtija taht l-artikolu 27 bis-sahha ta' l-artikolu 28 ta' dan l-Att mid-data meta l-Uffiċċju Ewropew tal-Privattivi jipublikaha.

Effetti ta' privattiva Ewropea.

7. (1) Bla hsara ghas-subregolamenti (2) sa (4) ta' dan ir-regolament, privattiva Ewropea li ssemmi Malta ghandha, mid-data tattismija meta tkun ġiet moghtija mill-Uffiċċju tal-Privattivi Ewropew, taghti l-istess drittijiet daqsliekieku kienet privattiva moghtija mill-Uffiċċju.

(2) (a) Is-sid tal-privattiva ghandu jipprovdi traduzzjoni ghall-Ingliż lill-Uffiċċju fil-perjodu ordnat kif stipulat fl-artikolu 65 (1) tal-Konvenzjoni.

(b) Tista' ssir applikazzjoni għall-estensjoni ta' dan il-perjodu u flimkien magħha għandu jsir il-hlas stabbilit. L-estensjoni hekk mitluba ma tistax tkun iktar minn xahrejn.

(3) Meta bhala riżultat ta' proċedura ta' oppożizzjoni quddiem l-Uffiċċju Ewropew tal-Privattivi, il-privattiva Ewropea tibqa' kif emendata, is-subregolament (2) ta' hawn qabel għandu jkun japplika *mutatis mutandis*.

(4) F'każ li ma jiġux mharsa r-rekwiziti mnizzlin skond is-subregolamenti (2) jew (3) ta' dan ir-regolament, il-privattiva Ewropea għandha titqies bhala nulla *ab initio*.

(5) It-twaqqif mill-ġdid tad-Drittijiet skond l-artikolu 46 ta' l-Att għandu jkun japplika *mutatis mutandis*.

8. (1) Meta xi traduzzjoni ordnata taht ir-regolament 7 ta' dawn ir-regolamenti jkun jagħti protezzjoni li tkun anqas minn dik mogħtija mill-privattiva Ewropea fil-lingwa tal-proċeduri, dik it-traduzzjoni għandha titqies bhala t-test awtentiku hlief għall-proċeduri ta' revoka.

Test awtentiku ta' privattivi Ewropej.

(2) Is-sid tal-privattiva Ewropea jista' jippreżenta traduzzjoni koreġuta f'kull hin. It-traduzzjoni koreġuta għandha tibda biss isseħħ wara li tkun tqegħdet għad-disposizzjoni tal-pubbliku mill-Uffiċċju.

(3) Kull persuna li, *bona fidi*, ikun qiegħed jagħmel użu jew ikun għamel preparazzjonijiet effettivi u serji għall-użu ta' xi invenzjoni, li l-użu tagħha ma jkunx jikkostitwixxi ksur tal-privattiva fit-traduzzjoni oriġinali tagħha jista', wara li t-traduzzjoni koreġuta tibda sseħħ, ikompli dak l-użu fil-kors tan-negozju tiegħu jew għall-htigijiet ta' dak in-negozju mingħajr hlas.

9. Id-drittijiet annwali għall-privattivi Ewropej għandhom jithallsu lill-Uffiċċju għal kull sena li tiġi wara dik li fiha t-tismija ta' l-ghotja tal-privattiva Ewropea tiġi pubblikata mill-Uffiċċju tal-Privattivi Ewropej.

Drittijiet annwali.

10. (1) Applikazzjoni għal privattiva Ewropea li ssemmi lil Malta tista' tiġi mibdula f'applikazzjoni għal privattiva nazzjonali meta l-applikazzjoni għal privattiva Ewropea titqies li tkun irtirata konformement ma' l-artikolu 77(5) tal-Konvenzjoni jew, minhabba li t-traduzzjoni ta' l-applikazzjoni taht l-artikolu 14(2) tal-Konvenzjoni ma tkunx ġiet preżentata fil-hin, konformement ma' l-artikolu 90(3) tal-Konvenzjoni.

Konverzjoni f'applikazzjoni għal privattiva nazzjonali.

(2) L-applikant għandu, fi żmien xahrejn mid-data meta l-Kontrollur jistieden lill-applikant biex jippreżenta t-traduzzjoni f'xi

wahda mil-lingwi ufficjali ta' l-Ufficju, jhallas id-dritt orndat.

(3) Meta l-Kontrollur jiddeciedi li talba ghal applikazzjoni ta' konverzjoni tkun ammissibbli, l-applikazzjoni ghandha tigi trattata bhala applikazzjoni ghar-registrazzjoni ta' privattiva taht l-Att.

(4) Decizjoni tal-Kontrollur fir-rigward ta' applikazzjoni ta' konverzjoni ghandha tigi trattata bhala decizjoni tal-Kontrollur taht l-Att.

Protezzjoni
simultanja.

11. Meta privattiva Ewropea li ssemmi lil Malta u privattiva nazzjonali ghandhom l-istess data tal-prezentata jew, meta tintalab prijorità, l-istess data ta' prijorità, ikunu gew moghtija lill-istess persuna jew lis-successur taghha fit-titolu, il-privattiva nazzjonali ma ghandu jkollha l-ebda effett safejn tkun tkopri l-istess invenzjoni bhall-privattiva Ewropea mill-gurnata meta t-terminu ta' zmien ghall-prezentata ta' oppozizzjoni ghall-privattiva Ewropea jkun intemm minghajr ma tkun giet prezentata oppozizzjoni jew mill-gurnata meta l-procedura ta' oppozizzjoni tkun irrizultat f'decizjoni finali li zzomm il-privattiva Ewropea.

Skeda ta' Drittijiet

(Regolament 3)

Hlas ta' trasmissjoni ghall-prezentata ta' Applikazzjoni ta' Privattiva Ewropea Lm20 + Hlas ta' servizzi ta' *courier*.

Konverzjoni f'applikazzjoni ghal privattiva nazzjonali Lm300

Prezentata ta' dokumenti tradotti skond ir-regolament 5(1) Lm100

Prezentata ta' traduzzjoni skond ir-regolament 7(2)(b) Lm100

Prezentata ta' traduzzjoni koreguta Lm 50

L.N. 99 of 2007

**PATENTS AND DESIGNS ACT
(CAP. 417)**

European Patent Convention Regulations, 2007

IN exercise of the powers conferred by article 59 of the Patents and Designs Act, the Minister for Competitiveness and Communications has made the following regulations:-

1. (1) The title of these regulations is the European Patent Convention Regulations, 2007. Title and commencement.

(2) These regulations shall be deemed to have come into force on 1st March, 2007.

2. In these regulations, unless the context otherwise requires - Interpretation.

“the Act” means the Patents and Designs Act, and words and expressions used in these regulations shall have the same meaning as is given to them in the Act;

“the Convention” means the Convention on the Grant of European Patents, done at Munich on 5th October, 1973 as revised and done at Munich on 29th November, 2000;

“European patent” means a patent granted by the European Patent Office in accordance with the Convention;

“European patent application” means an application for a European patent filed in accordance with the Convention;

“the Office” means the national office responsible for granting patents in Malta.

3. The fees to be paid in respect of any application, registration or any other matter under these regulations shall be those prescribed in the Schedule of Fees to these regulations. Fees.

4. (1) European patents and European patent applications designating Malta shall be governed by these regulations and by the Act unless otherwise provided in the Convention. Applicable law.

(2) In the case of conflict between the provisions of the Convention and those of these regulations or of the Act, the provisions of the Convention shall prevail.

Filing of European patent applications.

5. (1) European patent applications, except divisional applications, may be filed with the Office in any language admissible under Article 14 (1) and (2) of the Convention. This is to be accompanied by the prescribed transmittal fee.

(2) The following, shall require a translation into English to be filed within one month of filing the European patent application:

- (a) an indication that a European patent is sought;
- (b) the information that will enable the applicant to be identified.

(3) Applicants having their residence or principal place of business in Malta shall file a European patent application concerning an invention that may affect the national security of Malta with the Office; except in cases where priority is claimed from a first filing in Malta.

Effects of a European patent application.

6. (1) A European patent application, designating Malta and which has been accorded a filing date, shall be equivalent to a regular national application, where appropriate, with the priority claimed for the European patent application and whatsoever the outcome of such application may be.

(2) A published European patent application designating Malta shall confer the protection conferred under Article 27 by virtue of Article 28 of this Act as from the date of its publication by the European Patent Office.

Effects of a European patent.

7. (1) A European patent designating Malta shall, subject to sub-regulations (2) to (4) hereof, confer from the date of the mention of its grant by the European Patent Office the same rights as a patent granted by the Office.

(2) (a) The owner of the patent shall furnish a translation into English to the Office within the prescribed period as stipulated in Article 65 (1) of the Convention.

(b) An extension of this period may be applied for and is to be accompanied by the prescribed fee. The requested extension shall not exceed two months.

(3) Where, as a result of an opposition procedure before the European Patent Office, the European patent is maintained as amended, subregulation (2) above shall *mutatis mutandis* apply.

(4) In the event of failure to comply with the requirements laid down in accordance with subregulations (2) or (3) hereof, the European patent shall be deemed to be void *ab initio*.

(5) Re-establishment of Rights under Article 46 of the Act shall apply *mutatis mutandis*.

8. (1) Where a translation prescribed under regulation 7 of these regulations confers protection which is narrower than that conferred by the European patent in the language of the proceedings, such translation shall be regarded as the authentic text other than for revocation proceedings.

Authentic text of European patents.

(2) The owner of the European patent may file a corrected translation at any time. The corrected translation shall take effect only after it has been made available to the public by the Office.

(3) Any person who, in good faith, is using or has made effective and serious preparations for using an invention, the use of which would not constitute infringement of the 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.

9. Annual fees for European patents shall be paid to the Office for each year following that in which the mention of the grant of the European patent is published by the European Patent Office.

Annual fees.

10. (1) A European patent application designating Malta may be converted into a national patent application where the European patent application is deemed to be withdrawn pursuant to Article 77(5) of the Convention or, because the translation of the application under Article 14(2) of the Convention has not been filed in due time, pursuant to Article 90(3) of the Convention.

Conversion into a national patent application.

(2) The applicant shall within two (2) months from the date when the Comptroller invites the applicant to submit the translation into any one of the official languages of the Office pay the prescribed fee.

(3) Where the Comptroller decides that a request for a conversion application is admissible, it shall be treated as an application for registration of a patent under the Act.

(4) A decision of the Comptroller in relation to a conversion application shall be treated as a decision of the Comptroller under the Act.

Simultaneous protection.

11. Where a European patent designating Malta and a national patent having the same filing date or, where priority has been claimed, the same priority date, have 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 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.

Schedule of Fees

(Regulation 3)

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|---|--------------------------------|
| Transmittal fee for the filing of a European Patent | Lm20 + courier service charges |
| Conversion into a national patent application ... | Lm300 |
| Submission of translated documents in terms of regulation 5(1)..... | Lm100 |
| Submission of translation in terms of regulation 7(2)(b) | Lm100 |
| Filing of a corrected translation | Lm 50 |