

**Opinion 2468 (Case 3601) – *Spracklandus* Hoser, 2009 (Reptilia, Serpentes, ELAPIDAE) and *Australasian Journal of Herpetology* issues 1–24: confirmation of availability declined; Appendix A (Code of Ethics): not adopted as a formal criterion for ruling on Cases**

International Commission on Zoological Nomenclature

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**Abstract.** The International Commission on Zoological Nomenclature finds no basis under the provisions of the Code for regarding the name *Spracklandus* as unavailable, nor for regarding any of issues 1–24 of *Australasian Journal of Herpetology* as being unpublished in the sense of the Code, but the Commission has declined to use its powers to confirm what is obvious. The Commission is not empowered to take Appendix A of the Code (Code of Ethics) into account in its rulings on this or any other Case.

**Keywords.** Nomenclature; taxonomy; Reptilia; ELAPIDAE; spitting cobras; taxonomy; *Spracklandus*; *Afronaja*.

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### **Ruling**

The International Commission on Zoological Nomenclature has declined:

- (1) to use its specific power to confirm that:
  - (a) issue no. 7 of *Australasian Journal of Herpetology* and the included article by Hoser (2009) are published works in the sense of Article 8.1 of the Code, and that any available names and nomenclatural acts proposed therein take their priority from the date 23 March 2009 provided that they meet the other provisions of the Code (i.e. Articles 10–20) related to availability;
  - (b) *Spracklandus* Hoser, [23 March] 2009, a generic name proposed in the work cited in proposal (1) (a), type species *Naja nigricollis* Reinhardt, 1843, is an available name; and
  - (c) *Afronaja* Wallach, Wüster & Broadley, [21 September] 2009, type species *Naja nigricollis* Reinhardt, 1843, is a junior objective synonym of *Spracklandus* Hoser, [23 March] 2009;
- (2) to use its plenary power to suppress issues 1–24 of *Australasian Journal of Herpetology* for purposes of zoological nomenclature and to place these issues on the Official Index of Rejected and Invalid Works in Zoology; and
- (3) to take Appendix A of the Code (Code of Ethics) into account in its ruling.

No names or works have been placed on the Official Lists or Indexes in this ruling.

### History of Case 3601

An application to confirm the availability of *Spracklandus* Hoser, 2009 for a group of African spitting cobras, and also to confirm that the work in which the genus was proposed met the Code's criteria of publication under Article 8.1, was received from Raymond Hoser (*Snakebusters – Australia's best reptiles, PO Box 599, Doncaster, Victoria, 3114, Australia*). After correspondence, the Case was published in BZN 70 (4): 234–237 on 20 December 2013 (Hoser, 2013). Ten comments were received and published in BZN 071 (1): 30–35 (Kaiser, 2014); 071 (1): 35–36 (Schleip, 2014); 071 (1): 37–38 (Wüster et al., 2014); 071 (2): 133–135 (Thomson, 2014); 071 (3): 181–182 (Cotton, 2014); 071 (4): 252–253 (Zug, 2014), BZN 072 (1): 61–64 (Hoser, 2015); 072 (1): 65–78 (Rhodin et al., 2015); 072 (3): 222–226 (Wellington, 2015) and BZN 073 (2–4): 106–112 (Cogger et al., 2017).

Six sets of proposals were put forward, with three of these sets subsequently being requested by their own authors to be superseded by a joint set, as specified below. The original proposals (Hoser, 2013: 236) are Set A. The first set of alternative proposals (Kaiser, 2014: 34)—asking the Commission to confirm that issue 7 of *Australasian Journal of Herpetology* was not published in accordance with Articles 8.1.1 and 8.1.3 of the Code and to place the name *Spracklandus* Hoser, 2009 on the Official Index of Rejected and Invalid Generic Names in Zoology—is Set B (superseded by Set E). The second set of alternative proposals (Wüster et al., 2014: 38)—similarly asking the Commission to confirm that issue 7 of *Australasian Journal of Herpetology* was not published in accordance with Article 8.1.3 of the Code, to place issues 1–21 of this journal on the Official Index of Rejected and Invalid Works in Zoology, and to place the name *Spracklandus* Hoser, 2009 on the Official Index of Rejected and Invalid Generic Names in Zoology—is Set C (superseded by Set E). The third set of alternative proposals (Thomson, 2014: 134)—asking the Commission to suppress *Spracklandus* Hoser, 2009 and issues 1–21 of the mentioned journal and place all of them on the relevant Official Index—is Set D (also superseded by Set E). The fourth set of alternative proposals (Rhodin et al., 2015: 77)—asking the Commission to rule that issues 1–24 of *Australasian Journal of Herpetology* are unavailable for purposes of zoological nomenclature and to place them on the Official Index of Rejected and Invalid Works in Zoology, and to explicitly adopt Appendix A of the Code (Code of Ethics) as a potential basis for rulings on this or any other Case—is Set E. The fifth set of alternative proposals (Wellington, 2015: 225)—asking the Commission to confirm that the name *Spracklandus* Hoser, 2009 was published in accordance with the Code and is thus available, and that issues 1–24 of *Australasian Journal of Herpetology* were published in accordance with the Code—is Set F. This means the only proposals to be voted on were Set A, Set E, and Set F.

Proposal Sets A, E, and F were sent for vote on 1 April 2020 (Voting Paper 006). Less than half of the Commissioners who cast ballots voted FOR Set A (6 For, 13 Against, 3 Split, 2 Abstain), Set E (4 For, 18 Against, 2 Split), or Set F (4 For, 16 Against, 1 Split, 2 Abstain). The original Case and counterproposals have, therefore, all failed.

### Decision of the Commission

At the close of the voting period on 30 June 2020, the votes were as follows:

#### Set A:

Affirmative votes – 6: Aescht, Ahyong, Bertling, Dmitriev, Grygier and Welter-Schultes.

Negative votes – 13: Bouchard, Bourgoïn, Harvey, Kojima, Kottelat, Kullander, Lamas, Lyal, Pape, Pyle, Rheindt, Rosenberg and Yanega.

Split – 3: Ballerio (FOR (1)(a), (1)(b) and (1)(c); AGAINST (2)), Krell (ABSTAIN (1); AGAINST (2)) and Zhang (ABSTAIN (1)(a); FOR (1)(b) and (1)(c); AGAINST (2))

Abstained – 2: Evenhuis and Zhou.

#### Set E:

Affirmative votes – 4: Harvey, Lamas, Yanega and Zhou.

Negative votes – 18: Aescht, Ahyong, Ballerio, Bertling, Bouchard, Bourgoïn, Dmitriev, Evenhuis, Grygier, Kottelat, Kullander, Lyal, Pape, Pyle, Rheindt, Rosenberg, Welter-Schultes and Zhang.

Split – 2: KOJIMA (FOR (1) and (2); AGAINST (3)) and Krell (ABSTAIN (1) and (2); FOR (3)).

Abstained – None.

#### Set F:

Affirmative votes – 4: Ahyong, Ballerio, Bertling and Welter-Schultes.

Negative votes – 16: Aescht, Bouchard, Bourgoïn, Dmitriev, Grygier, Harvey, Kojima, Kottelat, Kullander, Lamas, Lyal, Pape, Pyle, Rheindt, Rosenberg and Yanega.

Split – 1: Zhang (FOR (1); AGAINST (2)).

Abstained – 3: Evenhuis, Krell and Zhou.

The Commission finds no basis under the provisions of the Code for regarding the name *Spracklandus* as unavailable, nor for regarding any of issues 1–24 of *Australasian Journal of Herpetology* as being unpublished in the sense of the Code. In consequence, the Commission sees no need to confirm what is obvious. The Commission is reluctant to suppress, in an indiscriminate way, a large part of the work of an active zoologist. The Commission operates within the strict confines of nomenclature, and judgments based on the quality of taxonomy or on ethical principles remain beyond the mandate of the Commission, as outlined in Appendix A, point 7, of the Code, which states that “...the Commission is not empowered to investigate or rule upon alleged breaches of [these principles].”

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