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(106-114) Nine Proposals to Restrict the Application of Art. 63

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**(106-114) Nine proposals to restrict the application of Art. 63**

As a result of a decision of the Berlin Congress, Special Committee 3 on Lectotypification was set up, including Subcommittee 3B on Retroactivity of Lectotypification and Illegitimacy, the report of which appears elsewhere (Jeffrey, *Taxon* 41: 151. 1992). Some proposals concerning Art. 63, not commanding sufficient support in the Subcommittee to be put forward in its report as a single coherent package, may merit the possibility of consideration as such by a wider botanical public.

Present “exceptions” to Art. 63.1 are provided by Art. 63.3 which determines that a name that would be strictly nomenclaturally superfluous under Art. 63.1 is to be considered legitimate but incorrect “if its basionym is legitimate, or if it is based on the stem of a legitimate generic name” – in other words, if its type is determined by the application of Art. 7.12.

It is therefore anomalous that where a type is determined by the last 13 words of the first sentence of Art. 7.13, a precisely parallel situation, a name is still to be considered nomenclaturally superfluous. The same applies when the type is determined by the application of Arts. 7.11, 10.4 or 22.4.

To remove such conflicts Zijlstra (*Taxon* 35: 832-833. 1986) put forward two proposals to the Berlin Congress. These proposals, while commendable in intent, could be criticized with respect to their wording. By eliminating from them the concept of “taxonomic superfluity” (only a case of incorrectness as Art. 63.3 in fact describes it) and the concept of “superfluous name” as undefined by them, and placing all “otherwise-typified” exceptions to Art. 63.1 into Art. 63.3, the following proposals result. They should be regarded as complemented by proposal 58 in the report of Subcommittee 3B, to amend Art. 7.13.

*(106) Amend Art. 63.3, to read as follows:*

“Notwithstanding the provisions of Art. 63.1, a name is not nomenclaturally superfluous (although incorrect when published) if, by way of the provisions of Art. 7.12, another type is provided.”

Art. 7.12 provides for automatic typification of a new name formed from a previously published legitimate name (*stat. nov.*, *comb. nov.*) on the type of the basionym.

If this proposal is accepted then it will be appropriate to amend the current examples to Art. 63.3 as follows: in Ex. 11, delete “was ... cited” and replace by “was not nomenclaturally superfluous when published, since it is typified by the type of its basionym (Art. 7.12), even though Swartz also cited”, and delete “, however;”. In Ex. 12, delete “was ... type” and replace by “was not nomenclaturally superfluous when published, since it is typified by the type of its basionym (Art. 7.12), even though this type”.

*(107) Add to Art. 63.3 the following:*

“Notwithstanding the provisions of Art. 63.1, a name is not nomenclaturally superfluous (although incorrect when published) if the name which ought to have been adopted is a heterotypic autonym (see Art. 32.6 bis [as by Prop. 114])”

(108) *Add to Art. 63.3* the following:

“Notwithstanding the provisions of Art. 63.1, a name is not nomenclaturally superfluous (although incorrect when published) if, by way of the provisions of Art. 7.11, another type is provided.”

Art. 7.11 provides for automatic typification of an avowed substitute (*nomen novum*) on the type of the replaced name.

(109) *Add to Art. 63.3* the following:

“Notwithstanding the provisions of Art. 63.1, a name is not nomenclaturally superfluous (although incorrect when published) if, by way of the provisions of Art. 10.4, another type is provided.”

Art. 10.4 provides for automatic typification of family names and names of subdivisions of families on the types of the generic names on which they are severally based.

(110) *Add to Art. 63.3* the following:

“Notwithstanding the provisions of Art. 63.1, a name is not nomenclaturally superfluous (although incorrect when published) if, by way of the provisions of Art. 22.4, another type is provided.”

Art. 22.4 provides for the automatic typification of infrageneric names when the infrageneric epithet is identical with or derived from the epithet of an included species name, unless the author designated another type.

(111) *Add to Art. 63.3* the following:

“Notwithstanding the provisions of Art. 63.1, a name is not nomenclaturally superfluous (although incorrect when published) if the taxon to which the name was applied was considered when the name was validly published to be, for nomenclatural purposes, an alga.”

(112) *Add to Art. 63.3* the following:

“Notwithstanding the provisions of Art. 63.1, a name is not nomenclaturally superfluous (although incorrect when published) if the taxon to which the name was applied was considered when the name was validly published to be, for nomenclatural purposes, a fungus.”

If this proposal passes a new example should be added to Art. 63.3: “*Ex. 14.* When originally published, *Leccinum* S. F. Gray (1 Nov. 1821) included *Boletus edulis* Bull.: Fr., which was subsequently proposed as lectotype of *Boletus* Fr.: Fr. (1 Jan. 1821) by Donk (*Regnum Veg.* 34: 33. 1964) and became the conserved type of *Boletus* on publication of the Seattle *Code* in 1972. Nevertheless, *Leccinum* S. F. Gray was not nomenclaturally superfluous when published and is therefore not automatically typified by the type of *Boletus* Fr.: Fr., as the taxon to which it was applied on publication was considered to be a fungus.

(113) *Add to Art. 63.3* the following:

“Notwithstanding the provisions of Art. 63.1, a name is not nomenclaturally superfluous (although incorrect when published) if the author of the name definitely indicated a different type.”

If any or all of the preceding proposals be adopted, then Art. 63.1 should be editorially reworded as follows: Delete “(but see Art. 63.3)” and replace by “, unless the conditions prescribed by Art. 63.3 are fulfilled”.

The main intentions of these proposals are to eliminate one of the logical flaws in the present wording of the article by making a clear distinction between (in Art. 63.1) nomenclaturally superfluous homotypic names and (in Art. 63.3) heterotypic names merely incorrect when published, to eliminate the conflict between Art. 63.3 and Arts. 6.4 (second sentence) and 63.1, inherent in the former’s allowing a nomenclaturally superfluous homotypic name to be “not illegitimate” and “become correct later”, to eliminate potential conflicting typifications with respect to Arts. 7.11 (proposal 108), 7.12 (proposal 106) 7.13 (proposal 113, another type definitely indicated), 10.4 (proposal 109, type of genus-name-based family etc. name) and 22.4 (proposal 110, epithet-linked type), and to eliminate heterotypic “superfluity” by way of autonymy (proposal 107). They would also eliminate the other logical flaws in the present wording of Art. 63.3 (“if its basionym is legitimate” – a basionym ipso facto cannot be anything but legitimate) and (“if it is based on the stem of a legitimate generic name” – such a name can be based on the stem of only a legitimate name – see Arts. 17.1, 18.1, which incidentally uses “genitive singular” not “stem”, and 19.1).

The first five and last of the above proposals were parts of a single composite package that lost (2:4) in Subcommittee 3B.

The proposed new Art. 63 Ex. 14 is remodelled from an example proposed in a different context (non-retroactivity of lectotypification) by Brummitt & Taylor (Taxon 35: 835-836. 1986).

(114) *Add a new Art. 32.6bis and example*, as follows:

“32.6bis. Contrary to Art. 32.1, a name published in contravention of Art. 19.3, Art. 22.1 or Art. 26.1 is validly published if it is heterotypic with the autonym that ought to have been adopted.

“Ex. 6. Since the type of the name *Echinocereus* ser. [‘Reihe’] *Erecti* Schumann (1898), lectotypified by Buxbaum (1974), is *E. engelmannii* (Engelm.) Lemaire, this name is validly published, even though the series, as circumscribed by Schumann, included *E. viridiflorus* Engelm., the type of the name *Echinocereus* Engelm. (chosen as lectotype by Britton & Rose, 1922). The correct name of this series when it includes both *E. engelmannii* and *E. viridiflorus* is, therefore, *Echinocereus* ser. *Echinocereus*. However, when it is so circumscribed as to exclude *E. viridiflorus* but to include *E. engelmannii*, then the name *Echinocereus* ser. *Erecti*, being heterotypic and therefore validly published and legitimate (see Art. 63.3), can be applied to the series so circumscribed and adopted as its correct name when to do so would otherwise be in accordance with the rules.”

This again is remodelled from the Brummitt & Taylor proposal cited above. A similar proposal was lost (3:3) in Subcommittee 3B.

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