

# BR/GT I/105 e/71

## Travaux Préparatoires EPC 1973

### Comment:

The collection represents purely an internal research tool for the purpose of Directorate Patent Law of the European Patent Office. No guarantee can be given for its completeness or correctness.

The documents produced before 1969 cannot be provided in English as this was not an official language in the period before that date. These documents therefore are provided in French and German.



INTER-GOVERNMENTAL CONFERENCE  
FOR THE SETTING UP OF A EUROPEAN  
SYSTEM FOR THE GRANT OF PATENTS

Luxembourg, 27 January 1971

BR/GT I/105/71

- Secretariat -

WORKING PARTY I

WORKING DOCUMENT

FIRST PRELIMINARY DRAFT  
OF A CONVENTION ESTABLISHING  
A EUROPEAN SYSTEM  
FOR THE GRANT OF PATENTS

Articles 11, 22, 22a, 28b, 29, 64, 65, 137a and 156

(Text drawn up by the Drafting Committee)

BR/GT I/105/e/71 gc



Article 11

Novelty

- |                             |   |                |
|-----------------------------|---|----------------|
| (1)                         | ) |                |
|                             | ( |                |
| (2)                         | ) |                |
|                             | ( |                |
| (3)                         | ) |                |
|                             | ( |                |
| (4)                         | ) | Unchanged from |
|                             | ( | BR/70/70       |
| <u>Notes to Article 11,</u> | ) |                |
| <u>paragraphs 1, 2, 3</u>   | ( |                |
|                             | ) |                |

Note to Article 11, paragraph 4

See Article 137a.

CHAPTER V

The patent application as an object of property

Article 22 (former Article 24a)

Unitary character of the European patent application  
in proceedings before the European Patent Office

(1) Unchanged from BR/70/70

(2) Deleted; see Article 28b (new)

Article 22a (new)

Law applicable

Unless otherwise specified in this Convention or in a special agreement under Article 8, the European patent application as an object of property shall, in each designated State and with effect for such State, be subject to the law applicable in that Contracting State to national patent applications.

Article 28b

Special regulation for Contracting States  
party to a special agreement

In so far as any group of Contracting States has availed itself of the authorisation given in Article 8, this group may provide that a European patent application for which these Contracting States are designated may only be assigned, mortgaged and subjected to distraints in respect of all the Contracting States of the group and in accordance with the provisions of the special agreement.



Article 29 (former Article 30)

Supplementary application of national law in legal  
transactions

- deleted -

PART IV

APPLICATION FOR EUROPEAN PATENTS

CHAPTER I

Filing and requirements of the application

Article 54 (former Article 66)

Filing of the application

(1) Unchanged from BR/70/70.

(2) The provisions of paragraph 1 shall not preclude the application of legislative or regulatory provisions which, in the Contracting States, either

- (a) govern inventions of interest to national security which have to be kept secret in the interests of the State or
- (b) prescribe that each patent application is to be filed initially with a national authority or make direct filing with another authority subject to prior authorisation.

(3) Deleted.

Article 65 (former Article 67)

Forwarding of application for European patents

Text unchanged from BR/70/70, with the following exceptions:

- (a) all square brackets are deleted,
- (b) the note is deleted.

Article 137a

Different claims for different States

If the European Patent Office notes that in respect of one or some of the Contracting States designated in respect of a European patent application or patent, the contents of an earlier European patent application form part of the state of the art under Article 11, paragraphs 3 and 4, the applicant or patentee may submit different claims effective for these States.

Note to Article 137a:

It will have to be examined later whether the option provided for in this Article for amendment of the claims should be extended to the description.

PART IX  
TRANSITIONAL PROVISIONS

Article 156 (former Article 186)

Progressive expansion of the field of activity  
of the European Patent Office

- (1)        )  
              ) Unchanged from BR/70/70
- (2)        )

(3) Where, as a result of the procedure being restricted pursuant to paragraph 1, second sentence, or paragraph 2, a European patent application cannot be further processed, the European Patent Office shall notify the applicant accordingly and shall point out that pursuant to Article 124, he may make a request for the application of national procedure. The European patent application shall be deemed to be withdrawn on receipt of such notification. This shall be drawn to the attention of the applicant in the notification.

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