

(328) Proposal to amend Article 41.8 and add a new Article to end the new combination/name of new taxon lottery

Helen Hartley & Rafaël Govaerts

Royal Botanic Gardens, Kew, Richmond, Surrey, TW9 3DS, United Kingdom

Address for correspondence: Helen Hartley, h.hartley@kew.org

DOI <https://doi.org/10.1002/tax.13024>

First published as part of this issue. See online for details.

Since the removal, after the International Botanical Congress in Melbourne in 2011, of Art. 33.8 from the *Vienna Code* (McNeill & al. in *Regnum Veg.* 146. 2006), there has been a steady drip of names, old and new, that were considered not to be validly published under that Article, which are now considered to be names of new taxa, even though they were published as new combinations. The Article stated:

“33.8. On or after 1 January 1953, if an author claims to be publishing a new combination, new generic name with a basionym, or avowed substitute, but fails to provide the full information required under Art. 33.4, as qualified by Art. 33.5 and 33.7, the name is not validly published even though the author may have at the same time provided other information that would have resulted in valid publication as the name of a new taxon.”

Although removal of this Article seemed sensible to allow such names to be considered as validly published, it has inadvertently created a lottery as to which of the avowed combinations are to be considered as validly published new combinations and which are to be names of new species or infraspecific taxa. This all hinges on the following clause in Art. 41.8 of the *Shenzhen Code* (Turland & al. in *Regnum Veg.* 159. 2018): “a full and direct reference to a work other than that in which the basionym or replaced synonym was validly published”. The inclusion of this clause means that if a protologue contains a full and direct reference to any work, then the avowed combination is to be considered a validly published new combination, but if there is no full and direct reference, then it is to be considered a name of a new taxon with the same type as the avowed basionym. We believe this clause to be confusing and consider its consequences, the creation of names of new taxa that are homotypic with existing names bearing the same epithet, to be undesirable.

Because many journals now use APA in-text citation style with end-text references, this issue is becoming more common. It is our experience that in many such papers, one or more full citations to a basionym or replaced synonym are missing, resulting in Art. 41.8 having to be applied. This is exacerbated by a general disagreement on what in Art. 41.8 is meant by “a work other than that in which the basionym or replaced synonym was validly published”, in particular with regard to Art. 41.8 clauses (c) and (d). Does this refer to a work in which the basionym appears, or any work cited with the new combination, or just any work cited in the paper? Specifically, is the place of publication cited with a synonym sufficient, or would that necessarily create a replacement name? We therefore feel that it would be better to remove clauses (c) and (d) from Art. 41.8 and add them to a new Article in which the offending clause is removed, thus ending any confusion over its definition and ending the lottery on whether a name is to be a new combination or homotypic name of a new taxon.

Our proposed amendment would allow for previously published avowed combinations like *Minuartia mesogitana* subsp. *turcomanica* (Schischk.) McNeill (in Rechinger, Fl. Iranica 163: 50. 1988) to be considered as validly published new combinations, as is universally assumed, even though there is no basionym or basionym reference cited. This name was published with a type indication and Latin description, but prior to the *Melbourne Code* (McNeill & al. in *Regnum Veg.* 154. 2012) under 33.8 of the *Vienna Code*, the name was considered as not validly published. Under the current *Code*, because there is no “full and direct reference to a work other than that in which the basionym or replaced synonym was validly published”, the name is considered validly published as that of a new subspecies, *M. mesogitana* subsp. *turcomanica* McNeill, and is not therefore to be considered a homonym of the earlier homotypic *M. mesogitana* var. *turcomanica* (Schischk.) McNeill (in *Notes Roy. Bot. Gard. Edinburgh* 24: 388. 1963). This is all very baffling to the general user.

A recent example is *Lecocarpus lecocarpoides* subsp. *brachyceratus* Tye & P. Jaram. (in *Bot. J. Linn. Soc.* 200: 280. 2022), which was intended as a new combination based on *Acanthospermum brachyceratum* S.F. Blake. Unfortunately, the reference cited for the basionym gives the page numbers of the entire article in which two new species are described. Therefore, the name would not be validly published (Art. 41.5 and Note 1) and, because no other work is cited with the protologue, Art. 41.8 does not apply either. However, the name is considered to be validly published as that of a new subspecies because the authors provided a holotype citation and English description in the protologue. Again, a homotypic name of a new taxon is created, rather than the intended new combination. Since English descriptions were voted to be allowed for valid publication at the Nomenclature Section of the Melbourne Congress, there has been a substantial increase in the number of names that are accidentally validated as names of new taxa in this way.

It is hard to assess the impact of the removal of the *Vienna Code* Art. 33.8 in allowing names that were previously not validly published to become validly published, because names were not routinely flagged as such when they were added to the International Plant Names Index (IPNI: <https://www.ipni.org/>). However, IPNI does flag cases where Art. 41.8 does not apply and the name is validly published as that of a new taxon. It should therefore be easy to alter these names in IPNI should our proposal be accepted. It is also worth noting that most of the names that would be affected by this proposal are generally cited as new combinations in the botanical literature, because that is how they were intended to be published. The proposed amendment will therefore have little impact on general usage.

We ask the Editorial Committee to make the necessary cross-references, especially “(but see Art. 41.8bis)” to Art. 41.5 and 41.6, rather than formally proposing such changes here.

(328) Delete clauses (c) and (d) from Art. 41.8 (deleted text in strikethrough) and add a new Art. 41.8bis:

“41.8. On or after 1 January 1953, in any of the following cases, a full and direct reference to a work other than that in which the basionym or replaced synonym was validly published is treated as an error to be corrected, not affecting the valid publication of a new combination, name at new rank, or replacement name:

(a) when the actual basionym or replaced synonym was validly published earlier than the name or later isonym cited as such, but in the cited publication, in which all conditions for valid publication of the name as cited are fulfilled, there is no reference, in association with that name, to the place of valid publication of the actual basionym or replaced synonym;

(b) when the failure to cite the place of valid publication of the basionym or replaced synonym is explained by the later nomenclatural starting-point for the group concerned (Art. 13.1), or by the backward shift of the starting date for some fungi;

~~(c) when the resulting new combination or name at new rank would otherwise be validly published as a (legitimate or illegitimate) replacement name; or~~

~~(d) when the resulting new combination, name at new rank, or replacement name would otherwise be the validly published name of a new taxon.”~~

“41.8.bis. On or after 1 January 1953, in any of the following cases, the omission of a basionym or replaced synonym (Art. 41.5), omissions in the full and direct reference citation of a basionym or replaced synonym (Art. 41.6), or citation of a work other than that in which the basionym or replaced synonym was validly published are treated as errors to be corrected, not affecting the valid publication of a new combination, name at new rank, or replacement name:

(a) when the resulting new combination or name at new rank would otherwise be validly published as a (legitimate or illegitimate) replacement name; or

(b) when the resulting new combination, name at new rank, or replacement name would otherwise be the validly published name of a new taxon.”