

COMMISSION REGULATION (EC) No 2869/95

of 13 December 1995

on the fees payable to the Office for Harmonization in the Internal Market (Trade Marks and Designs)

(OJ EC No L 303 of 15.12.1995, p. 33)

amended by:

Commission Regulation (EC) No 781/2004

of 26 April 2004

(OJ EC No L 123 of 27.4.2004, p. 85)

(applicable as of 1 October 2004)

Commission Regulation (EC) No 1042/2005

of 29 June 2005

(OJ EC No L 172 of 5.7.2005, p. 22)

(partially applicable as of 25 July 2005 and partially applicable as of 10 March 2008)

Commission Regulation (EC) No 1687/2005

of 14 October 2005

(OJ EC No L 271 of 15.10.2005, p. 14)

(applicable as of 22 October 2005)

Commission Regulation (EC) No 355/2009

of 31 March 2009

(OJ EC No L 109 of 30.4.2009, p. 3)

(applicable as of 1 May 2009)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark¹ and in particular Article 144 thereof,

Having regard to Commission Regulation (EC) No 2868/95 of 13 December 1995², implementing Council Regulation (EC) No 40/94 on the Community trade mark,

Whereas Article 144 (3) of Regulation (EC) No 207/2009 (hereinafter ‘the Regulation’) provides that the fees regulations shall be adopted in accordance with the procedure laid down in Article 163 of the Regulation;

Whereas Article 144 (1) of the Regulation provides that the fees regulations shall determine in particular the amount of the fees and the ways in which they are to be paid;

Whereas Article 144 (2) of the Regulation provides that the amounts of the fees shall be fixed at such a level as to ensure that the revenue in respect thereof is in principle sufficient for the budget of the Office for Harmonization in the Internal Market (trade marks and designs) (‘the Office’) to be balanced;

Whereas, however, in the Office’s start-up phase, balance can be achieved only if there is a subsidy from the general budget of the European Communities, in accordance with Article 139 (3) of the Regulation;

Whereas the basic fee for the application for a Community trade mark shall include the amount which the Office must pay to each central industrial property office of the Member States for each search report provided by such offices in accordance with Article 38 (4) of the Regulation;

Whereas to ensure the necessary flexibility, the President of the Office (‘the President’) should be empowered, subject to certain conditions, to lay down the charges which may be payable to the Office in respect of services it may render, the charges for access to the Office’s data bank and the making available of the contents of this data bank in machine-readable form, and to set charges for the sale of its publications;

Whereas, in order to facilitate the payment of fees and charges, the President should be empowered to authorize methods of payment which are additional to those explicitly provided for in this Regulation;

Whereas it is appropriate that the fees and charges payable to the Office should be fixed in the same currency unit as is used for the budget of the Office;

Whereas the budget of the Office is fixed in euros³;

Whereas, moreover, the fixing of these amounts in euros⁴ avoids discrepancies that may result from exchange rate variations;

Whereas payments in cash should be made in the currency of the Member State where the Office has its seat;

Whereas the measures envisaged in this Regulation are in accordance with the opinion of the Committee established under Article 163 of the Regulation,

HAS ADOPTED THIS REGULATION:

¹ OJ No L 78, 24.3.2009, p. 1

² OJ No L 303, 15.12.1995, p. 1

³ References to euros inserted by Commission Regulation (EC) No 781/2004 of 26.4.2004

⁴ References to euros inserted by Commission Regulation (EC) No 781/2004 of 26.4.2004

Article 1

General

The following shall be levied in accordance with this Regulation:

- (a) fees to be paid to the Office as provided for in the Regulation and in Regulation (EC) No 2868/95;
- (b) charges laid down by the President pursuant to Article 3 (1) and (2).

Article 2

Fees provided for in the Regulation and Regulation (EC) No 2868/95

The fees to be paid to the Office under Article 1 (a) shall be as follows:

(in EUR)⁵

| | |
|--|---|
| 1. ⁶ Basic fee for the application for an individual mark (Article 26(2), Rule 4(a)) | 1050 |
| 1a. ⁷ Search fee | The amount of 12 euros multiplied by the number of central industrial property offices referred to in paragraph 2 of Article 38 of the Regulation; that amount, and the subsequent changes, shall be published by the Office in the Official Journal of the Office. |
| (a) for a Community trade mark application (Article 38(2), Rule 4(c)) | |
| (b) for an international registration designating the European Community (Articles 38(2) and 155(2), Rule 10(2)) | |
| 1b. ⁸ Basic fee for the application for an individual mark by electronic means (Article 26(2), Rule 4(a)) | 900 |
| 2. ⁹ Fee for each class of goods and services exceeding three for an individual mark [Article 26(2), Rule 4(a)] | 150 |
| 3. ¹⁰ Basic fee for the application for a collective mark (Article 26(2) and Article 66(3), Rule 4(a) and Rule 42) | 1800 |
| 4. ¹¹ Fee for each class of goods and services exceeding three for a collective mark [Article 26(2) and Article 66(3), Rule 4(b) and Rule 42] | 300 |
| 5. Opposition fee (Article 41 (3); Rule 18 (1)) | 350 |
| 6. ¹² <i>[deleted]</i> | |
| 7. ¹³ Basic fee for the registration of an individual mark (Article 45) | 0 |
| 8. ¹⁴ Fee for each class of goods and services exceeding three for an individual mark (Article 45) | 0 |
| 9. ¹⁵ Basic fee for the registration of a collective mark (Article 45 and Article 66(3)) | 0 |
| 10. ¹⁶ Fee for each class of goods and services exceeding three for a collective mark (Article 45 and Article 66(3)) | 0 |
| 11. ¹⁷ Additional fee for the late payment of the registration fee (Article 162(2)(a)) | 0 |
| 12. ¹⁸ Basic fee for the renewal of an individual mark [Article 47(1), Rule 30(2)(a)] | 1500 |
| 12a. ¹⁹ Basic fee for the renewal for an individual mark by electronic means [Article 47(1), Rule 30(2)(a)] | 1350 |

⁵ References to euros inserted by Commission Regulation (EC) No 781/2004 of 26.4.2004

⁶ Amended by Commission Regulation (EC) No 355/2009 of 31.3.2009

⁷ Inserted by Commission Regulation (EC) No 1042/2005 of 29.6.2005. Applies as from 10 March 2008. Amount reduced by Commission Regulation (EC) No 1687/2005 of 14.10.2005

⁸ Amended by Commission Regulation (EC) No 355/2009 of 31.3.2009

⁹ Amount reduced by Commission Regulation (EC) No 1687/2005 of 14.10.2005

¹⁰ Amended by Commission Regulation (EC) No 355/2009 of 31.3.2009

¹¹ Amount reduced by Commission Regulation (EC) No 1687/2005 of 14.10.2005

¹² Deleted by Commission Regulation (EC) No 1042/2005 of 29.6.2005

¹³ Amended by Commission Regulation (EC) No 355/2009 of 31.3.2009

¹⁴ Amended by Commission Regulation (EC) No 355/2009 of 31.3.2009

¹⁵ Amended by Commission Regulation (EC) No 355/2009 of 31.3.2009

¹⁶ Amended by Commission Regulation (EC) No 355/2009 of 31.3.2009

¹⁷ Amended by Commission Regulation (EC) No 355/2009 of 31.3.2009

¹⁸ Amount reduced by Commission Regulation (EC) No 1687/2005 of 14.10.2005

¹⁹ Inserted by Commission Regulation (EC) No 1687/2005 of 14.10.2005

| | |
|---|------|
| 13. ²⁰ Fee for the renewal of each class of goods and services exceeding three for an individual mark [Article 47(1), Rule 30(2)(b)] | 400 |
| 14. ²¹ Basic fee for the renewal of a collective mark [Article 47(1) and Article 66(3); Rule 30(2)(a) and Rule 42] | 3000 |
| 15. ²² Fee for the renewal of each class of goods and services exceeding three for a collective mark [Article 47(1) and Article 66(3); Rule 30(2)(b) and Rule 42] | 800 |
| 16. Additional fee for the late payment of the renewal fee or the late submission of the request for renewal (Article 47 (3), Rule 30 (2) (c)) | |
| 25% of the belated renewal fee, subject to a maximum of 1 500 EUR | |
| 17. Fee for the application for revocation or for a declaration of invalidity (Article 56 (2), Rule 39 (2)) | 700 |
| 18. Appeal fee (Article 60, Rule 49 (1)) | 800 |
| 19. ²³ Fee for the application of <i>restitutio in integrum</i> (Article 81 (3)) | 200 |
| 20. ²⁴ Fee for the application ²⁵ for the conversion of a Community trade mark application or a Community trade mark (Article 113(1), also in conjunction with Article 159(1); Rule 45(2), also in conjunction with Rule 123(2)) | |
| (a) into a national trade mark application | |
| (b) into a designation of Member States under the Madrid Agreement or the Madrid Protocol | 200 |
| 21. ²⁶ Fee for continuation of proceedings (Article 82(1)) | 400 |
| 22. ²⁷ Fee for the declaration of division of a registered Community trade mark (Article 49(4)) or an application for a Community trade mark (Article 44(4)): | 250 |
| 23. ²⁸ Fee for the application for the registration of a licence or another right in respect of a registered Community trade mark (Article 162(2)(c), Rule 33(1)) or an application for a Community trade mark (Article 162(2)(d), Rule 33(4)): | |
| a) grant of a licence | |
| b) transfer of a licence | |
| c) creation of a right in rem | |
| d) transfer of a right in rem | |
| e) levy of execution | |
| 200 EUR per registration, but, where multiple requests are submitted in the same application or at the same time, not to exceed a total of 1 000 EUR | |
| 24. Fee for the cancellation of the registration of a licence or other right (Article 162(2)(e), Rule 35 (3)) | |
| 200 EUR per cancellation, but, where multiple requests are submitted in the same application or at the same time, not to exceed a total of 1 000 EUR | |
| 25. Fee for the alteration of a registered Community trade mark (Article 162(2)(f), Rule 25 (2)) | 200 |
| 26. Fee for the issue of a copy of the application for a Community trade mark (Article 162(2)(j), Rule 89 (5)), a copy of the certificate of registration (Article 162(2)(b), Rule 24 (2), or an extract from the register (Article 162(2)(g), Rule 84 (6)) | |
| a) uncertified copy or extract | 10 |
| b) certified copy or extract | 30 |
| 27. Fee for the inspection of the files (Article 162(2)(h), Rule 89 (1)) | 30 |
| 28. Fee for the issue of copies of file documents (Article 162(2)(i), Rule 89 (5)) | |

²⁰ Amount reduced by Commission Regulation (EC) No 1687/2005 of 14.10.2005

²¹ Amount reduced by Commission Regulation (EC) No 1687/2005 of 14.10.2005

²² Amount reduced by Commission Regulation (EC) No 1687/2005 of 14.10.2005

²³ Amended by Commission Regulation (EC) No 1042/2005 of 29.6.2005 (amount unchanged)

²⁴ Inserted by Commission Regulation (EC) No 781/2004 of 26.4.2004

²⁵ Amended by Commission Regulation (EC) No 1042/2005 of 29.6.2005

²⁶ Inserted by Commission Regulation (EC) No 1042/2005 of 29.6.2005

²⁷ Inserted by Commission Regulation (EC) No 1042/2005 of 29.6.2005

²⁸ Amended by Commission Regulation (EC) No 1042/2005 of 29.6.2005

| | |
|---|--------|
| a) uncertified copy | 10 EUR |
| b) certified copy | 30 EUR |
| plus per page, exceeding 10 | 1 EUR |
| 29. ²⁹ Fee for the communication of information in a file (Article 162(2)(k), Rule 90) | 10 |
| 30. Fee for the review of the determination of the procedural costs to be refunded (Article 162(2)(l), Rule 94 (4)) | 100 |
| 31. ³⁰ Fee for the filing of an international application at the Office (Article 147(5)) | 300 |

Article 3
Charges laid down by the President

1. The President shall lay down the amount to be charged for any services rendered by the Office other than those specified in Article 2.
2. The President shall lay down the amount to be charged for the Community Trade Marks Bulletin and the Official Journal of the Office as well as any other publications issued by the Office.
3. The amounts of the charges shall be laid down in EUR.
4. The amounts of the charges laid down by the President in accordance with paragraphs 1 and 2 shall be published in the Official Journal of the Office.

Article 4
Due date for fees and charges

1. Fees and charges in respect of which the due date is not specified in the Regulation or in Regulation No 2868/95 shall be due on the date of receipt of the request for the service for which the fee or the charge is incurred.
2. The President may decide not to make services mentioned in paragraph 1 dependent upon the advance payment of the corresponding fees or charges.

Article 5
Payment of fees and charges

1. Fees and charges due to the Office shall be paid
 - (a) by payment or transfer to a bank account held by the Office,
 - (b)³¹~~[deleted]~~
 - (c)³²~~[deleted]~~
2. The President may allow methods of payment other than those set out in paragraph 1, in particular by means of deposits in current accounts held with the Office.
3. Determinations made pursuant to paragraph 2 shall be published in the Official Journal of the Office.

Article 6
Currencies³³

All payments, including by any method of payment allowed by the President pursuant to Article 5(2), shall be made in EUR.

Article 7
Particulars concerning payment

1. Every payment must indicate the name of the person making the payment and must contain the necessary information to enable the Office to establish immediately the purpose of the payment. In particular, the following information shall be provided:
 - (a) when the application fee is paid, the purpose of the payment, namely 'application fee';
 - (b) when the registration fee is paid, the file number of the application which is the basis for the registration and the purpose of the payment, namely 'registration fee';
 - (c) when the opposition fee is paid, the file number of the application and the name of the applicant for the Community trade mark against which opposition is entered, and the purpose of the payment, namely 'opposition fee';
 - (d) when the revocation fee and the invalidity fee are paid, the registration number and the name of the proprietor of the Community trade mark against which the application is directed, and the purpose of the payment, namely 'revocation fee' or 'invalidity fee'.

²⁹ Amended by Commission Regulation (EC) No 1042/2005 of 29.6.2005

³⁰ Inserted by Commission Regulation (EC) No 781/2004 of 26.4.2004

³¹ Deleted by Commission Regulation (EC) No 1687/2005 of 14.10.2005

³² Deleted by Commission Regulation (EC) No 1687/2005 of 14.10.2005

³³ Amended by Commission Regulation (EC) No 781/2004 of 26.4.2004

2. If the purpose of the payment cannot immediately be established, the Office shall require the person making the payment to notify it in writing of this purpose within such period as it may specify. If the person does not comply with this request in due time, the payment shall be considered not to have been made. The amount which has been paid shall be refunded.

Article 8 **Deemed date of payment**

1. The date on which any payment shall be considered to have been made to the Office shall be as follows:
 - (a) in the cases referred to in Article 5 (1) (a), the date on which the amount of the payment or of the transfer is actually entered in a bank account held by the Office;
 - (b)³⁴~~[deleted]~~
 - (c)³⁵~~[deleted]~~
2. Where the President allows, in accordance with the provisions of Article 5 (2), other methods of paying fees than those set out in Article 5 (1), he shall also lay down the date on which such payments shall be considered to have been made.
3. Where, under the provisions of paragraphs 1 and 2, payment of a fee is not considered to have been made until after the expiry of the period in which it was due, it shall be considered that this period has been observed if evidence is provided to the Office that the person who made the payment —
 - (a) in a Member State, within the period within which the payment should have been made:
 - (i)³⁶~~[deleted]~~
 - (ii) duly gave an order to a banking establishment to transfer the amount of the payment; or
 - (iii)³⁷~~[deleted]~~
 - (b) paid a surcharge of 10 % on the relevant fee or fees, but not exceeding EUR 200; no surcharge is payable if a condition according to subparagraph (a) has been fulfilled not later than 10 days before the expiry of the period for payment.
4. The Office may request the person who made the payment to produce evidence as to the date on which a condition according to paragraph 3 (a) was fulfilled and, where required, to pay the surcharge referred to in paragraph 3 (b), within a period to be specified by it. If the person fails to comply with this request or if the evidence is insufficient, or if the required surcharge is not paid in due time, the period for payment shall be considered not to have been observed.

Article 9 **Insufficiency of the amount paid**

1. A time limit for payment shall, in principle, be considered to have been observed only if the full amount of the fee has been paid in due time. If the fee is not paid in full, the amount which has been paid shall be refunded after the period for payment has expired.
2. The Office may, however, in so far as this is possible within the time remaining before the end of the period, give the person making the payment the opportunity to pay the amount lacking or, where this is considered justified, overlook any small amounts lacking without prejudice to the rights of the person making the payment.

Article 10 **Refund of insignificant amounts**

1. Where an excessive sum is paid to cover a fee or a charge, the excess shall not be refunded if the amount is insignificant and the party concerned has not expressly requested a refund. The President shall determine what constitutes an insignificant amount.
2. Determinations by the President pursuant to paragraph 1 shall be published in the *Official Journal of the Office*.

Article 11 **Individual fee for an international registration designating the European Community³⁸**

1. The applicant for an international application designating the European Community shall be required to pay to the International Bureau an individual fee for the designation of the European Community in accordance with Article 8(7) of the Madrid Protocol.
2. The holder of an international registration who files a request for territorial extension designating the European Community made subsequently to the international registration shall be required to pay to the International Bureau an individual fee for the designation of the European Community in accordance with Article 8(7) of the Madrid Protocol.
3. The amount of the fee under paragraph 1 or 2 shall be the equivalent in Swiss Francs, as established by the Director General of the World Intellectual Property Organization pursuant to Rule 35(2) of the Common Regulations under the Madrid Agreement and Protocol, of the following amounts:
 - a)³⁹ for an individual mark: EUR 870 plus, where applicable, EUR 150 for each class of goods and services exceeding three;

³⁴ Deleted by Commission Regulation (EC) No 1687/2005 of 14.10.2005

³⁵ Deleted by Commission Regulation (EC) No 1687/2005 of 14.10.2005

³⁶ Deleted by Commission Regulation (EC) No 1687/2005 of 14.10.2005

³⁷ Deleted by Commission Regulation (EC) No 1687/2005 of 14.10.2005

³⁸ Articles 11 – 14 added by Commission Regulation (EC) No 781/2004 of 26.4.2004

³⁹ Amended by Commission Regulation (EC) No 355/2009 of 31.3.2009

b)⁴⁰ for a collective mark as referred to in Rule 121(1) of Regulation (EC) No 2868/95: EUR 1 620 plus, where applicable, EUR 300 for each class of goods or services exceeding three.

Article 12

Individual fee for a renewal of an international registration designating the European Community

1. The holder of an international registration designating the European Community shall be required to pay to the International Bureau, as a part of the fees for a renewal of the international registration, an individual fee for the designation of the European Community in accordance with Article 8(7) of the Madrid Protocol.
2. The amount of the fee referred to in paragraph 1 shall be the equivalent in Swiss Francs, as established by the Director General of the World Intellectual Property Organization pursuant to Rule 35(2) of the Common Regulations under the Madrid Agreement and Protocol, of the following amounts:
 - a) for an individual mark: EUR 1200 plus EUR 400 for each class of goods and services contained in the international registration exceeding three;
 - b) for a collective mark as referred to in Rule 121(1) of Commission Regulation (EC) No 2868/95: EUR 2700 plus EUR 800 for each class of goods and services contained in the international registration exceeding three.⁴¹

Article 13

Refund of fees following refusal of protection⁴²

[Version before entry into force of Commission Regulation (EC) No 355/2009 of 31 March 2009]:

1. Where the refusal is for all the goods and services contained in the designation of the European Community, the amount of the fee to be refunded pursuant to Article 154(4) or Article 156(4) of the Council Regulation (EC) No 207/2009 shall be
 - a) for an individual mark: EUR 850 plus EUR 150 for each class of goods and services contained in the international registration exceeding three;
 - b) for a collective mark: EUR 1700 plus EUR 300 for each class of goods and services contained in the international registration exceeding three.⁴³
2. Where the refusal is for only part of the goods and services contained in the designation of the European Community, the amount of the fee to be refunded pursuant to Article 154(4) or Article 156(4) of the Regulation shall be equivalent to 50 % of the difference of the class fees payable under Article 11(3) and the class fees that would have been payable under Article 11(3) of this Regulation if the designation of the European Community had included only those goods and services for which the international registration remains protected in the European Community.
- 3.⁴⁴The refund shall be made once the communication to the International Bureau pursuant to Rule 113(2) (b) and (c) or Rule 115 (5) (b), (c) and (6) of Regulation (EC) No 2868/95 has been issued.
4. The refund shall be made to the holder of the international registration or his representative.

[Version after entry into force of Commission Regulation (EC) No 355/2009 of 31 March 2009]:

1. Where the refusal is either for all or only part of the goods and services contained in the designation of the European Community, the amount of the fee to be refunded pursuant to Article 154(4) or Article 156(4) of the Council Regulation (EC) No 207/2009 shall be:
 - (a) for an individual mark: an amount corresponding to the fee mentioned in point 7 of the table in Article 2 plus an amount corresponding to the fee mentioned in point 8 of that table for each class of goods and services contained in the international registration exceeding three;
 - (b) for a collective mark: an amount corresponding to the fee mentioned in point 9 of the table in Article 2 plus an amount corresponding to the fee mentioned in point 10 of that table for each class of goods and services contained in the international registration exceeding three.
2. The refund shall be made once the communication to the International Bureau pursuant to Rule 113(2)(b) and (c) or Rule 115(5)(b), (c) and (6) of Regulation (EC) No 2868/95 has been issued.
3. The refund shall be made to the holder of the international registration or his representative.

Article 14

Articles 1 to 10 do not apply to the individual fee which is to be paid to the International Bureau.

Article 15⁴⁵

Entry into force

This Regulation shall enter into force on the seventh day following its publication in the *Official Journal of the European Communities*.⁴⁶

⁴⁰ Amended by Commission Regulation (EC) No 355/2009 of 31.3.2009

⁴¹ Subparagraphs a) and b) amended by Commission Regulation (EC) No 1687/2005 of 14.10.2005

⁴² An international application or a request for territorial extension designating the European Community which has been filed before the day on which the amounts mentioned in Article 11(3), points (a) and (b) of Regulation (EC) No 2869/95 in its version as amended by Commission Regulation (EC) No 355/2009 of 31.3.2009 take effect according to Article 8(7)(b) of the Madrid Protocol shall continue to be subject to Article 13 of Regulation (EC) No 2869/95 in its version in force before the date of entry into force of Commission Regulation (EC) No 355/2009 of 31.3.2009

⁴³ Subparagraphs a) and b) amended by Commission Regulation (EC) No 1687/2005 of 14.10.2005

⁴⁴ Amended by Commission Regulation (EC) No 1042/2005 of 29.6.2005

⁴⁵ Renumbering by the Editor

This Regulation shall be binding in its entirety and directly applicable in all Member States.
Done at Brussels, 13 December 1995.

For the Commission

MARIO MONTI

Member of the Commission

Annex: Excerpt of Commission Regulation (EC) No 1687/2005

of 14 October 2005

**amending Regulation (EC) No 2869/95 on the fees payable to the Office for Harmonisation in the Internal Market (Trade Marks and Designs) with regard to adapting certain fees
(OJ EC No L 271 of 15.10.2005, p. 14)**

Article 2

If the amounts of the fees described in articles 2, 11 and 12 change, the following transitional rules shall apply

“1. The amount of the application fee for Community trade marks, including, where applicable, fees for classes, shall be that which is laid down by the Regulation in force at the time that the application is filed in accordance with Article 25(1)(a) or (b) of Regulation (EC) No 40/94.

2. The amount of the registration fee for Community trade marks, including, where applicable, class fees, shall be that which is laid down by the Regulation in force at the time that the notification described in Rule 23(2) of Regulation (EC) No 2868/95 is sent.

3. The amount of the fee to be paid for submitting any other application or for initiating any other act shall be that which is laid down by the Regulation in force at the time of payment.

4. The amount of the fees provided for in Articles 11 and 12 shall be fixed in accordance with the common regulations under the Madrid agreement concerning the international registration of marks and the Protocol relating to that agreement.”