

Community plant variety rights: compulsory licencing

2003/0161(CNS) - 11/11/2003 - Legislative proposal

PURPOSE : to amend Regulation 2100/94/EC on Community plant variety rights. **PROPOSED ACT** : Council Regulation. **CONTENT** : article 29 of Regulation 2100/94/EC on Community Plant Variety Rights is inconsistent with Article 12 of the Biotechnology Patents Directive 98/44/EC on the legal protection of biotechnological inventions. The proposed amendment to Regulation 2100/94/EC will resolve this inconsistency. It will provide coherence of the system of compulsory cross-licencing provided for by Regulation 2100/94/EC on Community plant variety rights and Directive 98/44/EC on biotechnological inventions. To enable the exploitation of a patented biotechnological invention, the Community Plant Variety Office can grant to the patent holder a compulsory licence for the use of a protected plant variety containing his invention. Applicants for the compulsory licences must demonstrate that; - they have applied unsuccessfully to the holder of the plant variety right to obtain a contractual licence; and - the biotechnological invention constitutes a significant technical progress of considerable economic interest compared with the protected plant variety. The holder of the patent can be granted a cross-licence to exploit the plant variety containing his biotechnological invention, if the holder of a plant variety right has been granted a compulsory licence for the use of this patented invention under Directive 98/44/EC. The proposal has no new financial implications for the Community budget.