

**AMENDMENT No. 2 TO THE DECISION OF THE ADMINISTRATIVE COUNCIL OF THE COMMUNITY PLANT VARIETY RIGHT OFFICE OF 25 MARCH 2004 ON THE IMPLEMENTATION OF REGULATION (EC) No. 1049/2001 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 30 MAY 2001 REGARDING PUBLIC ACCESS TO DOCUMENTS ("THE DECISION")**

**1. The Decision of the AC of the CPVO of 25 March 2004 and its amendment of 9 October 2014, on the Implementation of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to documents, is amended as follows:**

Whereas,

- (1) pursuant to Article 12 of Commission Regulation (EC) No 874/2009, the President of the Office has attached a registry to the Board of Appeal of the Office;
- (2) pursuant to Article 51 of Commission Regulation (EC) No 874/2009, unless otherwise provided, the provisions relating to proceedings before the Office shall apply to appeal proceedings *mutatis mutandis*.
- (3) there is a need to define the public access responsibilities of the Chair of the Board of Appeal, of the Alternate Chair of the Board of Appeal, and of the Board of Appeal Registrar;
- (4) the role of the Board of Appeal Registrar is to assist the Board of Appeal in the processing of appeals. The Registrar shall in particular be responsible of the Board of Appeal register of the CPVO;

*To be modified in the existing*

*Recital No (1)*

*The Treaty on the Functioning of the European Union enshrines the principle of transparency in the third paragraph of Article 15 according to which any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, shall have a right of access to documents of the Union's institutions, bodies, offices and agencies, whatever their medium.*

*Article 1*

*Beneficiaries and scope*

1. *Citizens of the Union and natural or legal persons residing or having their registered office in a Member State shall exercise their right of access to documents of the Office under Article 15 (ex Article 255 TEC) of the Treaty on the Functioning of the European Union and Article 2(1) of Regulation (EC) No 1049/2001 in accordance with this detailed rules.*

*Article 1.2 second paragraph*

2. *However, pursuant to Article 228 of the Treaty on the Functioning of the European Union, they shall not have the option of laying a complaint before the European Ombudsman. If the Office wholly or partially refuses them access to a document after a confirmatory application, they may bring an action before the Court of Justice of the European Union in accordance with Article 263 of the Treaty on the Functioning of the European Union.*

*To be added to the existing*

*Article 1.3*

*Documents of the Board of Appeal register are within the scope of this Article.*

*Article 2.2*

*The Registrar of the Board of Appeal shall answer initial and confirmatory access applications within fifteen working days from the date of registration of the application. In the case of complex and bulky applications, the deadline may be extended by fifteen working days. Reasons must be given for any extension of the deadline and it must be notified to the applicant beforehand.*

*Article 2.3*

*If an application is imprecise, as referred to in Article 6(2) of Regulation (EC) No. 1049/2001, the Registrar of the Board of Appeal shall invite the applicant to provide additional information making it possible to identify the documents requested; the deadline to reply shall run only from the time when the Board of appeal registry has got this information.*

*Article 3.3*

*The Registrar of Board of Appeal shall be responsible for the treatment of initial applications for access to Board of Appeal documents held in the Board of Appeal register. The applicant shall be informed of the response to its application by or under the authorization of the Registrar of the Board of Appeal. The Registrar of the Board of Appeal shall send answers to initial applications to the Chairperson of the Board of Appeal or Alternate Chairperson for information.*

*Article 4.3*

*The decisions on confirmatory applications for access to Board of Appeal documents held in the register of the Board of Appeal shall be taken by the Chairperson of the Board of Appeal or the Alternate Chairperson of the Board of Appeal.*

*Article 4.4*

*The decision on a confirmatory application for public access to Board of Appeal documents shall be notified to the applicant in writing, where appropriate by electronic means, and inform him/her of his/her right to bring an action before the General Court or to lodge a complaint with the European Ombudsman.*

*The Chairperson of the Board of Appeal, or the Alternate Chairperson shall be responsible for the treatment of the confirmatory applications for access to documents.*

*Article 5.8*

*This Article on consultations with third parties applies mutatis mutandis to the Board of Appeal register.*

*Article 9.1*

*This Article applies to documents of the Board of Appeal register.*

3 boulevard Maréchal Foch • CS 10121 • 49101 ANGERS CEDEX 2 • FRANCE • Tel. +33(0)241256400 • Fax +33(0)241256410 • cpvo@cpvo.europa.eu • www.cpvo.europa.eu

Служба на Общността за сортовете растения • Oficina Comunitaria de Variedades Vegetales • Odrůdový úřad Společenství • EF-Sortmyndigheden • Gemeinschaftliches Sortenamt • Ühenduse Sordiamet • Κοινοτικό Γραφείο Φυτικών Ποικιλιών • Community Plant Variety Office • Office communautaire des variétés végétales • Ufficio comunitario delle varietà vegetali • Kopienas Augu šķirņu birojs • Bendrijos augalų veislių tarnyba • Közösségi Növényfajta-hivatal • L-Uffċju Komunitarju dwar il-Varjetajiet tal-Pjanti • Communautair Bureau voor plantenrassen • Wspólnotowy Urząd Ochrony Odmian • Instituto Comunitário das Variedades Vegetais • Oficial Comunitar pentru Soiuri de Plante • Úrad Spoločenstva pre odrody rastlín • Úrad Skupnosti za rastlinske sorte • Yhteisön kasvilajikevirasto • Gemenskapens växtsortsmyndighet

*Article 10*

*Except as set forth in this Amendment, the Decision is unaffected and shall continue in full force and effect in accordance with its terms.*

*Article 11*

*This decision shall be published in the Official Gazette of the Community Plant Variety Office and on its website.*

Brussels, 19.9.19

*Bistra Pavlovska*

Bistra Pavlovska  
Chairperson of the Administrative Council of the CPVO