

Commission Regulation (EC) No 1687/2005 of 14 October 2005 amending Regulation (EC) No 2869/95 on the fees payable to the Office for Harmonization in the Internal Market (Trade Marks and Designs) with regard to adapting certain fees

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark [1], and in particular Article 139(3) thereof,

Whereas:

(1) Article 139(2) of Regulation (EC) No 40/94 lays down that the amounts of the fees payable to the Office for Harmonization in the Internal Market (Trade Marks and Designs) (hereinafter referred to as "the Office") are to be fixed at such a level as to ensure that the revenue in respect thereof is sufficient to ensure its budget is balanced.

(2) A considerable increase in the Office's revenue is expected in the medium term, as a result, in particular, of the payment of renewal fees for Community trade marks.

(3) The accession of the European Community to the Protocol relating to the Madrid Agreement concerning the international registration of marks approved by Council Decision 2003/793/EC [2] (hereinafter referred to as the "Madrid Protocol") and the administration of the electronic registration procedure should simplify the said procedure and decrease its costs. The efficiency of the Office's management should also reduce expenditure.

(4) A reduction in fees would therefore be an appropriate measure for ensuring that the budget is balanced as required, while fostering access to the system for users. Nonetheless, it should be pointed out that a slight surplus is always justified, as it makes it possible to deal with more or less unforeseeable situations as they arise, and to avoid undesirable deficits.

(5) It would therefore be justified to modify the fees by an overall total of approximately EUR 35 to 40 million per year. This sum should be divided between the application and registration fees on the one hand, and the renewal fee on the other. Moreover, a lower fee should be provided for if the application is made electronically.

(6) Fluctuations in the main indicators should be monitored regularly in order to ensure that revenue is balanced with expenditure.

(7) Commission Regulation (EC) No 2869/95 [3] should therefore be amended accordingly.

(8) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Fees, Implementation Rules and the Procedure of the Boards of Appeal of the Office for Harmonization in the Internal Market (Trade Marks and Designs),

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2869/95 is hereby amended as follows:

1. The table in Article 2 shall be amended as follows:

(a) Point 1 shall be replaced by the following:

"1. Basic fee for the application for an individual mark [Article 26(2), Rule 4(a)] | 900". |

(b) The following point 1b shall be inserted:

"1b. Basic fee for the application for an individual mark by electronic means [Article 26(2), Rule 4(a)] | 750". |

(c) Points 2 to 4 are replaced by:

"2. Fee for each class of goods and services exceeding three for an individual mark [Article 26(2), Rule 4(a)] | 150 |

3. Basic fee for the application for a collective mark [Article 26(2) and Article 64(3), Rule 4(a) and Rule 42] | 1300 |

4. Fee for each class of goods and services exceeding three for a collective mark [Article 26(2) and Article 64(3), Rule 4(b) and Rule 42] | 300". |

(d) Points 7 to 10 are replaced by:

"7. Basic fee for the registration of an individual mark [Article 45, Rule 23(1)(a)] | 850 |

8. Fee for each class of goods and services exceeding three for an individual mark [Article 45, Rule 23(1)(b)] | 150 |

9. Basic fee for the registration of a collective mark [Article 45, Rule 23(1)(a) and Rule 42] | 1700 |

10. Fee for each class of goods and services exceeding three for a collective mark [Article 45 and Article 64(3); Rule 23(1)(b) and Rule 42] | 300". |

(e) Points 12 to 15 are replaced by:

"12. Basic fee for the renewal of an individual mark [Article 47(1), Rule 30(2)a)] | 1500 |

12a. Basic fee for the renewal for an individual mark by electronic means [Article 47(1), Rule 30(2)a)] | 1350 |

13. 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. Basic fee for the renewal of a collective mark [Article 47(1) and Article 64(3); Rule 30(2)(a) and Rule 42] | 3000 |

15. Fee for the renewal of each class of goods and services exceeding three for a collective mark [Article 47(1) and Article 64(3); Rule 30(2)(b) and Rule 42] | 800" |

2. In Article 5(1), points (b) and (c) shall be deleted.

3. Article 8 is amended as follows:

(a) In paragraph 1, points (b) and (c) are deleted.

(b) In paragraph 3, points (a)(i) and (a)(iii) are deleted.

4. In Article 11(3), points (a) and (b) are replaced by the following:

"(a) for an individual mark: EUR 1450 plus, where applicable, EUR 300 for each class of goods or services exceeding three;

(b) for a collective mark as referred to in Rule 121(1) of Commission Regulation (EC) No 2868/95: EUR 2700 plus, where applicable, EUR 600 for each class of goods or services exceeding three."

5. In Article 12(2), points (a) and (b) are replaced by the following:

"(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."

6. In Article 13(1), points (a) and (b) are replaced by the following:

"(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."

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.

Article 3

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

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

Done at Brussels, 14 October 2005.

For the Commission

Charlie McCreevy

Member of the Commission

[1] OJ L 11, 14.1.1994, p. 1. Regulation as last amended by Regulation (EC) No 4221/2004 (OJ L 70, 9.3.2004, p. 1).

[2] OJ L 296, 14.11.2003, p. 20.

[3] OJ L 303, 15.12.1995, p. 33. Regulation as last amended by Regulation (EC) No 1042/2005 (OJ L 172, 5.7.2005, p. 22).