

**Decree No. 2001-2750 of November 26, 2001,  
setting the rules and procedures for the apportionment of  
the proceeds from the working of invention or discovery patents  
accruing to the State agency or corporation and the public-sector researcher  
responsible for an invention or discovery**

The President of the Republic,

On a proposal by the Prime Minister,

Considering Orientation Law No. 96-6 of January 31, 1996, on Scientific Research and Technological Development, as amended by Law No. 2000-68 of July 17, 2000, notably (the new) Article 14 thereof,

Considering Law No. 99-42 of May 10, 1999, on Seeds, Seedlings and New Varieties of Plants, as amended by Law No. 2000-66 of July 3, 2000,

Considering Law No. 2000-84 of August 24, 2000, on Patents,

Considering Decree No. 69-400 of November 7, 1969, creating the office of Prime Minister and specifying the powers and responsibilities of the Prime Minister,

Considering Decree No. 92-342 of February 17, 1992, specifying the powers and responsibilities of the Secretary of State to the Prime Minister for Scientific Research,

Considering Decree No. 99-705 du March 29, 1999, specifying the conditions governing the grant of financial inducements to the authors of works, creators and inventors in connection with their publications, creations and inventions,

Considering the advice of the Ministers of Higher Education, Agriculture, Finance, Industry and Public Health,

Considering the advice of the Administrative Tribunal,

Decrees as follows:

**1.** This Decree specifies the rules and procedures for the apportionment of the proceeds from the working of invention or discovery patents, including those for new varieties of plants, between the State agency or corporation that has filed the application for registration of the invention or discovery patent and the public-sector researcher who has made the invention as part of his duties or in the course of the performance of his activities within the State agency or corporation.

**2.** Where there are two or more public-sector inventors, the proceeds accruing to public-sector inventors shall be apportioned according to the degree of participation of each such inventor in the making of the invention or discovery, due regard being had to the provisions of Article 6 of this Decree, or according to such criteria as they may propose.

Where the invention or discovery is made in the course of a collaborative venture between two or more State agencies or corporations and the registration thereof is effected by them jointly, the manner of apportionment of the proceeds shall be specified by the State agencies and corporations concerned in the collaboration contract drawn up by them.

**3.** The working of the invention or discovery patent may be performed either by the public-sector researcher pursuant to the provisions of Article 14 of the aforementioned Law No. 2000-68 of July 17, 2000, or by the State agency or corporation, and either direct or through a third party.

**4.** The public-sector worker who makes an invention shall be accorded a percentage ranging from a minimum of 25 % to a maximum of 50 % of the net proceeds referred to in Article 5 of this Decree. The balance shall accrue to the State agency or corporation concerned.

The percentage referred to in the foregoing paragraph shall be determined according to the provisions of Article 6 of this Decree.

**5.** For the purposes of the implementation of this Decree, net proceeds shall be the amounts collected by the State agency or corporation from the working of the invention or discovery patent after deduction of:

(1) the patent protection costs and, where applicable, the charges for enforced collection of royalties for the working of the patent;

(2) the direct cost incurred by the State agency or corporation concerned in the making of the invention or discovery, namely:

(a) the cost of specific equipment acquired to that end;

(b) the cost of everyday expenditure incurred exclusively in the conduct of the research;

(3) the indirect cost of the making of the invention or discovery, which is likely to comprise:

(a) the amount of the financing set aside for the research activities carried on by the researcher or research team concerned in the course of which the research that led to the invention or discovery was conducted;

(b) the operating expenses of the research laboratory (or laboratories) or unit (or units) or of the structure within which the invention or discovery was made, including the salaries paid to the researchers and other workers who contributed to the making of the invention or discovery.

**6.** The percentage of the net proceeds accruing to the public-sector worker who has made the invention or discovery referred to in Article 4 of this Decree shall be determined in relation to the following criteria:

— the volume of the net proceeds from the working of the patent;

— the time spent on the research that led to the invention or discovery;

— the time set aside by the researcher or research team for the conduct of the said research;

— the actual participation of the public-sector workers in the making of the invention or discovery, if there were more than one;

— the actual participation of the inventor in training, in support and in the promotion of research within the State agency or corporation.

**7.** In all cases the head of the State agency or corporation shall determine the percentage of the net proceeds from the working of the patent that accrue to the public-sector worker, or workers where there are more than one, after having consulted the board of directors or management board, or in the absence of both the scientific board, of the establishment, due regard being had to the criteria laid down in Article 6 of this Decree.

**8.** An agreement shall be concluded between the public-sector worker or workers having made the invention on the one hand and the head of the State agency or corporation concerned on the other which shall determine:

— the percentage of the net proceeds accruing to the public-sector inventor, and if they are more than one the share accruing to each, within the limits of the percentage determined as provided in Article 7 of this Decree;

— the procedures and intervals for the payment of the proceeds, except where payment is made annually and where applicable after collection thereof by the State agency or corporation concerned, in accordance with the payment procedures specified in the contract or contracts for the exploitation of the invention or discovery.

**9.** Where the public-sector worker concerned relinquishes his duties, the proceeds from the working of the invention or discovery patent that are owed him shall continue to be paid to him throughout what remains of the period of exploitation.

In the event of the death of the public-sector worker, the share of the proceeds accruing to him shall be paid to his heirs throughout what remains of the period of exploitation of the invention or discovery.

**10.** The public-sector researcher who makes an invention or discovery shall immediately declare the fact in writing to the head of the State agency or corporation to which he belongs.

**11.** Articles 7 to 11 of Decree No. 99-705 of March 29, 1999, on the conditions governing the grant of financial inducements to the authors of works, creators and inventors in connection with their publications, creations and inventions are repealed.

**12.** The Prime Minister and the relevant Ministers, each in so far as his or her competence relates to the subject matter thereof, are entrusted with the implementation of this Decree, which shall be published in the Official Journal of the Tunisian Republic.

Tunis, November 26, 2001  
*Zine El Abidine Ben Ali*

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*Note:* Translation by the International Bureau of WIPO.