



**CPVO**

Community Plant Variety Office

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# Structure and Benefit of Regional Plant Variety Protection System

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# Outline

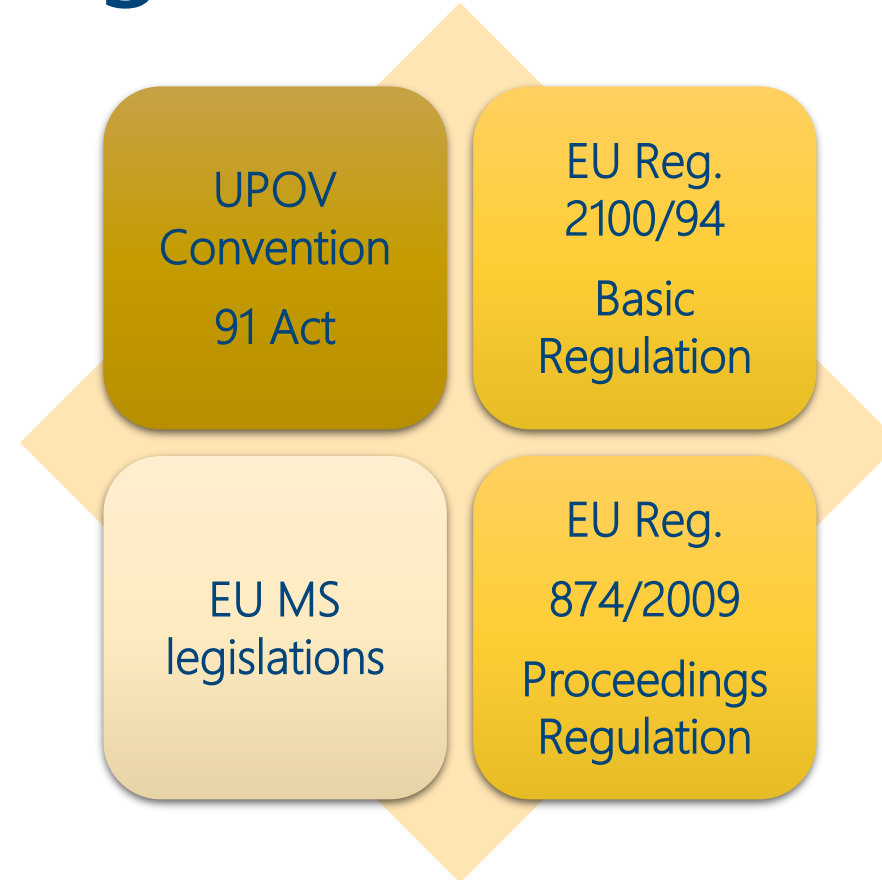
- Introduction of the EU PBR System
- Application and examination process
- International cooperation in DUS testing
- Benefits of a regional system



# Introduction of the EU PBR System



# PBR protection in the EU: Legal Framework





# PBR Protection in the EU

- The EU implemented a sui generis system of PVP in line with the TRIPS Agreement requirements (Art. 27(3)b);
- The EU PVP system is based on the International Convention for the Protection of New Varieties of Plants of the Union For The Protection of New Varieties Of Plants (UPOV) (1991 Act);
- The protection under the EU system has a uniform effect throughout all Member States (Art. 2 BR).



# PV Protection in the EU

- Varieties of **all botanical genera and species** may be protected
- The CPVO has received applications for more than **2000** different **plant species**
- Duration of the right:
  - **25** years
  - **30** years for vines, trees and potato varieties
- Regulation (EU) 2021/1873 on the extension of the term of the CPVRs of the species *Asparagus officinalis* L. and of the species groups flower bulbs, woody small fruits and woody ornamentals entered into force on 15 November 2021



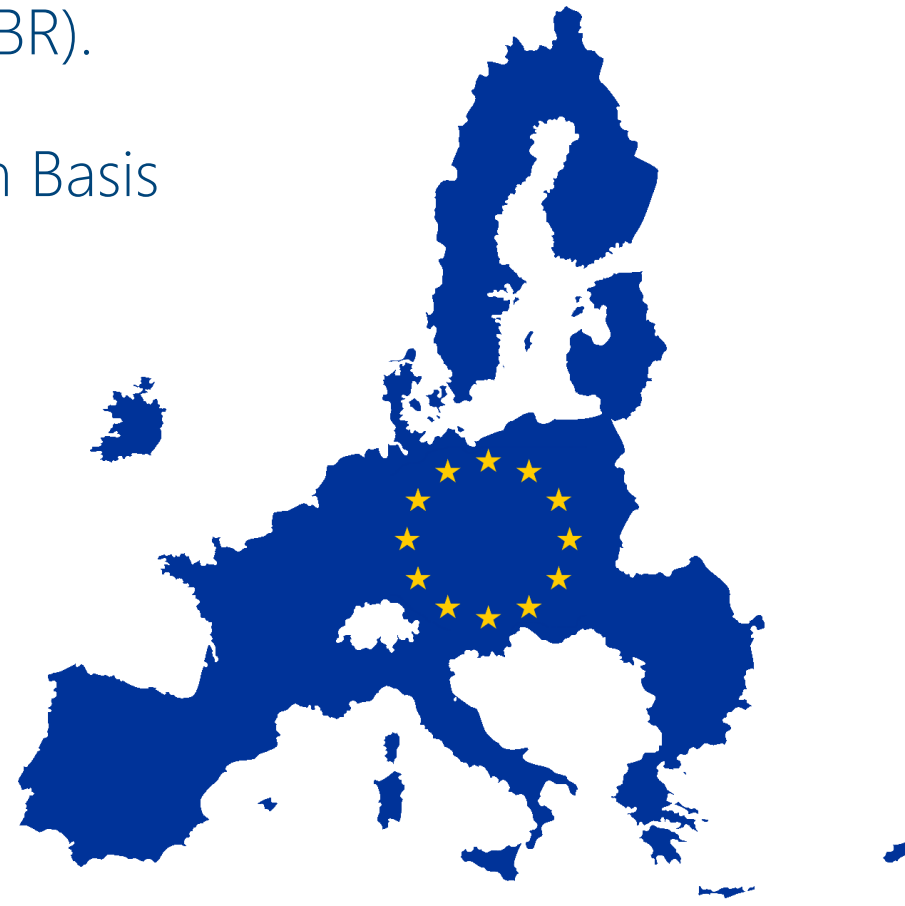


# Uniform EU protection

The protection under the EU system has a uniform effect throughout the EU territory = 27 EU Member States (Article 2 BR).

- Grant, Transfer, Termination on a Uniform Basis

*IP Principle of territoriality*





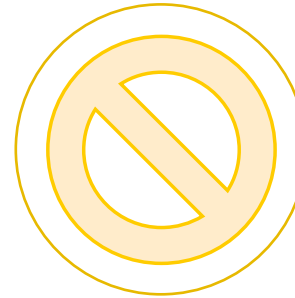
# PVR in the EU



One title valid in all  
27 Member States



One or several  
national titles



No possibility of  
double protection  
(Art. 92 BR)



Existing national  
rights cannot be  
enforced during  
EU protection







# Application and examination process

# Benefits of application procedure for CPVR



**One single application**  
to cover the territory  
of all the EU Member  
States.



**Less time and money spent**  
in comparison to individual  
application filing in each EU  
Member State.



**Easier management**  
of the application and  
post-application processes thanks  
to a unique contact point.





# Applications from outside the EU

Entitlement to file an application for a CPVR (Article 12 BR)

- Any natural or legal person can file an application
- Persons without a:
  - Domicile
  - Seat
  - An establishment

In the territory of the EU, shall designate a procedural representative within the EU.



# Technical examination Examination Offices (EOs)



- When the EU PBR system was created it has been decided to use the testing facilities already existing in the MS, for the assessment of the DUS criteria of candidate varieties
- Where no examination office within the EU is available for testing a particular species, the Office may collaborate with offices outside the EU



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# DUS examination offices in the EU



The red dots represent the headquarters of entrusted Examination Offices carrying out DUS technical examinations on behalf of the CPVO



# Take-over of examination reports

## Legal Basis



- UPOV convention (1991 Act):
  - Art. 12 (Examination of the Application): "... the authority may grow the variety or ... take into account the results of growing tests ... which have already been carried out. ..."
- At the CPVO- Art. 27 Proceedings Regulation (Other examination reports):
  - Report take-over from EU Member states
    - Entrustment required
  - Report take over from non-EU authorities
    - UPOV members or party to the TRIPs Agreement
    - Special written agreement required





# Take-over of examination reports

- Conditions to take over reports
- Equivalent plant material requirements
- CPVO test protocol or equivalent applied
- Opportunity to visit the growing trial
- Technical examination has already been carried out or is in the process of being carried out
  - For tests not yet started: only if there is no testing competence in a EU Member state
- Adequate experience in DUS testing of the crop in question
- **Written Agreement with the testing authority**
  - Defining technical and administrative details



# International cooperation in DUS testing



# Cooperation with non-EU EOs

The CPVO may under certain circumstances make use of DUS reports established by a non EU EO after having received the consent of the Administrative Council (AC). This applies to cases where:

- There is no EO available to perform DUS test for the species in question in the EU
- An EO in the EU is entrusted for the species in question, but the candidate variety has already undergone, or is in the process to undergo, a DUS examination at a non EU EO



# Technical examination from non-EU Legal Basis



Article 27.5 PR - Request to carry out the Technical Examination:

- No possibility to carry out the TE in the EU
- Report not available/not meeting the conditions in the PR
- UPOV Member or party to the TRIPs Agreement
- Written agreement approved by the Administrative Council



# Benefits of a Regional System



# Legal reasons

- Legal certainty
- Defendable and predictable decisions
- Cross-border litigation
- Single decision center on the validity of the right





# Organisational reasons: administration

- Efficient centralised decision taking process
- Less administrative burden for national authorities
- Easier coordination among national authorities
- Single interlocutor for stakeholders (including breeders associations)
- Centralised training
- Harmonization of practices
- Additional income for national authorities



# Economic reasons: administration

- A better coordination and harmonized practices mean reduction of costs for national authorities
- Development of common tools (e.g. database and other IT tools)
- Access to information
- Training costs



# Economic reasons: breeders

- Reasonable application and annual fees compared to the territorial extent of protection
- Management of the right costs (e.g. cancellation proceedings fees, appeals fees)
- Legal and professional representation costs
- Number of employees to be involved in prosecution activities





# Benefits of a Regional System

## Administrative

Harmonisation of practices

Access to information

Less administrative burdens  
for national authorities

## Economic

Development of common  
tools

Additional income for  
national authorities

Training



# CPVO

Community Plant Variety Office

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