



CPVO

Community Plant Variety Office

Implementation of a common regional PVP system The experience of the European Union

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*International Seminar on
Development of Resilient and Sustainable Agriculture in Lao PDR
with PVP under UPOV System*



Outline

1. EU PVP system
2. National PVP systems in the EU
3. Interface of EU and national PVP systems
4. Benefits of the regional system
5. Study on impact of CPVR system on the EU economy and the environment

1. EU PVP System - General



- **Sui generis system** for the industrial property protection of plant varieties
- The intellectual property rights granted under this system are valid throughout the territory of the **27 Member States of the EU**, encompassing over **450 million consumers**
- This system was established by a Council Regulation in 1994, which is modelled on the 1991 UPOV Act
- The **EU** became **party to UPOV** as inter-governmental organisation in **2005**



The Community Plant Variety Office (CPVO) is managing the EU Plant Variety Protection system

- Official Agency of the EU
- Based in Angers (France)
- Operational since 1995
- Around 55 staff members
- Independent legal status
- Fully self-financed
- Monitored by an Administrative Council





Mission Statement:

‘To deliver and promote an efficient Intellectual Property Rights system that supports the creation of new plant varieties for the benefit of Society’





EU SYSTEM IN NUMBERS

- ✓ ca. **80 000** applications received
- ✓ ca. **62 000** titles granted
- ✓ ca. **30 000** titles in force
- ✓ ca. **2 400** different botanical taxa

1. EU PVP System - The CPVO Administrative Council



- The Administrative Council (AC) is made up of representatives of the **EU Member States**, a representative of the **European Commission** and **Observers**

- The Administrative Council is **responsible for**:
 - Monitoring the CPVO
 - Approval of the Budget
 - Approval of the Technical Protocols for variety testing
 - Designation of Examination Offices



1. EU PVP System - Technical Examinations



- The CPVO has **not** created its own technical infrastructure
- Technical examinations are carried out by entrusted **Examination Offices** (EOs) in the Member States
- The Examination Offices must fulfil defined quality requirements
- An independent service (Quality Audit Service) is assessing the competence of examination offices to achieve entrustment/accreditation (audits)
- The entrustment decision is made by the Administrative Council





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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



1. EU PVP System - Technical Examinations



- The attribution of candidate varieties for DUS testing to EOs is
 - ✓ A decision of the CPVO
 - ✓ done according to **defined criteria**:
 - Wish of the breeder
 - Origin of the applicant
 - Geographical origin of the variety
 - Experience of the EO





1. EU PVP System - Technical Examinations

- Technical examinations are generally carried out according to the CPVO technical protocols [Art. 56(2) BR] → In default of these, UPOV guidelines shall serve as reference [Art. 22(3) PR]
- The CPVO technical protocols contain a compulsory list of characteristics to be assessed in technical examinations
- The CPVO protocols are:
 - Based on the relevant UPOV guidelines
 - Elaborated together with national crop experts
 - Formally adopted by the CPVO's Administrative Council



1. EU PVP System – Examinations of applications



Examinations carried out by the CPVO:

- **Formal examination**
- **Substantive examination:** Entitlement, Novelty, Variety Denomination

Examinations carried out by Examination Offices:

- **Technical examination:** DUS Testing



2. National PVP systems in the EU



- 24 out of 27 EU Member States are UPOV members
- 24 out of 27 EU Member States have a national PVP system
- It is possible to make individual applications in each of the mentioned countries
- If national PVP protection is granted by the national office, protection is afforded in that territory





2. National PVP systems in the EU

- The national PVP Office may decide to organise the technical examination
 - ✓ Itself
 - ✓ Ask a competent authority in another country to initiate and carry out the test on its behalf
 - ✓ Ask a competent authority in another country if a DUS report already established in that country can be used for the same variety

3. Interface of EU and national rights



3.1 Effects of EU rights

- The EU system exists in parallel with the national systems
- Community plant variety rights (CPVRs) has **uniform effect** within the **EU territory** and may only be granted, transferred or terminated within such territory on a uniform basis (Art. 2 BR)

3. Interface of EU and national rights



3.2 Cumulative protection

- Any variety which is the subject matter of an EU PVP shall not be the subject of a national plant variety right
- Any rights granted contrary to the above shall be ineffective
- If the holder has been granted another right for the same variety prior to grant of the EU right, he shall be unable to invoke the rights conferred by such protection for the variety

3. Interface of EU and national rights



3.3 Enforcement of EU rights

- The CPVR holders can enforce their rights on the **grounds** of infringing acts in relation to the variety or to the variety denomination
- At the moment there are **no specialised courts on PVRs in the EU**
- **National courts** are competent to hear infringement cases
- The **applicable national court** is chosen on the basis of (Art. 101 BR):
 - ✓ Domicile of the defendant
 - ✓ Domicile of the plaintiff
 - ✓ Location of the CPVO (France)
 - ✓ Where the damaged occurred



3. Interface of EU and national rights



3.4 **Supervision**



- The Administrative Council represented by Member States
 - ✓ Fora for Member States to influence the functioning of the EU system

- EU Institutions supervise the CPVO
 - ✓ Commission, Court of Auditors, Court of Justice



3.5 **Fees**

- Collected and kept by the CPVO
- Examination Offices are paid on a cost covering basis
- No contribution to Member States

3. Interface of EU and national rights



3.6 Technical cooperation with Member States

- Drafting of technical protocols
- DUS tests
- R&D projects

3.7 IT cooperation

- Online applications
- Databases



4. Benefits of the regional system



For the breeders:

- Choice: national or EU application
- Reduced costs
- Efficiencies in the application procedure
 - ✓ Administrative work reduced
 - ✓ Time saving
- Higher transparency
 - ✓ Technical work is harmonised
 - ✓ Centralised Denomination testing
 - ✓ IT tools
- Higher legal certainty / stronger protection:
 - ✓ Centralized examination, objection and appeal instead of different national procedures with the possibility of different outcomes



4. Benefits of the regional PVP system



For the national authorities and examination offices:

- Less administration for national authorities
- Close co-operation on a technical level
- Efficiency gains through cooperation
- 'Harmonisation of practices'
- Financial income for conducting DUS examinations on behalf of the CPVO



4. Benefits of the regional system



For the CPVO:

- Strong voice within the International Community
- Strong counterpart/partner for stakeholder organisations
- High budgetary solvency and sustainability



4. Benefits of the regional system



Economic Study 2000-2013

The economic, social and environmental value of plant breeding in the European Union

– Results achieved so far* –

Steffen Noleppa
HFFA Research GmbH



* This research has been initiated and financially supported by ETP. The results of the study are the sole responsibility of the author and have never been influenced by the initiator and supporter of the study.

October 13th, 2015, Vienna

Without plant breeding:

- ✓ EU would have moved from being net EXPORTER to net IMPORTER in all major agricultural crops (including wheat and barley)
- ✓ European farmers would be 30% worse off
- ✓ Europe would need an extra 19 million hectares of farmland to produce the same amount of food

Plant breeding has increased wheat harvest by 15%

5. Study on impact of CPVR system on the EU economy and the environment



Published by European Observatory on Infringements of Intellectual Property Rights in cooperation with the CPVO

Released on 28th April 2022

The study quantifies the economic contribution of the CPVR system



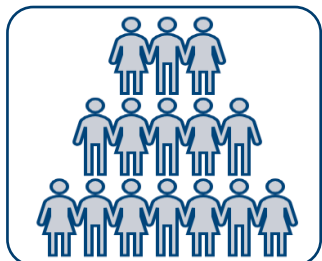
www.euipo.europa.eu

IMPACT OF THE COMMUNITY PLANT
VARIETY RIGHTS SYSTEM ON THE EU
ECONOMY AND THE ENVIRONMENT



April 2022

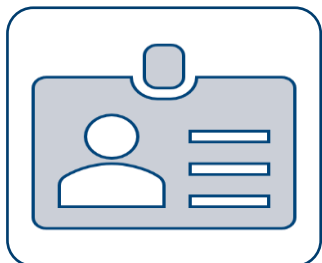
Key findings: economic contribution



The additional production brought about by EU-protected plant variety innovations is **sufficient to feed (worldwide)**: an additional **57 million** people with arable crops, **38 million** with fruit crops, and **28 million** for vegetable crops



The **additional added value** (GDP contribution) generated by EU PVR-protected crops amounts to **13 billion EUR**



Additional production resulted in **higher employment rates** in the EU agriculture, and **better remunerated**



Breeders' geographical origin in CPVRs

- 29.000+ CPVRs in force (beginning 2022)
- Largest share: EU countries (almost 77%)



	Country	% CPVR	number CPVR
NL	Netherlands	34.8	9,919
FR	France	17.0	4,837
DE	Germany	14.0	3,985
US	United States	6.7	1,911
CH	Switzerland	5.3	1,523
DK	Denmark	3.2	906
UK	United Kingdom	3.1	872
IT	Italy	2.7	783
ES	Spain	2.4	681
BE	Belgium	2.2	615
EU27	European Union	76.9	22,669
	Third countries	23.1	5,845



Size of CPVR holders

- 93.5% of applicants for CPVRs are SMEs
- 60% of CPVRs are owned by SMEs
- SMES own each around 10 CPVRs



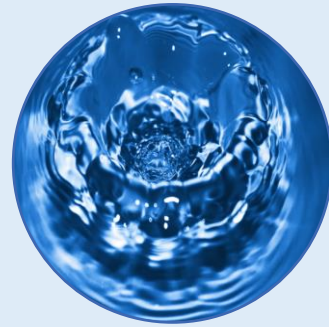
Size	% CPVR	% firms	Number of firms	CPVRs per firm
Physical persons	8.0	36.8	451	3.3
Micro firms	21.7	32.8	402	10.2
Small firms	11.5	15.5	190	11.4
Medium firms	18.8	8.5	104	34.2
Large firms	40.0	6.5	80	94.8
SME + Physical	60.0	93.5	1 147	9.9



Key findings: **environmental objectives**



Annual Greenhouse Gas (GHG) emissions from agriculture and horticulture: reduced by **62 million tons** per year
= total Portugal's GHG footprint



Water use in agriculture and horticulture: reduced by more than **14 billion m³**



Land use and biodiversity: prevention of conversion of **6.5 million hectares of grassland** and natural habitats in the world
= size of Ireland's territory





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