



2023/0128(COD)

16.10.2023

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DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council
on the supplementary protection certificate for plant protection products
(recast)
(COM(2023)0223 – C9-0149/2023 – 2023/0128(COD))

Committee on Legal Affairs

Rapporteur: Tiemo Wölken

(Recast – Rule 110 of the Rules of Procedure)

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ■ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council on the supplementary protection certificate for plant protection products (recast)
(COM(2023)0223 – C9-0149/2023 – 2023/0128(COD))**

(Ordinary legislative procedure – recast)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2023)0223),
 - having regard to Article 294(2) and Article 114(1) Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0149/2023),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 27 September 2023¹,
 - having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts²,
 - having regard to Rules 110 and 59 of its Rules of Procedure,
 - having regard to the opinion of the Committee on Agriculture and Rural Development,
 - having regard to the report of the Committee on Legal Affairs (A9-0000/2023),
- A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the Commission proposal does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance;
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ Not yet published in the Official Journal.

² OJ C 77, 28.3.2002, p. 1.

Amendment 1

Proposal for a regulation

Article 8 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) where applicable, the consent of the third party referred to in Article 6(2);

Or. en

Amendment 2

Proposal for a regulation

Article 8 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The applicant shall be responsible for the accuracy of the information and documentation submitted in relation to its application.

Or. en

Amendment 3

Proposal for a regulation

Article 26 – paragraph 6

Text proposed by the Commission

Amendment

6. If the opposition panel notes that the notice of opposition does not comply with paragraphs 2, 3 or 4, it shall reject the opposition as inadmissible, and communicate **this** to opponent, unless these deficiencies have been remedied before expiry of the opposition filing period referred to in paragraph 1.

6. If the opposition panel notes that the notice of opposition does not comply with paragraphs 2, 3 or 4, it shall reject the opposition as inadmissible, and communicate **its decision as well as its reasoning for that decision to the** opponent, unless these deficiencies have been remedied before expiry of the opposition filing period referred to in paragraph 1.

Or. en

Amendment 4

Proposal for a regulation

Article 26 – paragraph 8 a (new)

8a. In cases where several oppositions have been filed against an examination opinion, the Office shall deal with the oppositions jointly and issue one single decision in respect of all oppositions filed.

Or. en

Amendment 5

Proposal for a regulation Article 26 – paragraph 9

Text proposed by the Commission

9. The Office shall issue a decision on the opposition within 6 months, unless the complexity of the case requires a longer period.

Amendment

9. The Office shall issue a decision on the opposition ***including a detailed reasoning for its decision*** within 6 months, unless the complexity of the case requires a longer period.

Or. en

Amendment 6

Proposal for a regulation Article 26 – paragraph 10

Text proposed by the Commission

10. If the opposition panel considers that no ground for opposition prejudices the maintenance of the examination opinion, it shall reject the opposition, and the Office shall mention this in the Register.

Amendment

10. If the opposition panel considers that no ground for opposition prejudices the maintenance of the examination opinion, it shall reject the opposition, ***notify the opponent of its decision*** and the Office shall mention this in the Register.

Or. en

Amendment 7

Proposal for a regulation Article 27 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Once a competent national authority is appointed by the Office as a participating office, it shall appoint its designated examiners based on relevant expertise and whether they have sufficient experience for the centralised examination procedure.

Or. en

Amendment 8

Proposal for a regulation

Article 28 – paragraph 3 – point a

Text proposed by the Commission

Amendment

(a) geographical balance amongst the participating offices;

(a) relevant expertise and sufficient experience in the examination of patents and supplementary protection certificates;

Or. en

Amendment 9

Proposal for a regulation

Article 28 – paragraph 3 – point c

Text proposed by the Commission

Amendment

(c) no more than one examiner employed by a competent national authority making use of the exemption laid down in Article 10(5).

(c) that there is no examiner employed by a competent national authority making use of the exemption laid down in Article 10(5).

Or. en

Amendment 10

Proposal for a regulation

Article 29 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. The Office shall inform the applicant of its decision without undue

delay.

Or. en

Amendment 11

Proposal for a regulation

Article 29 – paragraph 5

Text proposed by the Commission

5. Where an appeal before the Boards of Appeal of the Office results in a decision which is not in line with the examination opinion and is remitted to the Office, the decision of the Boards *may* annul or alter that opinion before transmitting it to the competent national authorities of the designated Member States.

Amendment

5. Where an appeal before the Boards of Appeal of the Office results in a decision which is not in line with the examination opinion and is remitted to the Office, the decision of the Boards *shall* annul or alter that opinion before transmitting it to the competent national authorities of the designated Member States.

Or. en

Amendment 12

Proposal for a regulation

Article 30 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Article 166(9) of Regulation (EU) 2017/1001 shall be respected.

Or. en

Amendment 13

Proposal for a regulation

Article 34 – paragraph 1 – point l

Text proposed by the Commission

(l) where applicable, the filing of an opposition, and its outcome, including where applicable a summary of the revised examination opinion;

Amendment

(l) where applicable, the filing of an opposition, *its status* and its outcome, including where applicable a summary of the revised examination opinion;

Or. en

Amendment 14

Proposal for a regulation

Article 34 – paragraph 1 – point m

Text proposed by the Commission

(m) where applicable, the filing of an appeal, and the outcome of the appeal proceedings, including where applicable a summary of the revised examination opinion;

Amendment

(m) where applicable, the filing of an appeal, ***its status*** and the outcome of the appeal proceedings, including where applicable a summary of the revised examination opinion;

Or. en

Amendment 15

Proposal for a regulation

Article 44 – paragraph 3

Text proposed by the Commission

3. If the Office or the relevant panel considers it necessary for a party, witness or expert to give evidence orally, it shall issue a summons to the person concerned to appear before it. The period of notice provided in such summons shall be at least 1 month, unless they agree to a shorter period.

Amendment

3. If the Office or the relevant panel considers it necessary for a party, witness or expert to give evidence orally, it shall issue a summons to the person concerned to appear before it. ***Where an expert is summonsed it shall be verified that that expert is free of any conflict of interest.*** The period of notice provided in such summons shall be at least 1 month, unless they agree to a shorter period.

Or. en

Amendment 16

Proposal for a regulation

Article 56 – paragraph 1

Text proposed by the Commission

By [OP, please insert: five years after the date of application], and every five years thereafter, the Commission shall carry out an evaluation of the application of Chapter III.

Amendment

By ... [OP, please insert: five years after the date of application], and every five years thereafter, the Commission shall carry out an evaluation of the application of Chapter III ***and present a report on the main findings to the European Parliament and to the Council.***

