

**COMMISSION IMPLEMENTING REGULATION (EU) 2023/1104****of 6 June 2023****amending Regulation (EC) No 1238/95 as regards the fees payable to the Community Plant Variety Office**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 2100/94 of 27 July 1994 on Community Plant Variety Rights <sup>(1)</sup>, and in particular Article 113 thereof,

After consulting the Administrative Council of the Community Plant Variety Office,

Whereas:

- (1) Article 9(1) of Commission Regulation (EC) No 1238/95 <sup>(2)</sup> sets out the level of the fee payable to the Community Plant Variety Office ('the Office'), for each year of the duration of a Community plant variety right as provided for in Article 113(2), point (d), of Regulation (EC) No 2100/94.
- (2) In order to reflect the potential for inflation on all budget lines and to continue to increase the free reserve to the minimum level to ensure the operation of the office, the annual fee paid by a holder of a Community plant variety right should be raised to EUR 380.
- (3) The complexity of appeal cases has been rising and the current appeal fee established in Article 11 of Regulation (EC) No 1238/95 does not cover the real costs. This appeal fee should therefore be raised to EUR 2 100.
- (4) Experience has shown that there is a need to cover the administrative costs concerning the declaration of Community plant variety right null and void, as referred to in Article 20 of Regulation (EC) No 2100/94, and the administrative fee concerning a written objection to granting a Community plant variety right, as referred to in Article 59 of that Regulation.
- (5) Annex I to Regulation (EC) No 1238/95 sets out the level of fees for arranging and carrying out the technical examination of a variety which is the subject of an application for a Community plant variety right, payable to the Office.
- (6) On the basis of a survey on the costs of the Examination offices carried out by the Office, the fees charged by the Office should be updated, taking into account the inflation rate. Oil seed rape should be included in the group of other agricultural species and strawberry in the group of other fruits species as the level of fees in those groups are more appropriate for those species. Therefore, fees set out in Annex I to Regulation (EC) No 1238/95 should be modified for all the cost groups concerned.
- (7) According to Article 83 Regulation (EC) No 2100/94 the Office shall charge fees for its official acts provided for under the Regulation. Therefore, fees should be laid down for the declaration of Community plant variety right null and void and for a written objection to granting a Community plant variety right in order to cover costs of these increased activities.
- (8) Regulation (EC) No 1238/95 should therefore be amended accordingly.
- (9) This Regulation should apply from 1 July 2023 in order to allow sufficient time for the Office and the stakeholders to adapt to those amendments.
- (10) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Community Plant Variety Rights,

<sup>(1)</sup> OJ L 227, 1.9.1994, p. 1.

<sup>(2)</sup> Commission Regulation (EC) No 1238/95 of 31 May 1995 establishing implementing rules for the application of Council Regulation (EC) No 2100/94 as regards the fees payable to the Community Plant Variety Office (OJ L 121, 1.6.1995, p. 31).

HAS ADOPTED THIS REGULATION:

#### Article 1

Regulation (EC) No 1238/95 is amended as follows:

(1) in Article 9, paragraph 1 is replaced by the following:

'1. The Office shall charge a holder of a Community plant variety right ('the holder') a fee of EUR 380 for each year of the duration of a Community plant variety right ('annual fee'), as referred to in Article 113(2), point (d), of the Basic Regulation.'

(2) in Article 11, paragraph 1 is replaced by the following:

'1. The appellant shall pay an appeal fee of EUR 2 100 for the processing of an appeal, as provided for in Article 113(2), point (c), of the Basic Regulation.'

(3) in Article 12, paragraph 1 is replaced by the following:

'1. The President of the Office shall fix the fees for the following matters:

(a) the administrative fee referred to in Article 8(5);

(b) fees for issuing certified copies of documents;

(c) the administrative fee referred to in Article 82(2) of the Proceedings Regulation;

(d) the administrative fee concerning the declaration of Community plant variety right null and void, as referred to in Article 20 of the Basic Regulation;

(e) the administrative fee concerning a written objection to granting a Community plant variety right, as referred to in Article 59 of the Basic Regulation.'

(4) in Article 12, paragraph 2 is replaced by the following:

'2. The President of the Office may decide to make the services mentioned under paragraph (1)(a) to (e) dependent on an advance payment.'

(5) Annex I is replaced by the text in the Annex to this Regulation.

#### Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 July 2023.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 6 June 2023.

For the Commission  
The President  
Ursula VON DER LEYEN

## ANNEX

## ANNEX I

**Fees relating to technical examination as referred to in Article 8**

The fee to be paid for the technical examination of a variety shall be determined in accordance with the table:

		<i>(in EUR)</i>
	Cost group	Fee
<b>Agricultural group</b>		
1	Potato	2 580
2	Grasses	3 650
3	Other agricultural species	1 980
<b>Fruit group</b>		
4	Apple	4 130
5	Other fruit species	4 130
<b>Ornamental group</b>		
6	Ornamental living greenhouse	2 390
7	Ornamental living outdoor	3 070
8	Ornamental non-living greenhouse	2 760
9	Ornamental non-living outdoor	2 890
10	Ornamental special	3 550
<b>Vegetable group</b>		
11	Vegetable greenhouse	3 570
12	Vegetable outdoor	3 280'