

Community plant variety rights: entitlement to file an application

2007/0161(CNS) - 25/07/2007 - Legislative proposal

PURPOSE: to amend Regulation (EC) No 2100/94 as regards the entitlement to file an application for a Community plant variety right.

PROPOSED ACT: Council Regulation.

CONTENT: Regulation (EC) No 2100/94 of 27 July 1994 on Community plant variety rights creates a Community regime for plant varieties, which allows for the grant of Community plant variety rights (CPVR), valid throughout the Community.

In the interests of the facilitation of trade it is appropriate to make the CPVR easily accessible. Therefore, the conditions for entitlement to file an application for the CPVR should be simplified and one application system for all applicants should be introduced.

More specifically, Article 12 of the Community Regulation (EC) No 2100/94 on plant variety rights sets out the conditions for the entitlement to file an application for a Community plant variety right. According to this provision, only breeders from countries which are members of the International Union for the Protection of New Varieties of Plants (UPOV) are entitled to apply for a Community plant variety right (CPVR) under the same rules as for applicants from a Member State. For other applicants, the Commission has to decide whether they are entitled to file an application. According to Article 12(1)(b) of the Regulation, such a decision may be subject to reciprocal and equivalent requirements. The provision stipulates that the Commission's decision may depend on whether the country in question,

- affords protection for varieties of the same botanical taxon,
- affords this protection to nationals of all Member States,
- and whether the level of protection afforded corresponds to the protection provided by Regulation (EC) 2100/94.

Regulation (EC) 2100/94 should therefore be amended accordingly. Deleting the provisions of Article 12(1)(a) and 12(1)(b) will contribute to the simplification of Community legislation.

The proposal has no new financial implications for the Community budget.