

# Procedure file

| Basic information                                                                                                                                                                                                                                                                                                                                                                                                                              |                                       |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------|
| CNS - Consultation procedure<br>Regulation                                                                                                                                                                                                                                                                                                                                                                                                     | 1990/1021(CNS)<br>Procedure completed |
| Community plant variety rights; Community Plant Variety Office<br>Amended by <a href="#">1995/0091(CNS)</a><br>Amended by <a href="#">2002/0174(CNS)</a><br>Amended by <a href="#">2003/0161(CNS)</a><br>Amended by <a href="#">2007/0161(CNS)</a><br>Subject<br>3.10.06 Crop products in general, floriculture<br>3.50.16 Industrial property, European patent, Community patent, design and pattern<br>8.40.08 Agencies and bodies of the EU |                                       |

| Key players                   |                                                       |                      |            |
|-------------------------------|-------------------------------------------------------|----------------------|------------|
| European Parliament           |                                                       |                      |            |
| Council of the European Union |                                                       |                      |            |
|                               | Council configuration                                 | Meeting              | Date       |
|                               | <a href="#">Economic and Financial Affairs ECOFIN</a> | <a href="#">1781</a> | 27/07/1994 |
|                               | <a href="#">Agriculture and Fisheries</a>             | <a href="#">1772</a> | 20/06/1994 |

| Key events |                                                                 |                                                                                       |         |
|------------|-----------------------------------------------------------------|---------------------------------------------------------------------------------------|---------|
| 30/08/1990 | Legislative proposal published                                  | COM(1990)0347                                                                         | Summary |
| 08/10/1990 | Committee referral announced in Parliament                      |                                                                                       |         |
| 22/01/1992 | Vote in committee                                               |                                                                                       |         |
| 22/01/1992 | Committee report tabled for plenary, 1st reading/single reading | A3-0027/1992                                                                          |         |
| 10/02/1992 | Debate in Parliament                                            |  |         |
| 13/02/1992 | Decision by Parliament                                          | T3-0075/1992                                                                          |         |
| 24/09/1992 | Vote in committee                                               |                                                                                       |         |
| 28/10/1992 | Decision by Parliament                                          | T3-0534/1992                                                                          | Summary |
| 29/03/1993 | Modified legislative proposal published                         | COM(1993)0104                                                                         | Summary |
| 27/07/1994 | Act adopted by Council after consultation of Parliament         |                                                                                       |         |
| 27/07/1994 | End of procedure in Parliament                                  |                                                                                       |         |
|            |                                                                 |                                                                                       |         |

| Technical information      |                                                                                                                                                                                  |
|----------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Procedure reference        | 1990/1021(CNS)                                                                                                                                                                   |
| Procedure type             | CNS - Consultation procedure                                                                                                                                                     |
| Procedure subtype          | Legislation                                                                                                                                                                      |
| Legislative instrument     | Regulation                                                                                                                                                                       |
|                            | Amended by <a href="#">1995/0091(CNS)</a><br>Amended by <a href="#">2002/0174(CNS)</a><br>Amended by <a href="#">2003/0161(CNS)</a><br>Amended by <a href="#">2007/0161(CNS)</a> |
| Legal basis                | EC before Amsterdam E 235                                                                                                                                                        |
| Stage reached in procedure | Procedure completed                                                                                                                                                              |
| Committee dossier          | JURI/3/02277                                                                                                                                                                     |

| Documentation gateway                                                  |  |                                                                               |            |     |         |
|------------------------------------------------------------------------|--|-------------------------------------------------------------------------------|------------|-----|---------|
| Legislative proposal                                                   |  | <a href="#">COM(1990)0347</a><br><a href="#">OJ C 244 28.09.1990, p. 0001</a> | 30/08/1990 | EC  | Summary |
| Economic and Social Committee: opinion, report                         |  | <a href="#">CES1501/1990</a><br><a href="#">OJ C 060 08.03.1991, p. 0045</a>  | 18/12/1990 | ESC |         |
| Committee report tabled for plenary, 1st reading/single reading        |  | A3-0027/1992<br><a href="#">OJ C 067 16.03.1992, p. 0006</a>                  | 22/01/1992 | EP  |         |
| Text adopted by Parliament, partial vote at 1st reading/single reading |  | T3-0075/1992<br><a href="#">OJ C 067 16.03.1992, p. 0132-0148</a>             | 13/02/1992 | EP  |         |
| Text adopted by Parliament, 1st reading/single reading                 |  | T3-0534/1992<br><a href="#">OJ C 305 23.11.1992, p. 0042-0056</a>             | 28/10/1992 | EP  | Summary |
| Modified legislative proposal                                          |  | COM(1993)0104<br><a href="#">OJ C 113 23.04.1993, p. 0007</a>                 | 29/03/1993 | EC  | Summary |

| Additional information |                         |
|------------------------|-------------------------|
| European Commission    | <a href="#">EUR-Lex</a> |

| Final act                                                                                    |
|----------------------------------------------------------------------------------------------|
| <a href="#">Regulation 1994/2100</a><br><a href="#">OJ L 227 01.09.1994, p. 0001</a> Summary |

## Community plant variety rights; Community Plant Variety Office

\$summary.text

## Community plant variety rights; Community Plant Variety Office

The EP first of all called for a change in the legal basis, taking the view that the proposal should be governed by Article 100a of the Treaty rather than Article 43, as proposed by the Commission. It also proposed amendments aimed at: authorising breeders of reproductive material

of protected varieties to plant and use the resulting harvested material; reducing the duration of Community protection from 30 years to 20 years; providing for Parliament's participation in the institutions - Office and Administrative Council - set up by the directive; and banning the patenting of the plant varieties covered by the directive. ?

## Community plant variety rights; Community Plant Variety Office

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Subject to a few drafting changes, the Commission accepted, in full or in part, 5 of the European Parliament's 10 amendments: -those seeking a marked review of the dependence rules vis-?-vis the creator of a variety mainly derived from the initial variety; -the amendment seeking to authorise, on the basis of a Community legislative provision, the general principle of Article 53b of the European Patent Convention, under which 'European patents shall not be granted in respect of... plant... varieties'. If, however, the aim is to avoid a cumulation of varietal ownership rights, there is no justification at all for drawing a distinction between patents and right of protection of derived plant varieties that do not come under the Community system; -finally, the amendment on farm-saved seeds, which was accepted in part.

## Community plant variety rights; Community Plant Variety Office

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1) OBJECTIVE To establish at Community level a special form of industrial property rights for new plant varieties that have been bred or discovered. 2) CONTENTS 1. The plant variety right results from the breeding or discovery of plant variety. 2. The Regulation includes substantive and operational provisions, a section covering impact on other laws, and financial and institutional provisions. 3. The substantive provisions stipulate that the provisions on Community protection shall be available for varieties that are distinct, homogeneous, stable, new and for which a variety denomination exists. 4. The person entitled to Community protection shall be the breeder or discoverer or his successor in title. If the variety was bred by more than one person there shall be joint entitlement by these persons or their successors in title. 5. The rights granted are uniform. Both the internationally recognized principle of "breeder's exemption" for new varieties developed from protected varieties and the generally accepted practice of "agricultural exemption" for farm-saved seed are confirmed. Under this principle once a holder breeds a new plant variety no third party may, without his consent, reproduce or multiply the variety or put it up for sale without payment of a breeder's fee to the holder. Another breeder may use the variety to create a further variety. 6. Rules covering the use of variety denominations and both duration and termination of protection. 7. The Regulation defines: \* Community protection of plant variety rights as an object of the holder's property (treatment as a property right under national law, transfer of right to one or more successors in title, contractual exploitation rights, etc.); \* rules on the granting of compulsory exploitation rights. 8. The Community scheme will be operated by a Community Plant Variety Office. 9. Status, duties, structure and management of Office. 10. An Administrative Council, consisting of representatives of the Member States and the Commission, will be set up to advise the Office and monitor its activities. Its members will be able to call on the services of advisers and experts. 11. Community legal protection will be provided by Boards of Appeal and by reference to the Court of Justice. 12. Rules of procedure are given: \* for applications to the Office, its formal and technical examination of these, its decision and the future follow-up action to be carried out; \* for reference to the Board of Appeal. General rules are also laid down covering oral procedure, taking of evidence, etc. 13. Provisions on the fees to be charged by the Office, on a Register of Community Plant Variety Rights and on other means of information (periodical publications, documents open to public inspection, etc.). 14. Relationships to national plant variety rights and to patents are defined. 15. In the matters of jurisdiction and procedure in legal actions relating to civil law claims the Regulation refers to the relevant international and national provisions. It also determines entitlement to make a civil law claim for infringement. 16. Provisions on penalization of infringements of national industrial property rights are to be made applicable to infringement of Community plant variety rights by 1 July 1992 at the latest. 17. The Office's budget is initially to be made up of fee income and a subsidy from the Community's general budget. It is hoped at a later date to achieve self-financing of the Office's variable costs. Source : European Commission - Info92 - 02/96?