

Procedure file

Basic information

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

Key players

European Parliament			
Council of the European Union	Council configuration	Meeting	Date
	Economic and Financial Affairs ECOFIN	1781	27/07/1994
	Agriculture and Fisheries	1772	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		
01/09/1994	Final act published in Official Journal		

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

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

Additional information	
European Commission	EUR-Lex

Final act	
Regulation 1994/2100 OJ L 227 01.09.1994, p. 0001	Summary

Community plant variety rights; Community Plant Variety Office

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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

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-à-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

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?