

Chapter VI – Examination of formal requirements

1. Claim to priority

This section is intended to summarise all formal requirements relating to priority claims in international applications. In the present edition, it focuses on formal requirements under Rule 4.10, defects in priority claims and corrections upon invitation as well as restoration of the priority right. It also provides additional information on the applicant's entitlement to claim priority under Article 87 EPC in the European phase before the EPO. Further relevant aspects will gradually be added in successive editions. For further information see GL/PCT-EPO F-VI.

1.1 Formal requirements under Rule 4.10

In an international application, the applicant may claim the priority of one or more earlier applications. The claim needs to be made in the PCT request form (PCT/RO/101) and fulfil the following requirements:

Art. 2(i)
Art. 8(1)
R. 4.10
PCT AG I 5.057 ff.
GL/RO 166 ff.
GL/ISPE 6.03

- (a) The earlier application must have been filed in or for a country which is party to the Paris Convention for the Protection of Industrial Property ("Paris Convention") or in or for any member of the World Trade Organization that is not party to the Paris Convention.
- (b) The priority claim must indicate:
 - (i) the date on which the earlier application was filed;
 - (ii) the number of the earlier application;
 - (iii) where the earlier application is a national application, the country in which it was filed;
 - (iv) where the earlier application is a regional application, the authority with which the earlier application was filed and that is entrusted with the granting of regional patents under the applicable regional patent treaty;
 - (v) where the earlier application is an international application, the receiving Office with which it was filed.
- (c) Where the earlier application is a regional application or an international application, the applicant may, if desired, also indicate one or more countries party to the Paris Convention for which that earlier application was filed, even if this is not required by Rule 4.10(b)(ii). An indication of at least one country party to the Paris Convention or one member of the World Trade Organization for which the earlier application was filed is mandatory where the earlier application is a regional application filed with ARIPO.