

Community plant variety rights: compulsory licencing

2003/0161(CNS) - 29/04/2004 - Final act

PURPOSE : to amend the rules on compulsory licences with regard to plant variety rights.

LEGISLATIVE ACT : Council Regulation 873/2004/EC amending Regulation 2100/94/EC on Community plant variety rights. **CONTENT** : Council Regulation 2100/94/EC creates a Community regime for plant varieties, co-existing with national regimes, which allows for the grant of industrial property rights, valid throughout the Community (Community plant variety rights). The Community Plant Variety Office (the Office) carries out the implementation and application of this regime. Only the Office is entitled to grant a compulsory licence for a plant variety which is protected by a Community plant variety right. and content as the current term "compulsory exploitation right". The Community's legal framework for the protection of biotechnological inventions, established in Directive 98/44/EC lays down in Article 12 rules for the grant of non-exclusive compulsory licences where protected plant varieties, including Community plant varieties, incorporate patented inventions, and vice versa. Article 29 of Regulation 2100/94/EC, while providing in general for the grant of compulsory licences for Community plant varieties on grounds of public interest, does not expressly refer to the licences to be provided in accordance with Article 12 of Directive 98/44/EC. Considering the need to ensure transparency and coherence of the system of compulsory cross-licensing this Regulation amends the rules established by Regulation 2100/94/EC, making express reference and setting out the specific conditions relating to compulsory licences provided for in Directive 98/44/EC. Considering the national scope of the protection for biotechnological inventions according to Directive 98/44/EC the Regulation ensures that the national patent holder be granted a cross-licence for a plant variety right only in the Member State(s) where he/she can claim a patent for a biotechnological invention. **ENTRY INTO FORCE** : 20/05/04.