Inputs from Member States and Regional Patent Offices to the Thirty-Eighth Session of the Standing Committee on the Law of Patents

Respondent Information

First Name:

[redacted]

Last Name:

[redacted]

Country:

Portugal

IP Office

INPI

Job title

patent examiner

Email address:

[redacted]

Email address confirmation:

[redacted]

Disclaimer:

The information provided in response to this questionnaire is understood to be submitted on behalf of the Member State or regional organization concerned, through its competent authority and in accordance with its applicable official internal procedures.
It is assumed that the person completing and submitting the questionnaire is duly authorized to do so and that the information reflects the official position or practice of the Member State or organization, to the extent possible.

I confirm that I have read and understood the statement above and that I agree with its contents.

i) Study on the determination of inventorship and conditions of foreign filing, with a view to identifying potential challenges for innovators in the cross-border collaborative environment

1. Which of the following does the applicable legal framework in your jurisdiction require before a patent application can be filed in another country or at a regional patent organization?

Any other mandatory authorization (Please specify): in cases where the applicant is domiciled or headquartered in Portugal, an european patent application or an international application must be filled at INPI (portuguese office), unless the application claims a priority of a prior application submitted in Portugal.

2. Please list the statutes or guidance documents that patent applicants in your country can consult to inform themselves of the foreign filing requirements and the procedure to follow.

Industrial Property Code (articles 78 and 92)

4. What specific criteria will trigger the Foreign Filing Conditionality?

Nationality or residency of the applicant;

Please provide any further details on the scope of the specific criteria applicable in your jurisdiction.

Article 78(2) of the Industrial Property Code establishes that: "Where the applicant of a European patent is domiciled or headquartered in Portugal, the application shall be filed at the INPI, I. P., otherwise it may not take effect in Portugal, unless it claims priority of a prior application submitted in Portugal".
Article 92 (1)(2) of the Industrial Property Code establishes that "1-International applications formulated by natural or legal persons who are domiciled or headquartered in Portugal shall be submitted to the INPI, I. P., to the European Patent Office or to the World Intellectual Property Organisation. 2 – Whenever no priority has been claimed for a previous application made in Portugal the international application shall be submitted to the INPI, I. P., otherwise it shall not take effect in Portugal"

Final review before submission

Confirmation of submission

I am aware that by clicking "Submit" below, my responses will be sent to the SCP Secretariat.