



Consolidated version of
RULES OF PROCEDURE OF THE ADMINISTRATIVE COUNCIL
OF THE COMMUNITY PLANT VARIETY RIGHT OFFICE
(Hereafter called "the Office"), as amended¹

THE ADMINISTRATIVE COUNCIL OF THE OFFICE,

Having regard to article 39(4) of Council Regulation (EC) No 2100/94² of 27 July 1994 on Community plant variety rights, hereinafter referred to as the Regulation,

HAS ADOPTED THE FOLLOWING RULES OF PROCEDURE:

Article 1

Membership

1. The names of the representative and the alternate representative appointed by each Member State and the names of the representative and the alternate representative appointed by the Commission to the Administrative Council (hereinafter referred to as "members") shall be notified by that State and by the Commission, to the Chair of the Administrative Council, hereinafter referred to as the Chair. The Chair shall notify the names to all the Member States, the Commission and the President of the Office.
2. Members shall take up their duties on the day on which the Chair receives notification of their appointment.
3. Whenever a Member State or the Commission wishes to replace his own member or members, it shall notify the name or names of the new member or members to the Chair. The Chair shall notify the name or names to all the Member States, the Commission and the President of the Office.
4. Notifications under paragraphs 1-3 by the Member States, the Commission and the Chair may be made by electronic means.

¹ Article 14 was amended in a meeting with the Administrative Council on 26 March 2003.

Article 4 and 6 were amended by Decision of the AC of 11 March 2010.

Article 11 was adopted by Decision of the AC of 1st October 2015.

² OJ N° L 227, 01.09.1994, p.1

Article 2

Chair

1. The Chair shall be elected by those members who represent the Member States, acting by simple majority.
2. Following the election of the Chair, the Administrative Council shall elect a Deputy Chair in the same way.
3. If the Chair or Deputy Chair resigns, a fresh election shall be held at once, in accordance with paragraphs 1 and 2 of this Article respectively.
4. The first election of the Chair shall take place immediately after the Administrative Council has adopted these rules of Procedure. Later elections shall take place at a meeting of the Administrative Council convened by the outgoing Chair at least two months before the end of his/her term.
5. The terms of office of the first Chair and Deputy Chair shall be three years, and shall begin to run immediately on their election. The terms of office of subsequent Chairs and Deputy Chairs shall begin to run on the first day after their predecessors' terms of office.
6. If the office of the Chair or Deputy Chair falls vacant within the terms provided for, the Deputy Chair or Chair, as the case may be, shall convene a meeting to elect a successor, to be held within two months. The member then elected shall serve as Chair or Deputy Chair for the remainder of his/her predecessor's term.
7. If both the Chair and the Deputy Chair are absent or unable to attend a meeting, the meeting shall be chaired by the longest serving member or, in the event of equal length of service, by the oldest member.

Article 3

Attendance at meetings

1. The members referred to in Article 1 may attend all meetings of the Administrative Council. The members may be assisted by an adviser or expert unless the Administrative Council decides otherwise upon objection by one of its other members.
2. Unless the Administrative Council decides that the President of the Office may not attend the meetings, members of the staff of the Office may assist the President of the Office at the President's discretion.
3. Notwithstanding the provisions of paragraph 2, the members of the staff of the Office who assist the Chair in accordance with Article 39(6) of the Regulation may attend the meeting.
4. The Administrative Council may invite representatives of the members of the staff of the Office to attend its meetings for matters of interest to the staff.
5. The financial controller of the Office shall have the right to attend meetings unless the Administrative Council decides otherwise.
6. The Administrative Council may invite the Chair of any committee placed under its authority to attend its meetings for matters of interest to that committee.
7. Acting on a proposal from its Chair, the Administrative Council may admit to its meetings persons especially qualified in the matters to be discussed.



Article 4
Admission of observers

1. The Administrative Council may invite the International Union for the Protection of New Varieties of Plants to send an observer to its meetings. It may issue similar invitations to other intergovernmental organizations responsible for related activities.
2. The Administrative Council may allow non-governmental organizations operating in the sphere of plant variety protection under the Community plant variety protection system to send observers to its meetings.
3. The Administrative Council may invite any State, which has applied for membership of the European Union, on condition that the accession negotiations have been successfully completed, to appoint a representative and an alternate representative to attend its meetings as observers.
4. Observers do not have the right to vote and cannot take part in the deliberations on items considered as confidential under the procedure laid down in article 6.6 of these rules.
5. Each non-governmental organization participating in a meeting of the Administrative Council can be represented by maximum two persons.
6. Observers can only intervene after being given the floor by the Chair of the Administrative Council.
7. The Administrative Council will decide in a separate decision on the relevant criteria for granting the observer status to non-governmental organizations and on the procedure to obtain observership. It may decide, in order to ensure the efficiency of its meetings, to limit the number of non-governmental organizations which can participate as observers.

Article 5
The Convening of Meetings

1. The Chair shall invite each member and observer to a meeting by notifying date and place thereof not less than two weeks before that date. The Chair shall simultaneously send each member and observer the draft agenda.
2. Any necessary working document shall be published on the CPVO website, restricted area, no later than ten days before the beginning of the meeting. If it is not published in accordance with the time limit provided, no decision shall be taken on the question to which it relates if so requested by a member, unless the Administrative Council decides otherwise. Documents shall be shared with observers with the exception of confidential documents.
3. Where the Commission or one third of the Member States requests a meeting, the Chair shall convene a meeting, in accordance with paragraph 1, within one month of receipt of the requests, or two weeks in urgent cases.
4. Where the circumstances so require, the Chair may change the date or place of a meeting of the Administrative Council. Notification of such change shall be given to members and observers in accordance with the time limit laid down in paragraph 1.
5. The Chair may send notifications of meetings and agendas to the members and observers by electronic means.



Article 5a

Place of meetings and running of virtual meetings

1. The place at which the Administrative Council shall meet may be the seat of the Office, the Commission, or of a Member State in which an Examination Office is located.
2. Meetings may be held without all, or some of the participants being physically present in a room, by an electronic system (hereinafter 'virtual meeting'). Upon a proposal by the President of the Office, the Chair shall decide on the electronic system to be used.
3. The 'place' of the virtual meeting shall be deemed to mean a digital or virtual location, a web address or a conference call telephone number.
4. Depending on the circumstances, the Chair of the Administrative Council shall decide, after consultation with the President of the Office, whether a virtual meeting shall be organized.
5. In order for participants to be able to attend virtual meetings of the Administrative Council remotely, they need not be physically present, provided they are able to hear and be heard (and where practicable, see and be seen) by other participants attending remotely or in person.
6. A participant who is personally, or by proxy, attending the meeting through a call or video application, shall be deemed to be present at the meeting or represented by proxy, as the case may be.
7. In the event that the Chair of the Administrative Council identifies a failure of the remote participation facility, the Chair will declare an adjournment while the fault is addressed. If it is not possible to address the fault and the meeting is inquorate, the meeting will be abandoned until such time as it can be reconvened. If the meeting is quorate, the Chair will decide if this meeting should continue, depending on the difficulties being experienced, or whether it should be adjourned until a later time or date.

Article 6

Agenda

1. A draft agenda shall be drawn up by the Chair. It shall contain, in addition to those questions whose inclusion is requested by a member, any question whose inclusion is requested by the President of the Office or by the Chair of any committee placed under the authority of the Administrative Council.
2. Questions to be included on the draft agenda shall be submitted to the Chair not less than one month before the date of the beginning of the meeting, or two weeks in urgent cases.
3. Questions submitted after the time limits laid down in paragraph 2 may be included on the draft agenda at the discretion of the Chair.
4. The agenda shall be adopted at the beginning of each meeting.
5. With the agreement of the Administrative Council, urgent questions may be added to the agenda at any time prior to the end of the meeting, and items on the agenda may be deleted or carried over to a subsequent meeting.
6. The agenda items of the Administrative Council shall be defined as confidential or as public. When adopting the agenda, the Administrative Council shall indicate which items are public and which are confidential.



Article 7

Quorum

The representatives or alternative representatives of more than half of the Member States or, if a matter is to be considered in respect of which, in accordance with Article 41(2) of the Regulation, decision requires the majority of three quarters of the representatives of the Member States, more than three quarters of the Member States shall constitute the quorum necessary to make the meeting valid. In the absence of the quorum required in the former case the Chair shall close the meeting and convene another as soon as possible; in the absence of the quorum required in the latter case, the question concerned shall be deemed to be deleted on the agenda.

Article 8

Voting

1. The Administrative Council shall take its decisions by simple majority or qualified majority of the representatives of the Member States, according to whether Article 41(1) or (2) of the Regulation on Community plant variety rights is applicable.
2. Votes shall be taken by show of hands or by electronic means pursuant to paragraph 8 below.
3. Notwithstanding paragraph 2, the vote shall be taken by secret ballot:
 - a) For the election of the Chair and Vice-Chair of the Administrative Council;
 - b) For decisions which the Administrative Council is called upon to take in accordance with Articles 29(1) and (2), 30(4), 43(1) and (3), 47(1) and (5), and 111(1) of the Regulation;
 - c) For other cases than those referred to in letters a) or b), upon request of a representative.

When the vote has been taken by secret ballot, the Chair shall count the votes together with two scrutineers designated by the Administrative Council. In case of vote by electronic means, paragraph 8 below shall apply

4. When both the representative and the alternate representative of a Member State are prevented from participating in the vote, another person from the same Member State or another member representing another Member State from the one in question may be authorized in writing by the member representing the Member State concerned to vote on a member's behalf.
5. The Chair shall announce the result of a vote and any decision resulting from that vote immediately after the vote has been taken.
6. For each decision adopted by the Administrative Council figures for the votes cast shall be recorded. A statement of the views of the minority may be entered in the minutes along with the decision if the minority so requests.
7. The Chair may authorize a member to speak briefly in explanation of a vote he/she has cast.
8. Voting may be carried out by electronic means using a secure electronic voting system proposed by the President of the Office and accepted by the Chair. The Chair may decide to use an electronic voting system for any vote. If the tool is used for votes mentioned under paragraph 3 above, the system used must ensure the necessary secrecy functions. The results of the vote shall be as indicated by the electronic voting system and shall be announced by the Chair after the vote and recorded pursuant to paragraph 6 above.



Article 9

Written procedure

1. Without prejudice to Articles 5 and 6 of the Rules of Procedure, decisions of the Administrative Council may be taken by written procedure, on a proposal by the Chair. The proposal shall be accompanied by the draft decision to be taken by written procedure. The written procedure and the proposed decision shall be deemed to be agreed by the representatives of the Commission and the Member States if no objection is made in writing to the Chair within one month after the receipt of such proposal.
2. In urgent cases, the Chair may limit the time to make objections to two weeks.
3. The proposed decision to be taken by written procedure shall not be subject to amendment; it shall be approved or rejected in its entirety. Where a member proposes an amendment in writing, such amendment shall be considered to be an objection to the written procedure as proposed by the Chair.
4. The Chair may communicate by electronic means in the written procedure.

Article 10

Proceedings

1. The proceedings of the Administrative Council shall not be public unless the Administrative Council decides otherwise.
2. The Chair shall conduct the proceedings, giving the floor in the first place to members wishing to propose a procedural motion or to move the inadmissibility of a matter.
3. If the Chair or any member contests the admissibility of a motion proposed by a member in the course of proceedings, the question of its admissibility shall be put to a vote.
4. If the Chair takes the view that a motion may delay the proceedings, he/she may put it to a vote immediately, without debate.
5. Where several motions on the same subject have been tabled, that which goes furthest shall be voted on first. In the case of amendments, the amendment which departs furthest from the original proposal shall be voted on first. An amendment to an amendment shall be voted upon before the main amendment, and where there are several amendments to the same amendment that which goes furthest shall be voted on first. A later vote shall be taken on the wording which results from an earlier one.

Article 11

Minutes

1. A summary of the decisions taken at each meeting of the Administrative Council shall be forwarded to members and observers not later than one month after the end of the meeting.
2. The draft minutes, to which shall be attached the summary referred to in paragraph 1, the attendance list, and the decisions taken with figures for the votes cast at each vote, shall be forwarded to members and observers at least two weeks prior to the next meeting.
3. The adoption of the minutes shall follow a procedure adopted by the Administrative Council in a separate document.



4. Once approved, the minutes shall be kept in the archives of the Office and made available online to the AC members and observers.
5. The final text of the minutes shall be forwarded to members and observers not later than one month after its approval.
6. The minutes may be forwarded to the members and observers by electronic means.

Article 12

Confidentiality of the Administrative Council's proceedings

1. All proceedings of the Administrative Council shall be confidential. Members and others present at meetings of the Administrative Council shall respect the confidential character of these proceedings.
2. Without prejudice to other provisions in the Regulation and the implementing rules, the Administrative Council may decide to publicize certain of its decisions in accordance with forms and arrangements it shall determine.

Article 13

Committees

1. The Administrative Council may establish committees to advise it on particular questions. It shall determine their composition and shall appoint their Chair.
2. Each committee shall, on the proposal of its Chair, decide its own procedure, except on matters provided for in this Article.
3. The President of the Office shall have the right to attend, or be represented at any meeting of a committee. He/she may be assisted by other staff of the Office.

Article 14

Mission expenses of members

1. All travel and subsistence expenses incurred by one of either the representative or the alternate representative in connection with meetings of the Administrative Council shall be paid by the Office in accordance with the scales laid down by the Staff Regulations of Officials of the European Communities for Officials in grades AD 7 to AD 12. This provision shall apply to a person of the same Member State authorized to vote pursuant to Article 8(4).
2. Upon request of a member, the Administrative Council may decide that the expenses of one adviser or one expert attending a meeting to assist the member or the authorized person referred to in Article 8(4) shall be reimbursed in accordance with the provisions of paragraph 1, if neither a member nor a person authorized to vote pursuant to Article 8(4) of the Member State concerned or of the Commissions claims reimbursement of the expenses.



Article 15
Correspondence

All correspondence with the Administrative Council shall be addressed to the Office. The members of the Administrative Council may correspond with the Office by electronic means.

Article 16
Amendment of the rules of Procedure

1. The Administrative Council may amend these Rules of Procedure by simple majority, upon proposal of its Chair or one third of the members.
2. Amendments to the Rules of Procedure shall enter into force on the date appointed by the Administrative Council.

Article 17
Entry into force

These Rules shall enter into force on 17 July 2020.

For the Administrative Council,

Bistra Pavlovska

Bistra Pavlovska

Chair of the Administrative Council

