

Commission Regulation (EC) No 874/2009 of 17 September 2009 establishing implementing rules for the application of Council Regulation (EC) No 2100/94 as regards proceedings before the Community Plant Variety Office (recast)

TITLE I

PARTIES TO PROCEEDINGS, OFFICE AND EXAMINATION OFFICES

CHAPTER II

The Office

Section 1

Committees of the Office

Article 6

Qualification of members of the Committees

- 1 The Committees referred to in Article 35(2) of the basic Regulation shall, at the discretion of the President of the Office, be composed of technical or legally qualified members, or both.
- 2 A technical member shall hold a degree, or shall be qualified by recognised experience, in the field of plant science.
- 3 A legally qualified member shall be a graduate in law or qualified by recognised experience in the field of intellectual property or plant variety registration.

Article 7

Decisions of the Committee

- 1 A Committee shall, besides taking the decisions referred to in Article 35(2) of the basic Regulation, deal with:
 - the non-suspension of a decision pursuant to Article 67(2) of the basic Regulation,
 - interlocutory revision pursuant to Article 70 of the basic Regulation,
 - the *restitutio in integrum* pursuant to Article 80 of the basic Regulation, and
 - the award of costs pursuant to Article 85(2) of the basic Regulation and Article 75 of this Regulation.
- 2 A decision of the Committee shall be taken by a majority of its members.

Article 8

Power of individual members of the Committees

- 1 The Committee shall designate one of its members as rapporteur on its behalf.
- 2 The rapporteur may in particular:
 - a perform the duties under Article 25 and monitor the submission of reports by the Examination Offices, referred to in Articles 13 and 14;
 - b pursue the procedure within the Office, including the communication of any deficiencies to be remedied by a party to proceedings and the setting of time limits; and
 - c ensure a close consultation and exchange of information with the parties to the proceedings.

Article 9

Role of the President

The President of the Office shall ensure the consistency of decisions taken under his authority. He shall in particular lay down the conditions under which decisions on objections lodged pursuant to Article 59 of the basic Regulation, and also decisions pursuant to Articles 61, 62, 63 or 66 of that Regulation, are taken.

Article 10

Consultations

Members of the staff of the Office may use, free of charge, the premises of national agencies designated pursuant to Article 30(4) of the basic Regulation, and those of Examination Offices referred to in Articles 13 and 14 of this Regulation, for holding periodical consultation days with parties to proceedings and third persons.

Section 2

Boards of Appeal

Article 11

Boards of Appeal

- 1 For the purpose of deciding on appeals from the decisions referred to in Article 67 of the basic Regulation, a Board of Appeal is established. If necessary, the Administrative Council may, on a proposal from the Office, establish more Boards of Appeal. In that event, it shall determine the allocation of work between the Boards of Appeal thus established.
- 2 Each Board of Appeal shall consist of technical and legally qualified members. Article 6(2) and (3) shall apply *mutatis mutandis*. The chairman shall be a legally qualified member.

3 The examination of an appeal shall be assigned by the chairman of the Board of Appeal to one of its members as rapporteur. Such assignment may include, where appropriate, the taking of evidence.

4 Decisions of the Board of Appeal shall be taken by a majority of its members.

Article 12

Registry attached to a Board of Appeal

1 The President of the Office shall attach a registry to the Board of Appeal; members of the staff of the Office shall be excluded from the registry if they have participated in proceedings relating to the decisions under appeal.

2 The employees of the registry shall in particular be responsible for:

- drawing up the minutes of oral proceedings and taking evidence pursuant to Article 63 of this Regulation,
- apportioning costs pursuant to Article 85(5) of the basic Regulation and Article 76 of this Regulation, and
- confirming any settlement of costs referred to in Article 77 of this Regulation.