

Review of the Cost Contribution for the Baseball Procedure

1. Introduction

The recent adoption of the new EU Regulation on plants obtained by certain New Genomic Techniques (NGTs) provides an appropriate moment for ILP Vegetable to review whether certain elements of its existing licensing framework remain fit for purpose.

In particular, Article 30 of the Regulation explicitly recognises the role of voluntary patent licensing platforms and envisages a future EU-wide Code of Conduct aimed at facilitating transparent and fair access to patented plant biological material. In doing so, the Regulation places particular emphasis on fair and reasonable licensing conditions, cost-attractive participation for SME (Small and Medium sized Enterprise) breeders, and fair and impartial mechanisms for resolving disagreements on licensing fees.

Against this background, it is appropriate to reconsider the cost contribution applicable to ILP's Baseball Procedure. The current contribution of EUR 30,000, payable by the Member whose proposal is not selected by the Expert Committee, was established at the start of ILP in 2014 and has not been increased since. While inflation and increasing professional costs could provide an argument for an adjustment, any review should also take into account the Regulation's clear policy objective of ensuring that voluntary licensing arrangements remain accessible, proportionate and effective, including for smaller breeders.

This paper therefore considers whether the current EUR 30,000 contribution remains appropriate in 2026, explores the available alternatives, and assesses them in light of both ILP's cost-recovery objectives and the policy direction established by Article 30 of the new NGT Regulation.

2. Internal Regulations, Article 6.10 - Baseball Procedure

Article 6.10 does not state a monetary contribution amount. In substance, this article provides that:

- The costs of a Baseball Procedure and of filing a Request for Review are covered by fees determined by the Board.
- A Board resolution determining the fee requires approval by the General Meeting with a majority of at least 80% of the votes (or approval in accordance with the referenced provision of the Articles of Association).
- For the Baseball Procedure, the fee is paid by the Member whose proposal has not been selected by the Expert Committee.

Therefore, the Internal Regulations establish the cost-allocation mechanism and the governance process for setting the amount, but not the EUR 30,000 figure itself. The EUR 30,000 was agreed by all members at the General Meeting of 17 March 2015.



3. EU Regulation (EU): 2026/1388

Article 30 establishes the framework for a Union-level Code of Conduct relating to patents on plant biological material. It expressly recognises voluntary patent licensing platforms as stakeholders in drawing up that Code.

3.1 Fair and reasonable licensing

Article 30(3)(b) envisages arrangements for licensing patents under "fair and reasonable conditions", including through voluntary licensing platforms.

3.2 Cost-attractive SME participation

Article 30(4)(a) envisages commitments by voluntary platforms concerning "cost-attractive fees for participation in the platforms" to facilitate participation by breeders which are SME's (Small and Medium sized Enterprises).

This provision is not, strictly speaking, a rule fixing the level of a Baseball Procedure fee. It nevertheless provides an important policy signal: the economic design of a voluntary platform should not create unnecessary barriers for SME breeders.

3.3 Fair and impartial licensing-fee dispute mechanisms

Article 30(4)(c) calls for "fair and impartial mechanisms for settling disagreements on licensing fees". The Baseball Procedure is directly relevant to this objective. A dispute mechanism may be formally fair and impartial but still become less practically accessible if the potential cost exposure is excessive.

3.4 Monitoring and evaluation

Article 30(5)-(7) envisages objectives, indicators, annual reporting and Commission monitoring/evaluation of the Code's functioning. That strengthens the case for ILP to be able to explain and evidence why its cost mechanism is proportionate and accessible.

4. Is EUR 30,000 still sufficient?

Reasons to consider an increase:

- If EUR 30,000 was fixed in 2014, its real value has fallen substantially.
- Expert and professional costs have increased since (current hourly rate for Expert is EUR 408).
- If actual Baseball Procedure costs materially exceed EUR 30,000, the Association and indirectly its Members bear the shortfall.
- A meaningful 'loser-pays'-exposure may discourage weak or tactical proposals.

Reasons to retain EUR 30,000:

- The procedure does not require the initiating party to pay an upfront Baseball Procedure fee; the fee falls on the party whose proposal is not selected.
- EUR 30,000 provides a known and predictable maximum figure.

- An increase could have a disproportionate deterrent effect on smaller breeders (although at the start of ILP also smaller members agreed with the EUR 30,000 but since then new members joined (also smaller and medium sized)).
- Article 30 expressly emphasises cost-attractive SME participation and fair and impartial mechanisms for resolving licensing-fee disagreements.
- Deliberately refraining from automatic inflation indexation can be explained as an accessibility measure.
- The existence of separate EUR 30,000 amounts in Article 9 of the Internal Regulations provides an additional consistency consideration: changing only the Baseball fee would require a clear rationale for treating the procedures differently.

5. Options

Option	Approach	Advantages	Considerations / disadvantages
A	Maintain the current EUR 30,000 contribution	Simple and predictable; preserves accessibility of the Baseball Arbitration Procedure; avoids creating possible additional barrier for Members, particularly SMEs; consistent with the objective of providing an effective and accessible dispute-resolution mechanism.	The amount has remained unchanged since 2014; inflation and actual arbitration costs may mean that the contribution no longer fully reflects the costs incurred by ILP.
B	Increase the fixed contribution	Better alignment with inflation and potentially with the actual costs of arbitrators and administration; reduces the extent to which costs may be borne collectively by ILP.	A higher amount may increase the financial threshold for using the procedure and could be particularly relevant for SMEs; the amount would need to be periodically reconsidered.
C	Introduce an indexed contribution	Maintains the real value of the contribution over time and provides an objective mechanism for future adjustments.	Adds complexity; may result in regular changes to the contribution and may reduce predictability for Members.
D	Move towards actual-cost recovery or a cost-based cap	Creates a closer relationship between the contribution and the actual costs of the procedure and limits cross-subsidisation.	Reduces predictability and may materially increase the financial exposure of a party considering the procedure; could undermine accessibility.



6. Board discussion

The Board is invited to consider whether the arguments in favour of accessibility, predictability and proportionality justify maintaining the current amount, or whether cost-recovery, inflation or other considerations support an adjustment.

=====