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**INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS**

Geneva

**COUNCIL****Forty-Seventh Ordinary Session  
Geneva, October 24, 2013****REPORTS BY REPRESENTATIVES OF MEMBERS AND OBSERVERS  
ON THE LEGISLATIVE, ADMINISTRATIVE AND TECHNICAL FIELDS***Document prepared by the Office of the Union**Disclaimer: this document does not represent UPOV policies or guidance*

1. According to the practice introduced on the occasion of the twenty-sixth ordinary session of the Council, the reports from the representatives of members and observers on the situation in the legislative, administrative and technical fields of plant variety protection and related areas are requested to be submitted in writing, in advance, to increase the ability of the Council to carry out its tasks effectively.
2. Written reports were requested by the Office of the Union in the invitation circular relating to this session and a model format was proposed. The following reports were submitted (in alphabetical order of the names in French):  
  
Members: Annexes I to XXV: South Africa, Australia, Austria, Belgium, Colombia, Estonia, The former Yugoslav Republic of Macedonia, Russian Federation, Georgia, Hungary, Kyrgyzstan, Latvia, Lithuania, Mexico, Nicaragua, Norway, New Zealand, Poland, Republic of Moldova, Romania, Switzerland, Ukraine, European Union, Serbia and Viet Nam.
3. Reports received after September 20, 2013, will be included as an addendum to this document, which will be published after the Council session.

[Annexes follow]

## SOUTH AFRICA

## I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

## 1.1 Amendments of the law and the implementing regulations

The annual increase of Plant Breeders' Rights fees on April 1, 2013 was published in the Government Gazette No. 36017 of December 28, 2012.

## 1.2 Extension of protection to further genera and species (made or planned)

Protection was extended to the following taxa:

1	
Kind of plant <i>Soort Plant</i>	
Botanical Name <i>Botaniese Naam</i>	Common Name <i>Gewone Naam</i>
<i>Agave</i> L. (All spp. except <i>A. sisalana</i> Perrine)	Agave
<i>Allium</i> L. (All spp.)	Onion genus
<i>Amaranthus</i> L. (All spp.)	Amaranth
<i>Cajanus</i> L. (All spp.)	Cajanus
<i>Campanula</i> L. (all spp./alle spp.)	Bellflower
<i>Carex oshimensis</i> Nakai	Oshima sedge, Japanese sedge
<i>Chondropetalum</i> Rottb. (All spp.)	Chondropetalum
<i>Cleome</i> L. (All spp.)	Cleome
<i>Colocasia</i> Schott. (All spp.)	Elephant ear
<i>Corchorus</i> L. (All spp.)	Mallow
<i>Coriandrum</i> L. (All spp.)	Coriandrum
<i>Echinochloa</i> P. Beauv. (All spp.)	Echinochloa
<i>Euphorbia X martini</i>	Red spurge
<i>Foeniculum</i> Mill. (All spp.)	Fennel
<i>Lobularia maritima</i> (L.) Desv.	Sweet alyssum
<i>Moringa</i> Adans (All spp.)	Moringa
<i>Panicum</i> L. (All spp.)	Panicum
<i>Paspalum</i> L. (All spp.)	Paspalum
<i>Pennisetum purpureum</i> Schumach	Elephant grass
<i>Pericallis</i> D. Don (All spp.)	Ragwort
<i>Physocarpus</i> (Cambess) Raf. (All spp.)	Ninebark
<i>Rudbeckia fulgida</i> Aiton	Early coneflower, orange coneflower
<i>Solanum retroflexum</i> Dunal	Wonderberry
<i>Spiraea</i> L. (All spp.)	Spirea
<i>Westringia</i> Sm. (all spp./alle spp.)	Westringia
<i>Xanthosoma</i> Schott. (All spp.)	Malanga

## 1.3 Case law

Three granted PBRs have been contested, hearings are on-going.

2. Cooperation in examination

A decision was made to take over DUS results for some Potato varieties from relevant UPOV member countries.

3. Situation in the administrative field

Nothing to report.

4. Situation in the technical field

South Africa is continuing with the Mandarin ring test.

5. Activities for the promotion of plant variety protection

Nothing to report.

II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

Nothing to report.

[Annex II follows]

AUSTRALIA

The format of this report follows that specified in previous years and briefly records information for our financial year ending 30 June 2013.

PLANT VARIETY PROTECTION

1. Situation in the legislative field

- 1.1 The Plant Breeder's Rights Act 1994 (the PBR Act) was affected by way of the Crimes Legislation Amendment (Serious Drugs, Identity Crime and Other Measures) Act 2012 (No. 167, Nov 2012).

The value of a penalty unit was increased from AUD\$100 to AUD\$170. The consequence is for example, that the penalty for an infringement of PBR has increased to AUD\$85,000 for individuals and up to AUD\$425,000 for companies

- 1.2 The full effect of previous amendments to PBR Regulations from the Intellectual Property Legislation Amendment Regulations 2012 (1) [SLI 2011 No.66] came into effect:

1.2.1 Fee changes: Some fees were increased from 1 October 2012. Not all services provided under the PBR Act were affected.

- 1.3 Australia offers protection for new varieties of all genera and species.

- 1.4 PBR case law. No new PBR specific judgments were made in 2012/13.

2. Cooperation with examination

Arrangements have been further refined with New Zealand regarding access to reports. Under the auspices of the Single Economic Market initiative between Australia and New Zealand, preliminary arrangements in regard to waiving the fee to access official DUS Test Reports were progressed.

3 & 4 Situation in administrative and technical fields

The Australian PBR office has an accreditation system for 38 establishments to act as Centralised Test Centres (CTCs) for DUS testing for one or more plant types. A second CTC for the testing of potato was added in 2012/13.

The full list of the 56 plant types for which CTC testing is available in Australia is: Potato, Sugar Cane, Canola, Wheat, Oats, Clematis, *Mandevilla*, *Diascia*, *Argyranthemum*, *Pelargonium*, Perennial Ryegrass, Tall Fescue, Tall Wheat Grass, White Clover, Persian Clover, *Bracteantha*, *Aglaonema*, *New Guinea Impatiens*, *Bougainvillea*, *Verbena*, *Agapanthus*, *Camellia*, *Lavandula*, *Osmanthus*, *Ceratopetalum*, *Rosa*, *Euphorbia*, *Linonium*, *Raphiolepis*, *Eriostemon*, *Lonicera*, *Jasminum*, *Angelonia*, *Cuphea*, *Cynodon*, *Zoysia*, *Petunia*, *Calibrachoa*, *Hordeum*, *Leptospermum*, *Rhododendron*, *Osteospermum*, *Antirrhinum*, *Dahlia*, *Anubias*, *Ananas*, *Dianella*, *Plectranthus*, *Zingiber*, *Zantedeschia*, *Prunus*, *Mangifera*, *Vaccinium*, *Kalenchoe*, *Lens*, *Lomandra*, *Anigozanthos* and *Aloe*.

IP Australia also maintains and updates weekly a Homepage ([www.ipaustralia.gov.au](http://www.ipaustralia.gov.au)) that includes PBR information, downloadable forms; and a searchable database including information on current applications, variety descriptions, images and grants.

Data relating to applications:

Year	Applications Received	Applications Completed	Applications Pending
Ending 30/6/2012	334	207	
Total 1988 to 2013*	7472	6081	1391

\*= as at 30 June 2013 and includes any adjustments relating to previous years

5. Activities for the promotion of plant variety protection

With the assistance of the UPOV Office, IP Australia has been involved in the following promotional activities:

1. 'Plant Variety Protection according to the UPOV Convention', WIPO-QUT Masters of Intellectual Property Law course, Queensland University of Technology, Brisbane, 26 July 2012.
2. 'The Impact of Plant Variety Protection under the UPOV Convention', WIPO-QUT Masters of Intellectual Property Law course, Queensland University of Technology, Brisbane, 26 July 2012.
3. 'The UPOV Convention and Other International Treaties', WIPO-QUT Masters of Intellectual Property Law course, Queensland University of Technology, Brisbane, 27 July 2012.
4. "A brief update on PBR", Australian Seed *Federation Seed Business Convention*, Adelaide, 14 August 2012.

[Annex III follows]

## I. PROTECTION OF PLANT VARIETIES

Activities to promote protection of plant varieties

Type of activity	Date	Place	Organizer(s)	Purpose of activity	Participating States / organizations (no. of participants per State/organization)	Comments
Presentation	03-07-2013	Vienna	FAO	Presentation of the plant variety protection system in Austria	Azerbaijan, Kazakhstan, Kirghizstan, Tadjhikistan, Uzbekistan	

## II. OTHER DEVELOPMENTS OF INTEREST FOR UPOV

Nothing to report.

[Annex IV follows]

I. PROTECTION OF PLANT VARIETIES

1. Situation in the legislative field

Adaptation to the UPOV Convention, 1991 Act

The Law of January 10, 2011 on the Protection of Plant Varieties adapts the system for the protection of plant varieties to the UPOV Convention, 1991 Act. It will enter into force on a date to be set by the King. The Royal Enabling Decree is currently being finalized.

Notwithstanding, access to plant variety protection compliant with the Act of 1991 remains possible in Belgium, by virtue of the applicable European regulations, through the Community Plant Variety Office.

2. Cooperation in examination

No change.

3. Situation in the administrative field

- Change in administrative structure

No change.

- Volume of activity – status as of August 31, 2013

From the introduction of legislation on the protection of plant varieties in Belgium up until August 31, 2013, 2257 applications for protection had been received and 1810 certificates granted, of which 130 are still in force.

II. OTHER NEW DEVELOPMENTS OF INTEREST TO UPOV

1. National catalogs of varieties

Transposition of directive 2012/08

- Ministerial Order of September 11, 2012 Amending Annexes I and II of the Order of the Walloon Government of May 27, 2004 Relating to Examinations for the Admission of Agricultural Plant and Vegetable Species to the National Catalog

*(M.B. of 27/09/2012, p. 59561)*

Transposition of directive 2012/44

- *Ontwerp van Ministerieel besluit tot wijziging van bijlage I en II bij het besluit van de Vlaamse Regering van 27 april 2007 betreffende de kenmerken waartoe het onderzoek van bepaalde rassen van landbouw- en groentegewassen zich ten minste moet uitstrekken, en de minimumeisen voor dat onderzoek en tot wijziging van de bijlage bij het ministerieel besluit van 20 januari 2010 tot vaststelling van de procedures voor de rassenlijsten van landbouw- en groentegewassen*

*(nog niet ondertekend)*

- Ministerial Order of July 19, 2013 Replacing Annexes I and II of the Order of the Walloon Government of May 27, 2004 Relating to Examinations for the Admission of Agricultural Plant and Vegetable Species to the National Catalog

*(not yet published)*

2. Inspection and certification of seeds and seedlings

Transposition of directive 2012/37

- *Ontwerp van Ministerieel besluit tot wijziging van het besluit van de Vlaamse Regering van 16 december 2005 houdende de reglementering van de handel in en de keuring van zaaigranen en tot wijziging van het besluit van de Vlaamse Regering van 25 maart 2005 houdende reglementering van de handel in en de keuring van zaaizaad van groenvoedergewassen en tot wijziging van het ministerieel besluit van 21 juni 2010 tot vaststelling van een keurings- en certificeringsreglement van zaaizaden van landbouw- en groentegewassen*  
*(nog niet ondertekend)*
- Ministerial Order of July 19, 2013 Amending Annexes I and II of the Order of the Walloon Government of February 9, 2006 Relating to the Production and Marketing of Fodder Plant Seed and Replacing Annex III of the Order of the Walloon Government of February 9, 2006 Relating to the Production and Marketing of Cereal Seed  
*(not yet published)*
- Order of the Walloon Government of December 6, 2012 Relating to the Production and Marketing of Seed of Oil and Fiber Plants  
*(M.B. of 27/02/2013, p. 12453)*

3. Other

- *Decreet van 28 juni 2013 betreffende het landbouw- en visserijbeleid*  
*(nog niet gepubliceerd)*
- Decree of June 27, 2013 laying down various provisions with regard to agriculture, horticulture and aquaculture  
*(M.B. of 30/07/2013, p. 47682)*

[Annex V follows]



## COLOMBIA

Colombia is characterized by robust, comprehensive standards in the field of intellectual property, particularly with regard to plant varieties, where efforts have been made to design a system that is coherent, efficient and consistent with international standards.

As a result, it will be seen that, even though Colombia has not managed to actually accede to the UPOV Convention, Act of 19 March 1991, it now has a body of standards which underpin its breeders' rights regime using the same pillars and foundations as the UPOV Convention, Act of 1991.

This being so, the present report explains the situation with regard to domestic legislation, allowing for the enjoyment of guarantees under the domestic standards in force, and sets out the progress made as regards cooperation and administrative arrangements with various UPOV Member States.

#### 1. Situation in the legislative field

With regard to the legislative process and the adoption of the international treaties which are to come into effect in Colombia, the Constitutional Court amended Law No. 1519 of April 2012 "Adopting the International Convention for the Protection of New Varieties of Plants of December 2, 1961, revised in Geneva on November 10, 1972, October 23, 1978 and March 19, 1991", and decided to declare it unconstitutional on the grounds that, during the procedure for the adoption of the law adopting the treaty (UPOV Convention, Act of 1991), there was no prior consultation of indigenous communities, an essential prior stage for meeting the requirements concerning the adoption of the draft bill. The Constitutional Court's decision to reject the constitutionality of the law adopting the UPOV Convention, Act of 1991, is based on an argument of form related to the legislative process, specifically, the legislator's failure, as part of the procedure for the adoption of the law, to conduct prior consultations with the Colombian indigenous communities, which in its view constitutes an essential prior stage of the procedure concerning the draft bill.

The Constitutional Court's decision prevents the Law adopting the treaty (UPOV Convention, Act of 1991) from coming into full effect and force. In the case at hand, there are various positions which diverge from the arguments set out by the Constitutional Court. However, as this involves a matter relating to the study of domestic legislative procedure, we consider that we should not enter into this debate.

Notwithstanding the ruling declaring the above Law unconstitutional, one point should be made very clear: Colombia continues to protect plant varieties under the UPOV system, that is, by recognizing and granting plant breeders' certificates, a system for which Colombia opted over 17 years ago when it acceded to the UPOV Convention, Act of 1978, by means of Law 243 of December 28, 1995 and the enactment of Decision 345 of 1993, of the Commission of the Andean Community of Nations.

The intellectual protection of plant breeders in Colombia originated with the issuing of a Community-wide standard, namely, Decision 345 of 1993 of the Commission for the Cartagena Agreement (now called the Commission of the Andean Community), establishing the "*Common Provisions on the Protection of the Rights of Breeders of New Plant Varieties*". Decision 345 of 1993 followed the guidelines laid down by UPOV (the International Union for the Protection of New Varieties of Plants), above all the standards enshrined in the UPOV Convention, Act of 1991. Accordingly, by virtue of Decision 345 of 1993, the country opted for broader protection for plant breeders than that foreseen in the UPOV Convention, Act of 1978, which is currently the international text adopted by Colombia.

The body of standards which form the system of plant breeders' rights in Colombia is the following:

- Decision 345 of October 29, 1993, the "Common Provisions on the Protection of the Rights of Breeders of New Plant Varieties";
- Decree 533 of March 8, 1994 "Regulating the Common Provisions on the Protection of the Rights of Breeders of New Plant Varieties";
- Resolution 1893 of June 29, 1995 "Ordering the Opening of the National Registry of Protected Plant Varieties, Establishing the Procedure for Obtaining Breeders' Certificates, and Stipulating Other Provisions";

- Law 243 of December 28, 1995 “Adopting the International Convention for the Protection of New Varieties of Plants, UPOV, of December 2, 1961, revised in Geneva on November 10, 1972 and October 23, 1978”.
- Constitutional Court ruling No. C-262/96 REF: Case LAT-068. Amendment of Law 243 of 1995 “Adopting the International Convention for the Protection of New Varieties of Plants, UPOV, of December 2, 1961, revised in Geneva on November 10, 1972 and October 23, 1978”.
- Decree 2687 of November 19, 2002, amending Article 7 of Decree 533 of 1994.
- Law 1032 of 2006 on the Penal Code.
- Law 1564 of 2012, on the Areas of Jurisdiction of the Colombian Agricultural Institute (ICA) in Proceedings Concerning the Infringement of Plant Breeders’ Rights.

It is clear that, as far as applicable regulations are concerned, Colombia is currently a part of the UPOV Convention due to the adoption of the Act of 1978, and that Colombia’s accession to the UPOV Convention, Act of 1991, would not result in a material change in its system for the protection of plant varieties. This is because in practice, through its incorporation of all of the foregoing regulations, Colombia is applying the rules foreseen in the Act of 1991, given that its legal system situates it within the spectrum and the boundaries set by the UPOV Convention, Act of 1991.

## 2. Administrative and technical status

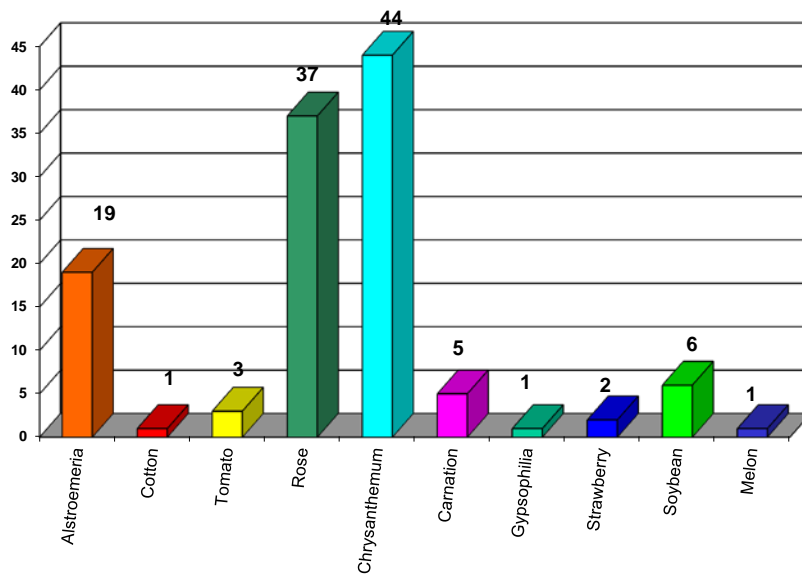
Moreover, the point should be made that Colombia maintains close cooperation ties with various UPOV member States. With support from the competent authority of the Netherlands, the Community Plant Variety Office and the national offices of the United Kingdom and Israel, technical cooperation activities were continuing with the dispatch of results and the development of distinctness, uniformity and stability (DUS) testing for different ornamental species, as well as the dispatch in 2012 of the results of technical examinations to Brazil.

In addition, as can be seen from the following table, in 2012, 119 applications from various countries, in particular the Netherlands, Germany, Colombia and United Kingdom, were received, examined and processed.

The species for which applications were filed included chrysanthemums, roses, Alstroemeria, carnations and soybeans. Fourteen DUS tests were conducted on different species such as soybeans, sugar cane and cotton, and 99 breeders’ certificates were granted. Finally, issue No. 15 of the Official Gazette of Protected Plant Varieties was published.

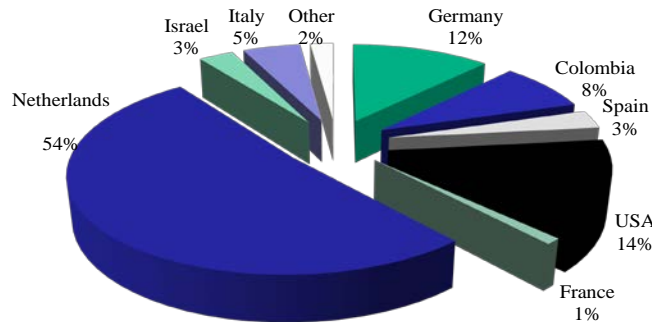
**APPLICATIONS RECEIVED BY SPECIES**

**2012 (119)**



**CERTIFICATES GRANTED BY COUNTRY**

**2012 (99)**



In the administrative field as well, ICA acts as the national authority competent for plant breeders' rights and the designated technical expert for the identification of protected plant varieties with regard to various legal procedures concerning violations of plant breeders' rights. Accordingly, in its capacity as a technical expert, ICA has developed legal assistance activities whereby it has worked out different categories and conducted inspections pertaining to violations of breeders' rights.

As for activities to promote plant variety protection, ICA has participated actively in various academic events on plant breeders' rights organized by the Intersectoral Commission on Intellectual Property (CIPI), as part of the Productive Transformation Program (Ministry of Trade, DNP).

[Annex VI follows]

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ANNEX VI

ESTONIA

## PLANT VARIETY PROTECTION

### Situation in the legislative field

We inform you about last amendment of Plant Propagation and Plant Variety Rights Act, 23.10.2009, which you can find: [https://www.riigiteataja.ee/akt\\_seosed.html?id=109112011008&vsty=TOLK](https://www.riigiteataja.ee/akt_seosed.html?id=109112011008&vsty=TOLK)

[Annex VII follows]

THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA

PLANT VARIETY PROTECTION

1. Situation in the legislative field

1.1 Amendments of the law and the implementing regulations

The Directorate for Seed and Seedling materials within the authority of Ministry of Agriculture, Forestry and Water Economy in 2009 adopted the Law on breeder's rights upon UPOV standards. The Law on breeder's rights (Official Gazette of the former Yugoslav Republic of Macedonia 52/09) is completely harmonized with UPOV Convention (1991 Act).

The legal frame was fulfilled with publishing in the Official gazette of the former Yugoslav Republic of Macedonia the Rule-books derived from the Law on breeder's rights.

Rule-books derived from the Law on breeder's rights:

- Rule-book for the form, content and the procedure of applying of the application, needed information, documents or material for allocating of the breeder's rights, form, content and way of keeping the Registry of breeder's rights. (Official Gazette of the former Yugoslav Republic of Macedonia number 134/10).
- Rule-book for composition and mode of the commission for the protection of plant species and varieties of agricultural plants. (Official Gazette of the former Yugoslav Republic of Macedonia number 134/10).
- Rule-book for expenditure for granting of the breeder's right, and the fee for maintenance of breeder's right. (Official Gazette of the former Yugoslav Republic of Macedonia no. 66/11) in accordance with the International Convention for the Protection of New Varieties (UPOV-Convention)

1.2 Extension of protection to further genera and species (made or planned)

Regarding the Extension of protection to further genera and species, we did not received any new application for protection of varieties in 2013.

2. Cooperation in examination

Regarding the conclusion of new agreements we don't have any completed, in progress or planned.

3. Situation in the administrative field

In Directorate for Seed and Seedling Material there are no changes in the administrative structure and in office procedures and systems.

[Annex VIII follows]

RUSSIAN FEDERATION

PLANT VARIETY PROTECTION

1. Situation in the legislative field

1.1 Amendments of the law and the implementing regulations

Since January 1, 2008, CHAPTER 73 'THE RIGHT TO A SELECTION ATTAINMENT' of Part 4 of SECTION VII 'RIGHTS TO THE RESULTS OF INTELLECTUAL ACTIVITY AND MEANS OF INDIVIDUALIZATION' of the Civil Code of the Russian Federation became effective. Provisions of the Civil Code comply with provisions of the Law of the Russian Federation on Selection Achievements "Law on the Protection of Selection Achievements" of August 6, 1993 (ceased to have effect since January 1, 2008) and provisions of the 1991 Act of the UPOV Convention.

2. Cooperation in examination

The State Commission carries out wide activity in framework of international cooperation in plant variety examination, in particular in respect of taking over DUS results and descriptions from authorities of countries of the first application for the variety concerned.

3. Situation in the administrative field

Mr. Vitaly S. Voloshchenko has been appointed as Chairman of the State Commission since July 4, 2013.

[Annex IX follows]

## PLANT VARIETY PROTECTION

### 1. Situation in the legislative field

- 1.1 According to reform in the State control system of agriculture of Georgia (2005) the functions on protection of new plant varieties have been transferred to the National Center of Intellectual Property of Georgia "Sakpatenti", where has prepared the Draft Law of Georgia "On the protection of new plant varieties"
- 1.2 At its twenty-fourth extraordinary session, held in Geneva on March 30, 2007, the Council examined the Law for the Protection of New Varieties of Plants of 2006 of Georgia with the 1991 Act of the UPOV Convention. This Law regulates linked with the legal protection of new varieties of plants and applies to all botanical genera and species.

Fee for the registration of new variety of plant and breeds are not applicable yet.

On October 29, 2008 The Government of Georgia deposited its instrument of accession to the UPOV Convention. The Convention entered into force one month later and Georgia became the sixty-sixth member of (UPOV) on November 29, 2008.

- 1.3 According to the request of Ministry of Justice of Georgia, two laws 'Law of Georgia for the Protection of New Varieties of Plant' and 'Law of Georgia for the Protection of new animal breed' has been merged.

Legal protection of new varieties of plants and breeds of animals and acquisition of exclusive rights in them occur in Georgia on the basis of the Law of Georgia "On New Breeds of Animals and Varieties of Plants", which entered into force on December 29, 2010.

Along with this, the examination procedure includes establishing the filing date of the application, conducting examination as to form, publication in the Official Bulletin for the Protection of New Plant Varieties and Animal Breeds (first publication) and handing over the new plant variety/ animal breed for testing for distinctness, uniformity and stability.

In the period from January 1, 2008 to the December 31, 2012, 47 national applications and 8 foreign applications have been received, as follows: Maize -11, Wheat- 10, Barley-2, Onion -2, Mulberry-9, Tomato-3, Soya-2, Pea-2, Bean- 3, Lentil- 1, Apple-1, Stevia-1, Cabbage-1, Potato-7.

By January 1, 2013, in total 40 applications were in force.

### 2. Cooperation in examination

Georgia does not have bilateral agreements of cooperation in the examination of plant varieties

### 3. Situation in the administrative field

Procedures and the system of the plant varieties protection are defined by the Law on Plant Variety Protection Of the Georgia.

### 4. Situation in the technical field

The individual Test Guidelines are prepared by Sakpatenti for the DUS Examination in Georgian language and is approved by Ministry of Justice of Georgia. The Examination generates a description of the variety, using its relevant characteristics.

5. Activities for the promotion of plant variety protection

It should be noted that for the purpose of availability of bibliographic data and software, in 2011 a MS ACCESS database of new varieties and breeds was created. In 2012 the work was completed for filling the database with information according to the new structure, its reorganization and perfection for internal use as well as for publication in the Internet (Unicode format).

The relevant information is published in the Official Bulletin For The Protection of New Plant Varieties and Animal Breeds. Information regarding completed and in progress applications. The exact images of the objects can be viewed in the E-version of Sakpatenti website ([www.sakpatenti.org.ge](http://www.sakpatenti.org.ge)).

[Annex X follows]



## I. REPORT SUBMITTED BY THE HUNGARIAN INTELLECTUAL PROPERTY OFFICE (HIPO)

### PLANT VARIETY PROTECTION

#### 1. Situation in the legislative field

##### 1.1 Amendments of the law and the implementing regulations

No changes.

##### 1.2 Extension of protection to further genera and species (made or planned)

No changes. Pursuant to the rules in force, plant variety protection extends to all plant genera and species.

##### 1.3 Case law

No data.

#### 2. Cooperation in examination

No changes. According to paragraphs (3) and (4) of Article 114/R of the Patent Act the results of experimental testing (DUS examination report) carried out by a competent foreign authority may be taken into consideration with the consent of such authority (...) The costs of experimental testing shall be borne by the applicant. Therefore the Hungarian Intellectual Property Office (HIPO) took steps to conclude agreements with national and regional offices on sending reports on DUS technical examination from the relevant Office to the HIPO.

The Hungarian Intellectual Property Office concluded agreements on sending reports on DUS technical examination with the Community Plant Variety Office (CPVO), with the Bundessortenamt (Germany) as well as with the Board for Plant Breeders' Rights of the Ministry of Agriculture, Nature and Food Quality (Netherlands).

#### 3. Situation in the administrative field

No changes. The HIPO is authorised to grant protection to plant varieties. In the national system the HIPO is responsible for the examination of novelty, denomination and unity as well as for the registration of plant varieties. The National Food Chain Safety Office is responsible for the biological examination (DUS-testing).

#### 4. Situation in the technical field

Technical examination is carried out by the National Food Chain Safety Office.

5. Activities for the promotion of plant variety protection

Title of activity	Date	Location	Organizer(s)	Purpose of activity	Participating countries/ organizations (number of participants from each)	Comments
1. Intellectual Property Office of Montenegro	22.02.2012	Hungary (HIPO)	HIPO and IP Office of Montenegro	Presentation of the history of the Plant variety protection, and general information on procedures concerning plant variety protection in Hungary.	4 persons trained	
2. State Committee on Standardization, Metrology and Patents of the Republic of Azerbaijan (AZSTAND)	13.03.2012	Hungary (HIPO)	WIPO	Presentation of the history of the Plant variety protection, and general information on procedures concerning plant variety protection in Hungary.	3 persons trained	

**II. REPORT SUBMITTED BY THE NATIONAL FOOD CHAIN SAFETY OFFICE (NFCSO)**

PLANT VARIETY PROTECTION

1. Situation in the legislative field

1.1 Amendments of the law and the implementing regulations

Adaptation to the 1991 Act of the Convention on 1st of January 2003.

1.2 Extension of protection to further genera and species (made or planned)

1.3 Case law

The National Seed Law (Act of 2003: number LII. on State Registration of Plant Varieties and Production and Marketing of Seeds and Vegetative Propagation Materials) had amendments in the new version the new name of Testing Office, National Food Chain Safety Office.

40/2004 IV.7 Decision of the Ministry of Agriculture and Rural Development had been amended and now it contents the changes of the structure and harmonized lists of the species by European legislation of marketing of propagation materials.

2. Cooperation in examination

No amendment.

3. Situation in the administrative field

- Changes in the administrative structure

The Directorate of Plant Production and Horticulture which is responsible for the variety testing belongs to the new Vice Presidency of Animal Breeding and Plant Production within the new structure of the Testing Office.

- Changes in office procedures and systems  
No amendment.

4. Situation in the technical field

No amendment.

[Annex XI follows]

KYRGYZSTAN

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

1.1. Situation in legislative area

The Kyrgyz Republic has joined the UPOV Convention in 1991 in accordance with the Law of the Kyrgyz Republic No 10 of January 14, 2000.

UPOV member since May 26, 2000.

The Law of the Kyrgyz Republic "On Legal Protection of Selection Achievements" has been effective since June 26, 1998.

The present Law regulates economic and private non material relations arising in connection with selection or revealing (hereafter as referred to – creation), use and legal protection of selection achievements (SAs), which are protected by patents of the Kyrgyz Republic.

- Amendments into the Law and instructions

Amendments were inserted by the Laws of the Kyrgyz Republic No 46 of February 27, 2003, No 58 of March 31, 2005, No 155 of August 8, 2006.

**Abstracts from the Law:**

**Article 1. General provisions**

Plant variety is a group of plants within the same botanic taxon from inferior of known classes, which may be determined by feature of the given genotype or combination of genotypes, differing from other groups of plants of the same botanic taxon at least by one feature; it may be considered as unified for receiving of permanent plant varieties.

Protected categories of varieties are clone, line, hybrid of the first generation, population; seed - generative and vegetative plant organs applied for variety reproduction;

- whole plants or parts of plants, seed, seedlings, bulbs, fruits of different cultures, provided for reproduction and realization in other goals from the variety reproduction;

- counterfeit selection achievement - selection achievement, which reproduction and/or commercial use entails infringement of exclusive author's rights of a patent owner. Selection achievements – plant varieties and animal breed.

(In version of the Law of the Kyrgyz Republic N 58 of March 31, 2005)

**Article 3. State regulation in the field of legal protection of selection achievements**

Authorized public body of the Kyrgyz Republic in the field of intellectual property according to the present Law realizes the state policy for legal protection of selection achievements, accepts for consideration applications for selection achievements, carries out their publication and preliminary examination, makes decision on patent issuing or refusal to issue by results of examination for novelty, distinguishability, uniformity and stability; it realizes the state registration of selection achievements, publishes the official data on protection of SA's, issues patents for SA's, controls enforcement and fulfils other functions in accordance with the Regulation on authorized public body in the field of IP, provided by the Government of the Kyrgyz Republic.

The central body of state management of rural and water sectors determines the List of botanic and zoological sorts and varieties (hereafter referred to as List), which is approved by the Government of the Kyrgyz Republic.

Resolution of the Government of the Kyrgyz Republic No 572 of August 28, 1998 "On Approval of Lists of Botanic and Zoological sorts and varieties of plants and animals".

The central body of state management of rural and water sectors gives to the Government of the Kyrgyz Republic the proposals: on addition of the List by new sorts and varieties; on change of some names of sorts and varieties of the List.

The state commission for varieties testing of agricultures under the central body of state management of rural and water sectors (State Commission) and the State Inspection for breed work in animal breeding and monitoring of pastures (State breed inspection) execute the following functions:

- testing of SA's for distinguishability, uniformity and stability by agreement with authorizes state body in the field of IP;
- keeping of the State Register of zoning varieties of the Kyrgyz Republic (VCU), State Breed Book of the Kyrgyz Republic;
- issuing of conclusions for use of SAs in production and execution of other functions in accordance with regulations, approved by the central body of state management of rural and water sectors.

(In version of the Laws of the Kyrgyz Republic No 46 of February 27, 2003 and No 58 of March 31, 2005.

- Adaptation to the 1991 Act of the Convention

**Articles for adaptation to the 1991 Act of the Convention were entered in 2005:**

**Article 24. Rights of patent owner**

Patent owner has exclusive right to use SA.

Exclusive right of patent owner means to realize the following actions with seed, breeds of protected SA:

Production and reproduction;

Sowing conditions creation for further generation;

Proposal for sale;

Sale and other kinds of marketing;

Export from the territory of the Kyrgyz Republic;

Import to territory of the Kyrgyz Republic;

Storage for above-mentioned purposes.

Right for patent and right to use SAs arising from patent, may be transferred by agreement on cession of patent or by licensing agreement to any natural or juridical person.

*Exclusive right of patent owner relates also to plant materials, which were introduced into turnover without permission of the patent owner and relatively products of plant material of protected variety.*

*Permission of a patent owner is necessary for execution of actions with seed and breed material, which:*

*inherit features of protected variety (initial variety), breed (initial breed); if these protected variety or breed themselves are not SAs, inheriting features of other SAs;*

*not evidently differ from protected variety or breed;*

*demand repeated use of protected variety for seed production.*

## **Article 25. Actions, which are not considered as infringement of a patent owner rights**

Actions, which are made in personal or non-commercial purposes;

Actions, which are made in experimental purposes;

*Actions for use of protected variety or breed as initial material for creation of new SA;*

Use of plant material, received by farmer on its enterprise during 2 years as seed for variety growing on territory of this enterprise.

### - Other amendments including fees

In 2002 fees were reduced on 20% for applications filing, field examination for protectability, patent issuing and registration in the State Register of protected SAs; in 2008 fees were reduced for licensing agreement registration.

## 1.2 Extension of protection to further genera and species (made or planned)

According to the Kyrgyz Republic Government's Resolution # 343 of June 24, 2011 "On Amendments to the Resolution of the Government of the Kyrgyz Republic "On approval the list of botanical and zoological genera and species of plants and animals" # 572 of August 28, 1998, legal protection is granted to all genera and species of plants.

## 2. Cooperation in examination

### - Conclusion of new agreements (completed, in progress or planned)

Agreements on cooperation for conducting examination of eligibility for protection did not conclude.

### - Amendment of existing agreements (completed, under way or planned)

There is no.

## 3. Situation in the administrative field

### - Changes in the administrative structure

Since 1993 when the Patent Department under the State Committee on Science and Technology has been created, it had numerous changes in the administrative structure of the Office. On February 20, 2012, by the resolution # 131 of the Government of the Kyrgyz Republic functions on promotion innovation were assigned to Kyrgyzpatent. At present, the State Service of Intellectual Property and Innovation under the Government of the Kyrgyz Republic (hereinafter referred as Kyrgyzpatent) is an executive authority realizing public policy in the field of intellectual property protection and promotion innovation, functions of which includes provision legal protection on all intellectual property subject matters and development mechanisms encouraging innovative activity in the republic in cooperation with stakeholders.

### - Changes in office procedures and systems

With regard to the legal protection of the selection achievements in office procedures and systems without changes.

## 4. Situation in the technical field

No changes

5. Activities for the promotion of plant variety protection

Kyrgyzpatent organizes seminars and round tables for the further development the legal protection of plant variety. Specialists of office take part in the "field days" organizing by the Ministry of Agriculture of the Kyrgyz Republic, Seed Grower Association of Kyrgyzstan. Kyrgyzpatent provides methodical aid to seed growers in legalization filed application to Kyrgyzpatent and provides assistance on conclusion licensing agreements with seed growers, farmers.

Title of activity	Date	Location	Organizer(s)	Purpose of activity	Participating countries/ organizations (number of participants from each)	Comments
Third Regional Seminar for Western and Central Asia Countries on Protection New Plant Varieties	August 2007	Cholpon-Ata, Kyrgyzstan	UPOV, State Patent Service of the Kyrgyz Republic, Ministry of Agriculture, Forestry, Fisheries of Japan	<p>Introduction to the system of protection plant varieties on the UPOV Convention,</p> <p>Sharing experience between offices of member-states on protection plant varieties.</p> <p>Cooperation on testing eligibility for protection varieties between authorized organization of Western and Asian region countries.</p> <p>Activity of International Center for Agriculture Research in the Dry Areas ICARDA</p> <p>International Treaty on Plant Genetic Resources for Food FAO UN</p>	<p>Patent Office of Republic Azerbaijan, Patent Office of Republic Kazakhstan, Mongolian Office on Protection Plant Varieties, Ministry of Agriculture of the Russian Federation, Ministry of Agriculture of the Republic Tajikistan, Turkish Office on Protection Plant Varieties, Patent Office of Turkmenistan, Iranian Office on Protection Plant Varieties, Office on Protection of Plant Varieties of Pakistan, Patent Office of Uzbekistan, Representative of International Organization: ICARDA FAO UN, Kyrgyz breeders of Scientific-Research Institute of Agriculture, Kyrgyzpatent</p>	<p>The seminar was held in a friendly, business-like atmosphere. Participants shared experience, between Russian Federation and Republic of Tajikistan were achieved agreement on further cooperation and cooperation on testing eligibility for protection varieties.</p> <p>National breeders familiarized with system of royalty in the countries that participate in this seminar</p> <p>This experience was very useful for our Office and for breeders from scientific-research institutes of Republic on improvement system of protection new plant varieties and to ensure adequate protection of investments made in the selection of varieties.</p>

[Annex XII follows]



## ANNEX XII

## LATVIA

## I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

- 1.1 Amendments of the law and the implementing regulations:  
No changes have been done.
- 1.2 Extension of protection to further genera and species (made or planned):  
No changes have been done.
- 1.3 Case law: nothing to report.

2. Cooperation in examination

- Conclusion of new agreements (completed, in progress or planned)  
No changes have been done.
- Amendment of existing agreements (completed, under way or planned)  
No changes have been done.

3. Situation in the administrative field

- Changes in the administrative structure: no changes have taken place.
- Changes in office procedure and systems: no changes.

4. Situation in the technical field

DUS test was carried out for Latvia:

- *Vitis vinifera* L. - 5 varieties.

5. Activities for the promotion of plant variety protection

Title of activity	Date	Location	Organizer(s)	Purpose of activity	Participating countries/ organizations (number of participants from each)	Comments
1.	May 7 to June 10, 2012		UPOV	Introduction to the UPOV System of Plant Variety Protection under the UPOV Convention (DL-205)	1	UPOV Distance Learning Program
2.	October 29 to December 1, 2012	Geneva, Switzerland	UPOV	UPOV meetings: CAJ/66, CAJ-AG/7, CC/84 and C/46	1	
3.	November 27 and 28, 2012	Angers, France	CPVO	Meeting of the Administrative Council of the Community Plant Variety Office (CPVO)	1	

## II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

Nothing to report.

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

1.1 Amendments of the law and the implementing regulations:

- Law on Plant Variety Protection of the Republic of Lithuania (Official Journal, 2001, No 104– 3701) amended on 19<sup>th</sup> of October, 2006 (Official Journal, 2006, No 118–4453) and last amended on 26<sup>th</sup> of April, 2012 (Official Journal, 2012, No 53-2643);
- Regulation No 1458 of the Government of the Republic of Lithuania of the 15<sup>th</sup> of December, 2000, regarding Fees Rates (Official Journal, 2002, No 93–3987; 2005, No 81–2958);
- Order No A1-50 of the Director of the State Plant Service under the Ministry of Agriculture of the 8<sup>th</sup> of August, 2010, on the Approval of Application Form for Plant Variety Protection (Official Journal, 2010, No 96–5008);
- Order No 3 D–371 of the Minister of Agriculture of the Republic of Lithuania of the 23<sup>th</sup> of June, 2004, regarding remuneration.

1.2 Extension of protection to further genera and species (made or planned):

- According to the amendments of the Law on Plant Variety Protection of the Republic of Lithuania on 26<sup>th</sup> of April, 2012 (Official Journal, 2012, No 53-2643) varieties of all plant genera and species could be protected in the Republic of Lithuania.

2. Cooperation in examination

- Bilateral agreement of the 11<sup>th</sup> of August, 2000, with the Polish Research Centre for Cultivar Testing regarding performing DUS tests, has been amended on 14<sup>th</sup> of November, 2012, by the Administration agreement No 1/2012/19T-247.

3. Situation in the administrative field

- The Division of Plant Variety of the State Plant Service under the Ministry of Agriculture of the Republic of Lithuania is responsible for plant varieties testing, listing and legal protection as well;
- The Commission for Evaluation of Applications for Variety Protection approved by the Order No. A1-141 of the Director of the State Plant Service under the Ministry of Agriculture of the Republic of Lithuania on the 6<sup>th</sup> of May, 2011, has been amended on 17<sup>th</sup> of June, 2013, by the Order of the Director of the State Plant Service under the Ministry of Agriculture of the Republic of Lithuania No A1-217;
- The granting of the plant variety protection shall be approved by the order of the Director of the State Plant Service under the Ministry of Agriculture;
- Procedures and the system of the plant varieties protection are defined by the Law on Plant Variety Protection of the Republic of Lithuania.

4. Situation in the technical field

- DUS tests are performed by the Polish Research Centre for Cultivar Testing according to an Administration agreement No 1/2012/19T-247, amended on the 14<sup>th</sup> of November, 2012, or by the other competent authority of the European Union by the breeders' request.

5. Activities for the promotion of plant variety protection

Title of activity	Date	Location	Organizer (s)	Purpose of activity	Participating countries/ organizations (number of participants from each)	Comments
1. European Council Meeting	19 March, 2012	Brussels, Belgium	European Council	To coordinate activities before UPOV meetings	Commission, CPVO and member States – 29 in total	
2. Meeting of the Administrative Council of the CPVO	20-21 March, 2012	Brussels, Belgium	CPVO	To discuss main questions regarding plant variety protection	Commission, CPVO and member States – 38 in total	
3. Technical Committee of the UPOV	26-30 of March, 2012	Geneva, Switzerland	UPOV	To discuss main questions regarding plant variety protection in the technical fields	Members (42), observers (4), organizations (5), WIPO (7), UPOV (4) – 62 in total	
4. Administrative and Legal Committee of the UPOV	29 of March, 2012	Geneva, Switzerland	UPOV	To discuss main questions regarding plant variety protection in the administrative and legal fields	Members (42), observers (4), organizations (5), WIPO (7), UPOV (4) – 62 in total	
5. Consultative Committee of the UPOV	30 of March, 2012	Geneva, Switzerland	UPOV	To discuss main questions regarding plant variety protection in the consultative fields	Members (42), observers (4), organizations (5), WIPO (7), UPOV (4) – 62 in total	
6. European Council Meeting	22 of October, 2012	Brussels, Belgium	European Council	To coordinate activities before UPOV meetings	Commission, CPVO and member States – 33 in total	
7. Administrative and Legal Committee of the UPOV	29 of October, 2012	Geneva, Switzerland	UPOV	To discuss main questions regarding plant variety protection in the administrative and legal fields	Members (36), observers (3), organizations (7), UPOV (6) – 52 in total	
8. Advisory Group of the Administrative and Legal Committee of the UPOV	29 of October, 2012	Geneva, Switzerland	UPOV	To discuss main questions regarding plant variety protection in the administrative and legal fields	Members (36), observers (3), organizations (7), UPOV (6) – 52 in total	
9. Consultative Committee of the UPOV	31 of October, 2012	Geneva, Switzerland	UPOV	To discuss main questions regarding plant variety protection in the consultative fields	Members (36), observers (3), organizations (7), UPOV (6) – 52 in total	
10. Council of the UPOV	1 of November, 2012	Geneva, Switzerland	UPOV	To discuss main questions regarding plant variety protection in the Council level	Members (36), observers (3), organizations (7), UPOV (6) – 52 in total	

Title of activity	Date	Location	Organizer (s)	Purpose of activity	Participating countries/ organizations (number of participants from each)	Comments
11. Symposium on the Benefits of Plant Variety Protection for Farmers and Growers	2 of November, 2012	Geneva, Switzerland	UPOV	To provide farmers and growers with access to the best local and global varieties	About 60 in total	
12. Meeting of the Administrative Council of the CPVO	27-28 of November, 2012	Angers, France	CPVO	To discuss main questions regarding plant variety protection	Commission, CPVO and member States – 37 in total	
13. CPVO meeting with the examination institutions	3-6 of December, 2012	Angers, France	CPVO	To discuss questions regarding plant variety DUS testing and protection	Commission, CPVO and member States – 37 in total	

- Information Bulletin on Plant Breeder's Rights and National List of Plant Varieties No 1 (17) of the State Plant Service under the Ministry of Agriculture of the Republic of Lithuania was published on the 4<sup>th</sup> of January, 2012, and No 2 (18) – on the 15<sup>th</sup> of June, 2012.

## II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

- The Lithuanian National List of Plant Varieties 2012 has been approved by the order No A1-29 of the Director of the State Plant Service under the Ministry of Agriculture of the Republic of Lithuania on the 31<sup>st</sup> of January, 2012. Propagating material of each registered variety from each plant species can be certified according to the Mandatory Requirements, prepared respectively by the EU directives.

[Annex XIV follows]

## MEXICO

## I. PROTECTION OF PLANT VARIETIES

1. Situation in the legislative field

No changes to legislation on the protection of plant varieties, which was enacted in 1996 and is consistent with the UPOV Convention, Act of 1978.

– Other changes, including references to fees

Rates relating to fees for processing applications for breeders' certificates in Mexico have not changed since 2012, and remain as follows:

Category	Amount ( \$1 USD = \$13 MX)	
	2012 and 2013	
	\$MX	\$USD
Examination and processing of an application for breeders' rights	13,204.73	1,015.75
Dispatch of documentary evidence	702.23	54.02
Dispatch of the breeder's certificate	6,461.75	497.06
Recognition of the right of priority	702.23	54.02
Change of denomination	1,783.95	137.23
Registration of succession of rights of protection	1,248.57	96.04
For each certified true copy of the breeder's certificate	356.59	27.043
Registration of total or partial assignment of breeder's rights	631.45	48.57
Copy of the characteristics of the protected variety	356.63	27.43
Submission of corrections and additional information for reasons attributable to the user	231.72	17.82
Annual renewal of title of protection for plant breeders' rights	2,755.71	211.98

1.1 Extension of protection to other genera and species (already implemented or planned)

No change. However, the Federal Law on Plant Varieties of Mexico is compliant with the UPOV Convention, Act of 1991: ever since its enactment, it has covered the protection of all genera and species of the plant kingdom.

1.2 Jurisprudence

No change.

2. Cooperation in examination

The agreement between the Community Plant Variety Office (CPVO) and the National Service Seed Inspection and Certification (SNICS) came to an end in December 2012. However, DUS testing is underway for five varieties of avocados.

3. Situation in the administrative field

No changes to the administrative structure, which was strengthened in 2012.

– (Administrative) changes to procedures and systems

A system for online consultation regarding applications for plant breeders' certificates in Mexico has been introduced. The user name and password are as follows:

User name: snics  
Password: snics

4. Situation in the technical field (see point 3)

June 26, 2013 marked the publication in the Official Gazette of the Federation of a proposed Mexican official standard (PROY-NOM-001-SAG/FITO-2013) establishing the criteria, procedures and specifications for the preparation of manuals for descriptions of plants and rules for determining the quality of seeds for planting.

The purpose of this standard is to establish the criteria, procedure and specifications for preparing manuals for descriptions of plants and to lay down the rules determining the quality of seeds for planting for each genus and species, in accordance with international standards.

Compliance is mandatory throughout the country for natural persons and legal entities engaging in activities relating to the preparation of manuals for the description of plants and the elaboration of rules for determining the quality of seeds for planting.

Moreover, at least one application for a plant breeder's certificate has been received to date for 108 species, thereby facilitating the learning process and the generation of knowledge of new technical aspects.

5. Activities for promoting the protection of plant varieties

– Meetings, seminars, etc.:

Title of activity	Date	Place	Organizers	Purpose of activity	Participating countries. No. of participants from each country	Comments
1st Regional DUS Workshop	March 13-15, 2013	City of Obregón, state of Sonora	SNICS	The aim was to create awareness of the bases and methodology for describing plant varieties and DUS testing, as well as the technical, administrative and legal aspects relating to the Registry of Plant Varieties	36 people from northeastern Mexico	The three workshops were attended by experts from the public and private sectors. They took place successfully, thanks to the experience acquired since 2005 with this type of training event.
2nd Regional DUS Workshop	June 27-28, 2013	City of Oaxaca, state of Oaxaca	SNICS		42 people from southern and southeastern Mexico	
Ninth International DUS Workshop	August 27-30, 2013	Montecillo, Texcoco, state of Mexico	SNICS and the Postgraduate College		Participants: Colombia: 2 Chile: 1 Mexico: 50	

[Annex XV follows]

NICARAGUA

I. PROTECTION OF PLANT VARIETIES

1. Legislative status

- 1.1 Nicaragua has in force Law No. 318, called "Law on the Protection of Plant Varieties" and its Regulations, Decree 37-2000, and acceded to the UPOV Convention, Act of 1978 on September 6, 2001. With its accession, Nicaragua became the first country in Central America to apply "sui generis" legislation in this field, which contains many provisions from the UPOV Convention, Act of 1991.

While enjoying the implementation of this sui generis system, in view of its international commitments, Nicaragua has already begun to revise Law No. 318 in order to align it fully with the UPOV Convention, Act of 1991.

As regards fees, there are no changes to date.

- 1.2 Extension of protection to other genera and species (already implemented or planned)

In Nicaragua, plant breeders' rights apply to all plant genera and species, as stipulated in Article 10 of Law No. 318 mentioned above.

- 1.3 Jurisprudence

In Nicaragua, as there are no conflicts with regard to plant varieties, there is no information of this nature.

2. Cooperation in examination

Nicaragua relies on UPOV model formats for cooperation in this field, which will be used when complex applications are submitted in the country. For the time being, examinations are conducted following the procedure laid down in Law No. 318, in close coordination with the Ministry of Development, Industry and Trade, the Ministry of Agriculture and Forestry, the Ministry of the Environment, the Agrarian University, the Autonomous University of Nicaragua, and the Institute of Agricultural Technology.

3. Situation in the administrative field

The administrative structure and (administrative) procedures and systems remain unchanged.

4. Situation in the technical field (see point 3)

The Plant Variety Certification Committee conducts field visits which make it possible to observe "in situ" the characteristics of the new varieties for which protection is sought, enabling it to decide on applications. It also carries out field visits to verify whether the protected varieties meet the requirements for maintaining the characteristics for which they were granted protection.

5. Activities to promote the protection of plant varieties

Nicaragua has developed an IP information plan setting out the advantages and importance of protecting new plant varieties. It has developed information material and activities such as the maintenance and updating of web sites, talks at universities, assistance for users, students and plant breeders, and an Intellectual Fair to mark World Intellectual Property Day, where it organizes lectures on the subject of plant varieties, assists plant breeders in displaying their varieties, and informs visitors.

- Meetings, seminars, etc.

The Nicaraguan authorities take advantage of all meetings, fairs, exhibitions and seminars to explain the necessary steps to protect a plant variety. The following actions are worthy of note:

- a) Meeting with plant breeders;
- b) Assistance for university students, users and plant breeders;
- c) Meetings of the Plant Variety Certification Committee (CCPVV) to decide on applications for protection and schedule field visits;
- d) Organization of the Intellectual Property Fair to celebrate World Intellectual Property Day.

- Publications

Nicaragua has continued to publish the Electronic Intellectual Property Review, which contains key articles on the work done by the Plant Varieties Department that may be found at the following site: [www.mific.gob.ni](http://www.mific.gob.ni). This site also contains other documents, such as forms currently used, procedures prescribed by law, etc. Constant contact is maintained with interested parties via e-mail: [gzelaya@rpi.gob.ni](mailto:gzelaya@rpi.gob.ni)

## II. OTHER NEW DEVELOPMENTS OF INTEREST TO UPOV

Law No. 705, published in issue No. 67 of the Official Gazette dated April 13, 2010, on the Prevention of Risks from Living Organisms Modified by means of Molecular Biotechnology.

The regulations for Law 291 on Animal Health and Plant Protection contain provisions for the release of genetically modified organisms, administered by the Ministry of Agriculture and Forestry (MAG-FOR).

- Seed certification:

The rights to import, distribute and market seeds remain subject to the regulations laid down in Law No. 280 on Seed Production and Trade, which was published in the No. 26 issue of the Official Gazette dated February 9, 1998 and is administered by the Ministry of Agriculture and Forestry (MAG-FOR).

Law 354, with its respective reforms and additions, has been in force in the country since the year 2000. As far as unfair competition is concerned, Nicaragua applies the provisions of the Paris Convention for the Protection of Industrial Property (Stockholm Act) of 1968.

[Annex XVI follows]



C/47/14

ANNEX XVI

NORWAY

Norway has so far done the DUS testing on barely, wheat and oat.

As from January 1, 2014, Finland (Evira) will do this for us.

This implies there will be no more DUS-testing in Norway after this, unless other is determined.

[Annex XVII follows]

## PLANT VARIETY PROTECTION

### 1. Situation in the legislative field

The Plant Variety Rights Amendment Bill was drafted in 2006 and is currently on hold. The proposed amendments to the current Act are essentially in conformity with the 1991 Act of the Convention. The Plant Variety Rights Act 1987 remains in force, conforming to the 1978 Act of the Convention.

### 2. Cooperation in examination

The Plant Variety Rights Office and PBR Australia continue to cooperate with respect to varieties which are of mutual interest. These are varieties with applications in both jurisdictions which have questions regarding one or more of the criteria for the granting of Rights.

New Zealand continues to purchase test reports from member States, for certain species on an as required basis, under the general provisions of the Convention. From January 2013 New Zealand no longer charges for the supply of test reports to other authorities. Any report that is available will be supplied to the member state at no cost, on an as requested basis.

### 3. Situation in the administrative field

During the financial year ended 30 June 2013, 116 applications for plant variety rights were accepted (3 fewer than the previous year), 92 grants were issued (28 fewer than the previous year) and 115 grants were terminated (11 fewer than the previous year). At 30 June 2013 there were 1226 valid grants (23 fewer than the previous year).

The Office introduced a case management system in December 2012 for making on-line applications, most administrative functions and the compiling of variety examination reports. Further information can be found at the Plant Variety Rights homepage: <http://www.iponz.govt.nz/cms/pvr>

The Plant Variety Rights Office, a section of the Intellectual Property Office of New Zealand, achieved ISO certification in July 2013.

### 4. Situation in the technical field

A new examiner for ornamental varieties was appointed in August 2013 to fill the vacancy left by the resignation of the previous examiner. The technical staff of the Office remains at three.

The work of documentation of testing protocols and examination practice has continued over the last year. The objective is to complete most species by the middle of 2014.

The DUS testing for *Actinidia* (kiwifruit) continues to be impacted by the outbreak of *Pseudomonas syringae* pv *actinidiae* (PSA) disease in 2010. The establishment of alternative trials is complete and DUS evaluation is expected to restart in the 2014/15 season. This experience has focused attention on risks and resourcing of current DUS testing arrangements for all species and where they exist, associated variety collections.

The Test Guideline for Hebe, with New Zealand as the leading drafter, was adopted and published by UPOV earlier in 2013. This test guideline is the first for a New Zealand native species. New Zealand is currently the leading drafter for the test guideline for *Cordyline* in the TWO and *Acca* in the TWF.

New Zealand hosted the 44<sup>th</sup> session of the Technical Working Party for Fruit Crops in Napier from 29 April to 3 May 2013.

5. Activities for the promotion of plant variety protection

The New Zealand Plant Variety Rights Office presented a paper on plant variety protection in New Zealand at the APEC Food Security Workshop held in Tokyo, Japan, from 25-27 September 2012.

New Zealand provided a DUS testing advisor for the meeting for the Harmonisation of Technical Guidelines for Durian and Papaya in Cagayan de Oro, The Philippines, 12-14 February 2013. The meeting was part of the programme of activity for the East Asian Plant Variety Protection Forum.

The Plant Variety Rights Office continues to provide information and general support to a nursery industry PVR user group established in 2010. The group's function, purpose and direction is under discussion, with the objective of forming a plan for development.

[Annex XVIII follows]

POLAND

I. PLANT VARIETY PROTECTION

1. Situation in the Legislative Field

The Act of June 26, 2003 on the Legal Protection of Plant Varieties (POJ No 137/2003, item 1300; as amended) constitutes the legal basis for the national PBR protection system in Poland.

The Polish Plant Variety Protection Law is based on the 1991 Act of the UPOV Convention. Poland acceded to the 1991 Act of the UPOV Convention as the twenty-fourth State, on August 15, 2003.

Since November 1, 2000 all plant genera and species are eligible for PBR protection in Poland.

2. Cooperation in Examination

The Research Centre for Cultivar Testing (COBORU) in Słupia Wielka continues its cooperation in the field of DUS examination with different countries.

We have signed bilateral agreements on DUS testing with the Czech Republic, Hungary and Slovakia. Unilateral agreements with Latvia, Lithuania, Estonia, Romania, Belarus, Slovenia, Russia and Ukraine are in force.

In the reporting period, Poland carried out DUS tests for the Latvian (9 varieties), Lithuanian (70 varieties), Estonian (43 varieties), Czech (36 varieties), Finnish (2 varieties), Croatian (4 varieties) and Hungarian (14 varieties) authorities as well as for the CPVO (14 varieties). These tests were done for different species of agricultural (129 varieties), vegetable (12 varieties), ornamental (21 varieties) and fruit (30 varieties) plants. Altogether, 192 varieties were tested as a commissioned work for these authorities.

As in previous years, some authorities, namely: the CPVO, Russia, France, Austria, Estonia, Bulgaria, Lithuania, Serbia, Switzerland, Turkey, Croatia and Ukraine took the technical examination results over from COBORU, in order to base their decisions for their own procedures.

Poland actively participated in the work on the elaboration of the technical protocols during the meetings organized by the CPVO.

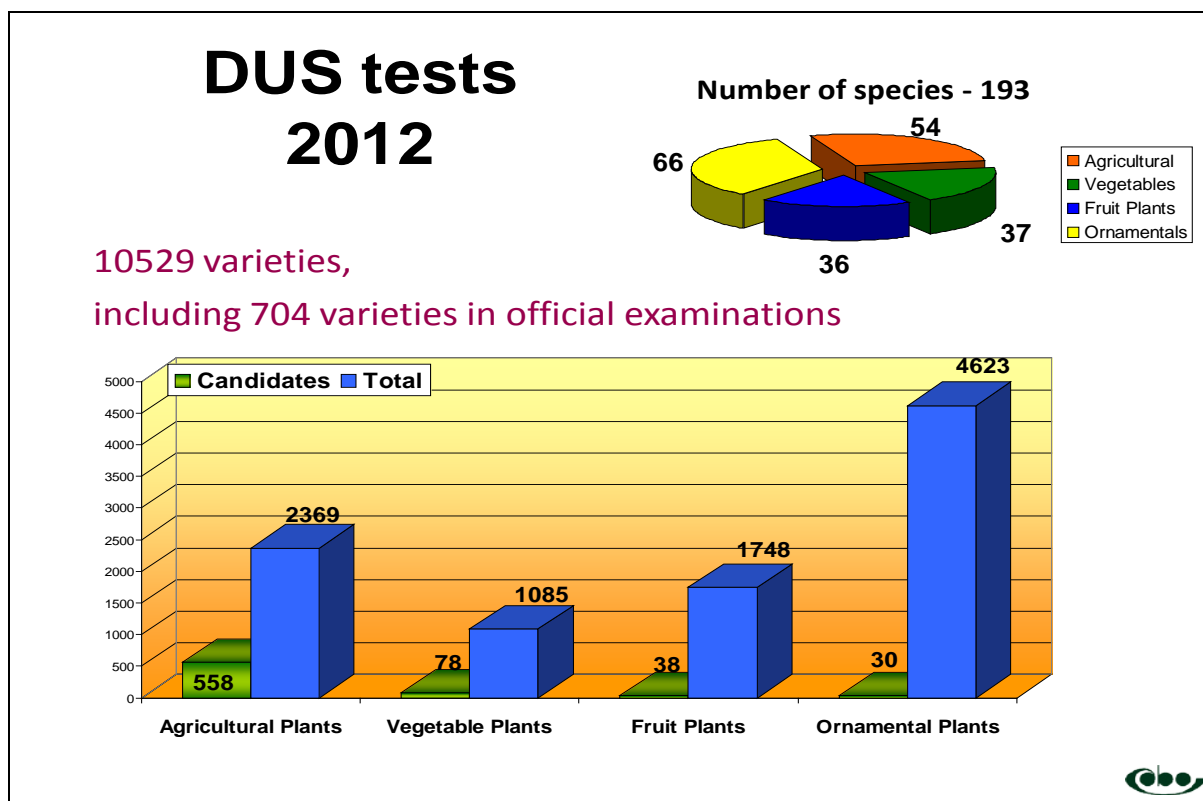
3. and 4. Situation in the Administrative and Technical Fields

COBORU variety testing activities in the field of DUS are done in 13 different Experimental Stations for Variety Testing located all over the country and in case of fruit plants additionally in the Research Institute of Horticulture in Skierniewice.

In 2012, 10529 varieties within 193 plant species were tested (which included 9825 varieties in living reference collection and 704 candidate varieties).

The number of varieties tested in Poland, per plant sector, is shown in the graph below.

Number of varieties in DUS testing in 2012



In 2012, COBORU received 70 applications for national PBR protection in total, which is the same number as in the previous year.

From January 1 to September 1, 2013, 71 new applications, including 48 domestic and 23 foreign, have been submitted for national PBR. This number is higher by 15 applications than that observed in the previous reporting period (56).

In 2012, COBORU granted 75 titles of national protection. At the end of 2012, there were 1286 national PBR titles in force, which comparing to the previous year represents a decrease by 6 varieties.

In the reporting period (from January 1 to September 1, 2013), 58 titles of national PBR protection have been granted. In total, 1257 varieties are protected in Poland (as on Sept. 1, 2013).

Details on the statistics are given in the table below.

In the column "Titles having ceased", 12 varieties for which - within the reported period - national PBR expired have also been included.

Species	Applications for PBR 1.01. – 1.09.2013			Grants of PBR 1.01. – 1.09.2013			Titles having ceased	Titles in force as on 1.09.2013
	domestic	foreign	together	domestic	foreign	together		
Agricultural	28	9	37	25	2	27	21	647
Vegetables	4	-	4	5	-	5	44	224
Ornamentals	14	13	27	16	4	20	15	258
Fruit plants	2	1	3	6	-	6	7	128
<b>Total</b>	<b>48</b>	<b>23</b>	<b>71</b>	<b>52</b>	<b>6</b>	<b>58</b>	<b>87</b>	<b>1257</b>

5. Activities for the Promotion of Plant Variety Protection

Representatives from Poland participate in the sessions of the UPOV organs and in the UPOV Technical Working Parties.

Furthermore, Polish representatives take part in the meetings of the Standing Committee on CPVR, DG SANCO, Brussels as well as in the CPVO Administrative Council meetings.

– *Meetings, seminars, etc.*

From August 22 to 23, 2013, COBORU organized in the frame of the “Multi-beneficiary Program on the Participation of EU Candidate Countries in the CPVO”, on behalf of the CPVO, a workshop for two representatives from the Center of Genetic Resources and the Ministry of Agriculture, Food and Consumer Protection from Albania. Its aim was a training on the technical examinations of Tomato varieties (technical protocol, trial set-up, selection of reference varieties, quality requirements for the CPVO, etc.). The guests were also acquainted with the COBORU organization and activities as well as operation of the Polish plant variety protection and national listing systems. They also visited two Experimental Stations for Variety Testing in Słupia Wielka and Śrem.

– *Visits*

From September 4 to 5, 2012 two representatives from France (GEVES) paid us a visit. During the meeting the guests were acquainted with the COBORU activity, especially with the systems of Maize VCU assessment and DUS testing of this species in our country. Additionally, they visited the Experimental Station for Variety Testing in Słupia Wielka, including an inspection of field trials.

On November 14, 2012, the management of the State Plant Service under the Ministry of Agriculture of the Republic of Lithuania visited Poland. During the meeting the possibilities of mutual cooperation, mostly in the area of DUS tests performance service for Lithuania were discussed. The meeting resulted in signing of the relevant agreement on bilateral cooperation.

On December 17, 2012, COBORU hosted the representative from the Japanese Mitsubishi Research Institute, Inc. The meeting was devoted to presenting of our national system of PVP, including the rules of DUS tests performance as well as the coexistence of the national and community PVP systems after our accession to the EU.

From March 12 to 13, 2013, the CPVO audit of the COBORU quality standards required for providing services to the CPVO in the area of DUS testing took place. The COBORU has applied for entrustment, in the range of 119 taxa of plant genera and species, to carry out DUS tests on behalf of the CPVO.

The second part of the CPVO audit, which was devoted to fruit plants, took place on July 10 to 11, 2013. The final entrustment decision on this matter will be taken during the nearest meeting of the Administrative Council in October 2013.

From August 26 to 29, 2013, COBORU hosted delegation of seven Hungarian representatives from NEBIH (National Food Chain Safety Office). The guests were acquainted with the COBORU organization and activities, operation of the Polish plant variety protection and national listing systems as well as the rules of conducting of the official examinations in our country. Additionally, the guests visited the Experimental Stations for Variety Testing in Słupia Wielka, Zybiszów, Węgrzce and Masłowice.

– *Publications*

Every two months COBORU issues the *Polish Gazette for Plant Breeders' Rights and National List* (Dziennik), which contains details referring to national PBR protection and national listing systems.

The list of varieties protected by national Plant Breeders' Rights (including provisional PBR's), valid as on June 30, 2013, has been published in the third number of the *Polish Gazette for Plant Breeders' Rights and National List* /No 3(116)2013/.

The Official Gazette is also being published on our website, in the section: *Publications*.

Additionally, the Research Centre for Cultivar Testing maintains and updates systematically a homepage [www.coboru.pl](http://www.coboru.pl), that contains official information on PVP matters in Poland.

## II. RELATED FIELDS OF ACTIVITIES

The *Polish National List of Agricultural Plant Varieties*, the *Polish National List of Vegetable Plant Varieties* and the *Polish National List of Fruit Plant Varieties* were issued in April and May 2013. These official lists as well as updated lists of varieties are also available at [www.coboru.pl](http://www.coboru.pl).

[Annex XIX follows]

REPUBLIC OF MOLDOVA

PLANT VARIETY PROTECTION (2012)

1. Situation in the Legislative Field

1.1 Amendments to the Law and the implementing regulations

No changes.

1.2 Extension of protection to further genera and species

According to the law No.39-XVI/2008 on the Protection of Plant Varieties, the protection is extended to varieties of all botanical genera and species, including hybrids between genera and species.

1.3 Case Law

There is no precedent with regards to the protection of breeders' rights.

2. Cooperation in Examination

There are no bilateral agreements of cooperation in the examination of plant varieties.

3. Situation in the Administrative Field

No changes.

• *Changes in the Procedural and Protection System:*

We were developed 3 test guidelines national for: salvia, marigold, clary sage.

• *Statistics*

In the period from January 1, 2012 to December 31, 2012:

- 34 applications have been received (24 national applications and 8 foreign), as follows:  
Lentil – 2, Soybean – 4, Chickling vetch – 1, Tomato – 3, Bean – 1, Sunflower – 1, Wheat – 1, Maize – 15, Grapevine – 1, Willow – 2, Plum – 1, sour cherry – 1, Prunus rootstock – 1.
- 20 patents for plant varieties have been granted (11 national patents), as follows:  
Barley – 2, Sunflower – 3, Lucerne – 1, Tomato – 3, Chick Pea – 3, Maize – 5, Wheat – 1, Sugar Beet – 2.

At 31.12.2012, 104 patents for plant varieties were in force.

4. Situation in the Technical Field

No changes.

5. Activities for the Promotion of Plant Varieties Protection

• *Meetings, seminars*

In the period under review, for implementation purpose of the provisions and requirements of the Law No.39-XVI/2008 on the protection of plant varieties of the Republic of Moldova, the AGEPI continued to organize



seminars and workshops for representatives in industrial property, interested persons, including scientists and breeders, farmers, economic agents held within the AGEPI conference hall, the research institutes of the Academy of Sciences of Moldova, as well as in the territory.

In June 2012, AGEPI and State Commission for Variety Testing, in collaboration with the Office of UPOV, organized for the first time in Moldova the UPOV Technical Working Party on Automation and Computer Programs (TWC/30) (Thirtieth Session) and its preparatory meeting. Chisinau gathered 55 experts in the legal protection of plant varieties by the sui generis system, statisticians and biometrists from 19 UPOV member States, as well as specialized organizations - Community Plant Variety Office and the Office of UPOV. The experts discussed the documents prepared by the Office of UPOV on molecular techniques for examination of new plant variety material, UPOV databases on registered variety denominations, description of varieties protected by the sui generis system, electronic application systems, etc.

- *Publications*

On a regular basis, AGEPI maintains the web site: [www.agepi.gov.md](http://www.agepi.gov.md), where the national legislation in the field of plant varieties protection can be accessed, as well as the application form for a plant variety patent, and useful related information for applicants and breeders, available in Romanian, Russian and English languages.

[Annex XX follows]

C/47/14

ANNEX XX

ROMANIA

In the legislative field was issued Ministerial Order No. 253/2013 modifying the Ministerial Order No. 1348/2005 for the approval of the Rules regarding the testing and registration of agricultural plants. This order is in compliance with the new EU directives regarding testing, registration and protection of varieties.

This year, in the field of testing, 932 varieties were tested: 752 agricultural plant species, 134 vegetable, 29 fruit tree, 11 vine and 6 ornamental varieties and 187 varieties were registered in our national Official Catalogue: 112 varieties of agricultural plant species, 58 vegetables, 13 fruit trees, 1 vine and 3 ornamentals.

The cooperation in the field of DUS testing with UKZUZ from Czech Republic and the exchange of seed samples continued.

In addition, 69 applications for protection, and 53 protection titles were issued.

The electrophoresis laboratory was equipped with new equipment.

The construction of the individual irrigation systems for 6 testing centers is in the project stage.

The reference collection and the database are constantly increasing.

[Annex XXI follows]

SWITZERLAND

I. PROTECTION OF PLANT VARIETIES

1. Situation in the legislative field

1.1 Amendments to the Law and implementing provisions

There have not been any changes to the legal basis for the protection of plant varieties since October 2009.

1.2 Extension of protection to other genera and species

In Switzerland all genera and species can be protected.

1.3 Jurisprudence

To our knowledge, no rulings concerning the protection of plant varieties were handed down during the past year.

2. Cooperation in examination

No changes. As no trials are conducted in Switzerland, all examination is done abroad under contract, or alternatively existing examination reports are taken over.

3. Situation in the administrative field

Nothing to report.

4. Situation in the technical field

Nothing to report, as no trials are conducted in Switzerland.

5. Activities to promote the protection of plant varieties

On June 3, 2013, Maslina BTE MALIK (IPOS) and Simon SEOW (IPOS) from Singapore visited the Plant Variety Protection Office and drew inspiration from the Swiss system. They were accompanied by Yolanda Huerta (UPOV).

II. OTHER DEVELOPMENTS OF INTEREST FOR UPOV

No remarks.

[Annex XXII follows]

UKRAINE

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

1.1 Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine regarding the Ministry of Agrarian Policy and Food of Ukraine, the Ministry of Social Policy of Ukraine and other central executive bodies whose activities are directed and coordinated through the relevant ministers" of 16.10.2012 amended the Law of Ukraine "On Protection of Plant Varieties".

1.2 Extension of protection to further genera and species  
No amendments.

1.3 Case Law  
No amendments.

2. Cooperation in examination

Ukraine has practical experience in DUS-test according to the list of genera and species, which varieties undergo examination for compliance with the criteria of distinctness, uniformity and stability of the examination institutions of plant variety right protection state system, botanical taxa for which information is exchanged on DUS-test field trial results for 2012.

3. Situation in the administrative field

According to the Decree of the President of Ukraine dated 09.12.2010 # 1085 "On the optimization of central authorities" and the Decree Cabinet of Ministers of Ukraine dated 28.03.2011 # 346 "On the elimination of government agencies", the State service on right protection for plant varieties liquidated February 11, 2013.

According to the Order of the Ministry of Agriculture, dated 30.12.2011 # 807 "On reorganization variety examination stations" the state variety examination stations are under reorganization.

According to the Order of the Ukrainian Institute examination of plant varieties dated 11.07.2012 # 600- OD and approval by the Ministry of Agriculture, separate divisions-branches of the Ukrainian Institute for plant variety examination were formed, namely:

- State Centre of plant varieties examination in the Autonomous Republic of Crimea;
- Volyn Regional State Centre for plant varieties examination;
- Vinnytsia Regional State Centre of plant varieties examination;
- Dnipropetrovsk Regional State Centre of plant varieties examination;
- Donetsk Regional State Centre of plant varieties examination;
- Zhytomyr Regional State Centre of plant varieties examination;
- Transcarpathian Regional State Centre of plant varieties examination;
- Zaporizhzhya Regional State Centre of plant varieties examination;
- Ivano- Frankivsk Regional State Centre of plant varieties examination;
- Kyiv Regional State Centre of plant varieties examination;
- Kyiv State Centre specialized for plant varieties examination;
- Kirovograd Regional State Centre of plant varieties examination;
- Luhansk Regional State Centre of plant varieties examination;
- Lviv Regional State Centre of plant varieties examination;
- Mykolayiv Regional State Centre of plant varieties examination;
- Odessa Regional State Centre for examination of plant varieties;
- Poltava Regional State Centre of plant varieties examination;

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\* This data has been provided and included in documents C/47/6 and C/47/5, respectively.

- Rivne Regional State Centre of plant varieties examination;
- Sumy Regional State Centre of plant varieties examination;
- Ternopil Regional State Centre of plant varieties examination;
- Kharkiv Regional State Centre of plant varieties examination;
- Kherson Regional State Centre of plant varieties examination;
- Khmelnytsky Regional State Centre of plant varieties examination;
- Cherkassy Regional State Centre of plant varieties examination;
- Chernivtsi Regional State Centre of plant varieties examination;
- Chernihiv Regional State Centre of plant varieties examination.

4. Situation in the technical field

In 2012, 35 botanical taxa had developed and adapted relevant Test Guidelines, update of 11 UPOV DUS Test Guidelines due to consideration by UPOV and 25 National Test Guidelines for DUS examination were adapted.

5. Activities for the promotion of plant varieties protection

Title of activity	Date	Location	Organizer(s)	Purpose of activity	Participating countries/ organizations (number of participants from each)
1. Conduction of scientific workshop on the plant variety rights protection	14.03.2012	Kyiv, Ukraine	Ukrainian Institute for Plant Variety Examination (UIPVE)	Practical explanations concerning registration and protection system of plant variety rights for applicants	Representatives of foreign companies
2. The first international scientific and practical conference "State and prospects of the formation varietal plant resources in Ukraine"	11-13.07.2012	Kyiv, Ukraine	UIPVE	Involvement of students and young scientists to scientific activities and encourage and support of research activities in the field of plant variety rights protection in Ukraine	Representatives of leading research institutions in Ukraine and CIS-countries
3. Participation in the XXIV International Agricultural Exhibition "Agro-2012"	5-8.09.2012	Kyiv, Ukraine	Ministry of agrarian policy and food of Ukraine	Promotion of state agricultural policy and economic growth of agricultural production, facilitate international cooperation in agriculture.	400 businesses, firms, companies from 24 regions of Ukraine and the Autonomous Republic of Crimea, foreign companies from 21 countries
4. Participation in the 48th session of the Technical Committee, 65th session of the Administrative and Legal Committee, 83 session of the Consultative Committee and the 29th extraordinary session	25-31.03.2012	Geneva, Switzerland	UPOV	The work within of Ukraine's membership in UPOV	-

Title of activity	Date	Location	Organizer(s)	Purpose of activity	Participating countries/ organizations (number of participants from each)
5. Participation in joint Ukrainian-Polish Conference on "Bilateral cooperation between Poland and Ukraine within the registration and protection of plant variety rights, as well as after the registration trials and varieties recommendations for agricultural practice "	16-18.05.2012	Przemysl, Poland	COBORU, UIPVE	Exchange of experience between Ukraine and Poland	Representatives of research institutions of Ukraine and Poland
6. Participation in the 46th session of the Technical Working Party for Vegetables, UPOV	10-17.06.2012	Venlo, The Netherlands	UPOV	The work within of Ukraine's membership in UPOV	-
7. Participation in the conference "Post-registration testing and recommendation of varieties for agricultural practices"	14-16.11.2012	Honyadzha, Poland	COBORU	Exchange of experience between Ukraine and Poland	Representatives of leading research institutions
8. Publications in the field of plant variety rights protection - State Register of Plant Varieties Suitable for Dissemination in Ukraine in 2012 (extract) - State register of Seeds and Seedlings Producers - Catalogue of Plant Varieties Suitable for Dissemination in Ukraine in 2012 -Leaflet of Centre for certification Tests Leaflet of Ukrainian Institute for Plant Variety Examination - Research and scientific magazine "Plant Varieties Studying and Protection" № 15, 16,17 - Official Bulletin «Plant Varieties Rights Protection», № 1,2,3,4.	During the year	Ukraine	UIPVE, State Service on of Plant Varieties Rights Protection of Ukraine	Informational	-

## II. RELATED FIELDS OF ACTIVITIES OF INTEREST TO UPOV

Statistical data on plant variety protection in Ukraine during 2002-2012 was sent by email to [upov.mail@upov.int](mailto:upov.mail@upov.int) along with this letter.

[Annex XXIII follows]

EUROPEAN UNION

Period: October 2012 - October 2013

(Report prepared by the European Commission  
in close relation with the Community Plant Variety Office)

PLANT VARIETY PROTECTION

1) Legislation

1.0 General

The presidency of the European Union (EU) was chaired by Cyprus from 1 July to 31 December 2012, by Ireland from 1 January to 30 June 2013 and by Lithuania from 1 July to 31 December 2013. Croatia became the 28th member of the European Union on 1 July 2013.

1.1 Amendment of the law and the implementing Regulations

An amendment to the implementing Regulation (EC) No 1238/95 as regards the annual fee payable to the Community Plant Variety Office (CPVO) by the holder of a Community Plant Variety Right was adopted through the Commission implementing Regulation (EU) No 623/2013 of 27 June 2013. The new fee payable as from the 1<sup>st</sup> of January 2014 will be 250 Euros, instead of the current 300 Euros.

1.2 Case law

Since August 2012, the Court of Justice of the European Union delivered its decision on one preliminary ruling on the interpretation of certain provisions of Council Regulation (EC) No 2100/94 of 27 July 1994 on Community Plant Variety Rights and its implementing measures:

Case C-56/11 - Raiffeisen Waren-Zentrale Rhein-Main eG versus Saatgut-Treuhandverwaltungs GmbH

Preliminary ruling from the Oberlandesgericht Düsseldorf (Germany) in relation with Regulation (EC) No 2100/94 (*OJ 1994 L 227, p. 1*) – Article 14 on the agricultural derogation and Regulation (EC) No 1768/95 (*OJ 1995 L 173, p. 14*) – Article 9 on the obligation of supplier of processing services to provide information to the holder of a plant variety - Requirements regarding the time and content of an application for information.

The judgement of the Court (First Chamber) was delivered on 15 November 2012 (*62011CJ0056*).

2) Cooperation in examination

2.1 Conclusion of new agreements: Nothing to report

2.2 Amendment of existing agreements: Nothing to report

2.3 Memorandum of Understanding with third countries: Nothing to report

3) Situation in the administrative field

Updates in the CPVO Administrative structure

a. New Chairperson and Vice-Chairperson appointed for the CPVO Administrative Council

Mrs Bronislava Bátorová was appointed on the 27<sup>th</sup> November 2012 for a three year mandate as the new chairperson of the CPVO Administrative Council. Mrs Bátorová was the previous deputy chairperson of the CPVO Administrative Council, and she succeeds Mr von Kröcher, who has completed his term of office.

Mr Andrew Mitchell has been appointed Vice-Chairperson of the CPVO Administrative Council for a three year mandate from the 27<sup>th</sup> November 2012.

The Administrative Council welcomed Mr Ivica Delic, Head of the Department of Plant Varieties and Propagating Material in the Croatian Ministry of Agriculture, as observer until the end of June 2013 and as full member from 1 July 2013.

b. CPVO Administrative Unit

Following the retirement of Thomas Wollersen, former Head of the Administrative and Financial Unit on the 31<sup>st</sup> January 2013, the Unit was reorganised and now includes the IT Service. It has been renamed as the Administration Unit. The new Head is James Moran of Irish nationality.

c. CPVO Legal Unit

The CPVO has organised a selection procedure for the post of Head of the Legal Unit. As an outcome of this competition, the President of the Office has decided to appoint Mr. Francesco Mattina for the post. Mr. Mattina is of Italian nationality.

4) Situation in the technical field

4.1 Information concerning the functioning of the EU Plant Variety Protection

a. Relation with examination offices

In 2012, the CPVO held its 16th annual meeting with its examination offices, which is also attended by representatives from the European Commission, the UPOV office as well as the breeders' organisations (ESA, CIOPORA and Plantum), representatives from the EU candidate countries in the framework of the CPVO Multi-Beneficiary program 2011-2013, as well as representatives from Switzerland and Norway. The main subjects of discussion were:

- DUS examination: Status of plant material submitted for reference collections; Access to DUS trials; List of additional characteristics on the CPVO web-site;
- Reporting on Technical Verifications;
- Variety denominations: Presentation of the new explanatory notes to the AC guidelines on the suitability of variety denominations; Information about the "Enhanced cooperation project with the EU Member States" and the CPVO Variety Finder;
- Legal Matters: Information about the discussions held in the Legal Experts' Group; Aspects related to the "one key – several doors principle" in relation with the revision of the EU seed marketing legislation;
- Quality Audit Services: Update and report on the first cycle of audits (2010-2012)
- Information technology tools: Update on the pilot project "exchange platform", state of affairs of the on-line application system.

b. Preparation of CPVO protocols

In 2012, experts from the Member States' examination offices were invited to participate in elaborating or revising technical protocols for DUS testing which either were subsequently approved by the Administrative Council or can be expected to be approved in 2013. The following experts' meetings were held to discuss the technical protocols of:

- Agricultural crops: hemp, durum wheat, linseed/flax, barley;
- Vegetable crops: artichoke/cardoon, radish/black radish, parsnip, French bean, spinach, tomato;
- Ornamentals crops: Heuchera, Echinacea, Impatiens New Guinea, and Lilium;
- Fruit crops: peach, Japanese plum, gooseberry, red and white currant, kiwifruit, blue honeysuckle, strawberry, almond and olive.



c. Further development of the CPVO Variety Finder

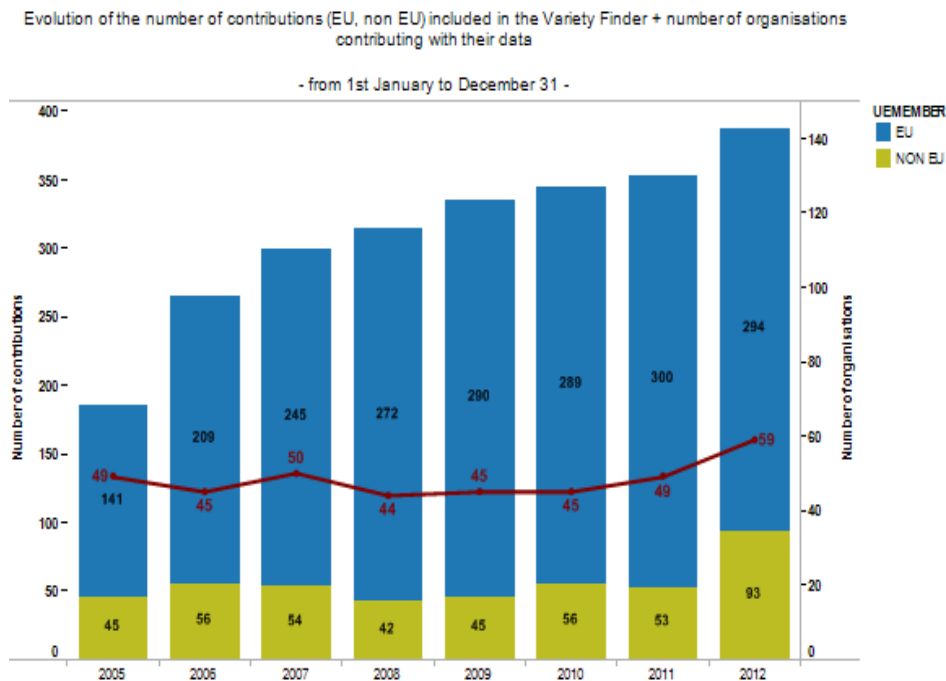
The CPVO Variety Finder is a web-based database developed by the Office in 2005 for the purpose of testing variety denomination proposals in the procedure of assessing their suitability. It contains national data on varieties applied for and on varieties granted plant variety rights, national listings of agricultural and vegetable species and some commercial registers. In total, more than 800 000 denominations originating from EU and UPOV Member States have been included so far.

The system includes a search tool with the purpose of testing proposed denominations for similarity. A retrieval tool allows more general searches for details of varieties or species present in the database. This retrieval tool was developed in 2012, making more information available for each variety and allowing users to export the desired information to an excel sheet.

A key issue in a database is keeping the information it contains up to date. The Office regularly receives contributions directly from EU countries in respect of official and commercial registers, and via UPOV for most non-EU countries. There has been a steady increase in the number of contributions submitted per year since 2007, as illustrated in the graph below. This increase continued in 2012, with noticeably more contributions from non-EU Member States. Most of these contributions are provided by UPOV in the framework of a Memorandum of Understanding, but also collected by the CPVO in the case of EU neighbouring countries participating in the multi-beneficiary programme.

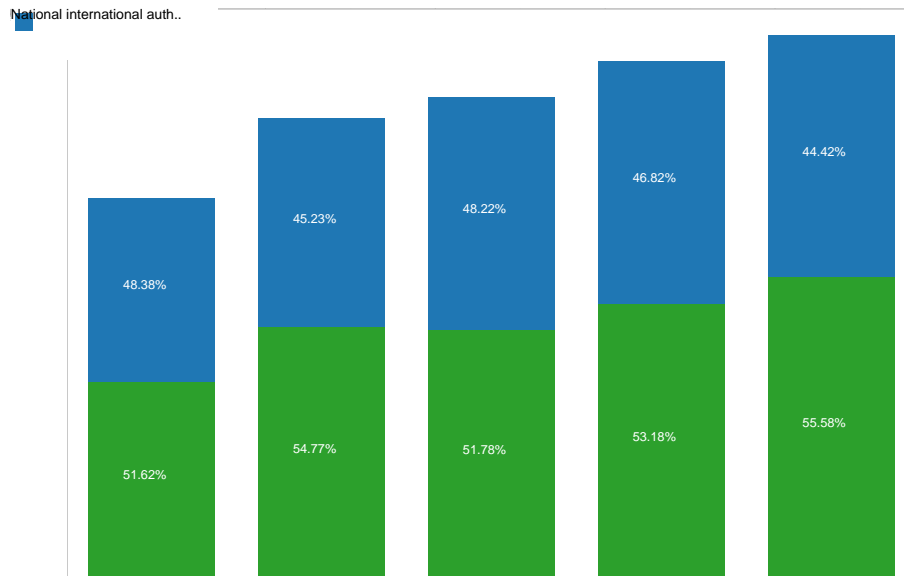
Once their relevance has been checked, the Office also regularly includes new registers in the Variety Finder. Some commercial registers are included, mainly for ornamental species.

Since November 2011, the database has been freely available under the 'Databases' heading of the CPVO website. Identification is still necessary, with a login and password. In 2012, the attribution of the login and password was computerised; in order to register, the user needs to provide some information for identification purposes.



With more than 60 000 tests performed in 2012, the database is a widely used tool, especially for testing the suitability of variety denominations. It is utilised by all stakeholders in similar proportions, as shown in the Graph below. The increase of the number of tests performed in 2012 is largely due to CPVO clients, although a rather limited number of companies make use of this service: 191 applicants (company clients) used the CPVO Variety Finder in 2012; to put this into perspective, 703 applicants and procedural representatives filed an application for Community Plant Variety Rights in 2012.

**Number of tests for similarity performed in the Variety Finder:  
CPVO clients, national and international authorities**



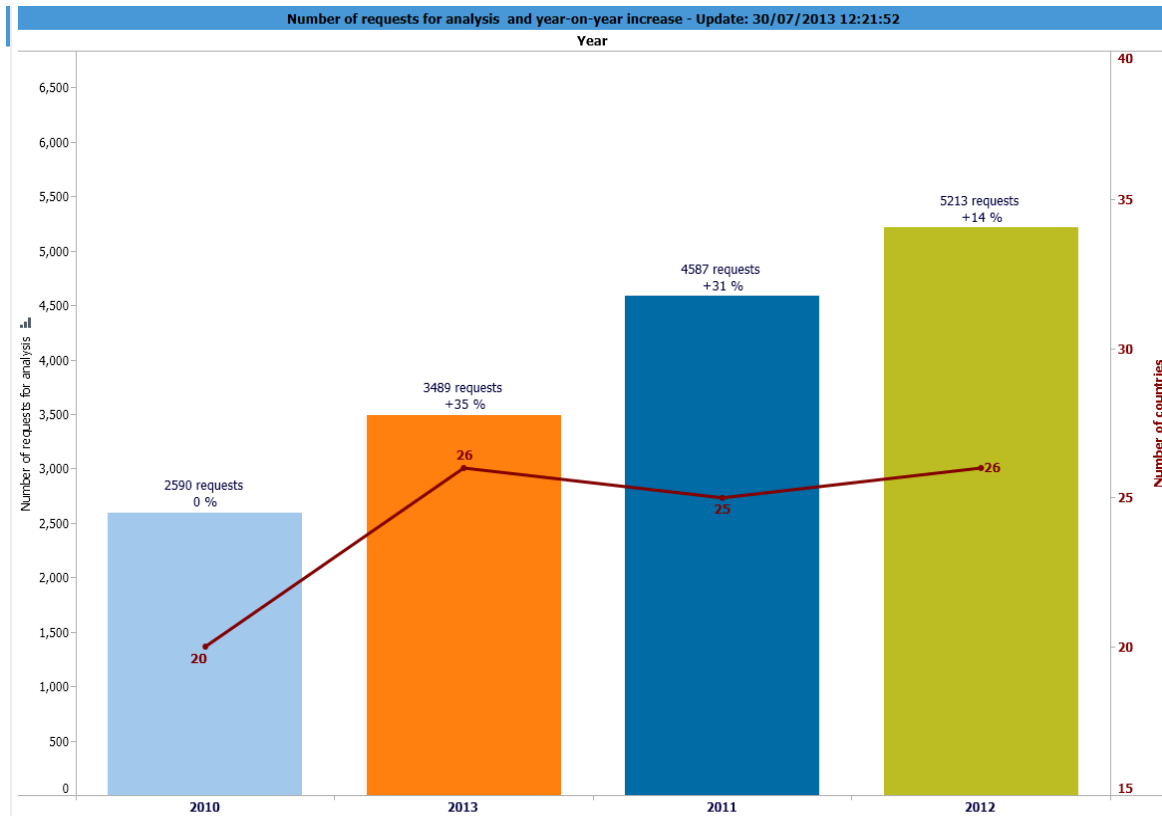
d. Cooperation in denomination testing

The purpose of this activity is to harmonise the decisions as to the suitability of proposals for variety denominations in procedures for national plant variety rights, for national listing and at the level of the CPVO.

As a matter of fact, the marketing directives relevant for the marketing of agricultural and vegetable varieties in the EU contain a cross-reference to Article 63 of Regulation (EC) No 2100/94 on Community Plant Variety Rights. Article 63 lays down the criteria for the suitability of variety denomination proposals. The legal basis in respect of the suitability of variety denominations is thus unique.

In March 2010, the CPVO put in place a web-based system whereby EU Member States can request advice from the CPVO before publishing an official proposal for denomination in the plant variety rights or listing procedure. In the case of controversial opinions, exchanges of views can take place, but the decision remains in the hands of the authority where the application for registration of the variety has been made.

In 2012, the service recorded more than 5 200 requests for advice, representing an increase of 14 % in comparison with 2011.



Last year, 26 countries benefited from the service but there are indications that not all EU Member States made use of it.

In 2012, 92.5 % of the requests for advice received an answer within 5 working days, with an average processing time of 1.27 days. In order to face the increasing number of requests for advice and to keep the delay of answer as short as possible, the Office improved its online service in September 2012, giving Member States the possibility to provide additional information when submitting their proposals with the aim of improving the accuracy of the advice and avoiding that CPVO raises unnecessary observations.

On various occasions, the CPVO has received feedback from some of its stakeholders stating that the CPVO's interpretation of the rules for suitability of variety denominations is perceived to be too strict or not very clear. For this reason, the Office proposed in 2011 the organisation of a working group to help inform stakeholders which considerations are taken into account by the Office when interpreting the applicable rules. The European Commission, seven Member States and all breeders' associations, with an observer's status in the AC, were represented in this group.

Exchanges of views took place, concrete proposals were made and it turned out that most of them concerned the explanatory notes to the guidelines rather than the guidelines themselves. These explanatory notes are a tool to help with interpreting the guidelines that have been drafted by the CPVO, based on the jurisprudence and case laws as developed by the internal committee of the Office. Their aim is to help applicants formulate a denomination proposal suitable according to Article 63 of Council Regulation (EC) No 2100/94 and to make it easier for national authorities to analyse the suitability of proposals for denominations according to the rules.

In November 2012, the Administrative Council took note of the new version of the explanatory notes, added a few comments, requested the Commission to implement the amendments proposed to the explanatory notes to the guidelines in Regulation (EC) No 637/2009. The new version of the explanatory notes has been published on the CPVO website.

The working group also made some proposals to amend the guidelines themselves. In order to have equivalent rules on denominations for the purpose of listing, amendments of the guidelines should only be made if also a modification of Commission Regulation (EC) No 637/2009 establishing implementing rules as to the suitability of the denominations of varieties of agricultural plant species and vegetable species is made. The Commission announced that discussions in view of introducing amendments in the guidelines in

Regulation (EC) No 637/2009 would take place in the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry as from 2013.

In 2012, the Office reinforced its cooperation with the Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM) in Alicante. During the first quarter of the year, a CPVO delegation visited OHIM, where it had the opportunity to explain in detail how variety denominations are assessed. An OHIM delegation visited the CPVO in return, and explained their procedures concerning the registration of a Community trade mark. It was underlined in particular that the denomination of varieties granted Community or national plant variety rights or listed in the EU common catalogue were not considered to amount to an absolute ground to refuse the registration of a trade mark in class 31. This exchange triggered investigations and, in September 2012, the Office was informed that OHIM would change its practice in the sense that OHIM will accept the principle that denominations of varieties granted EU or national plant variety rights and varieties registered in the common catalogue should constitute an impediment for the registration of Community trademarks. This will be implemented in 2013. The Office intends to include the relevant Community trademarks, mainly registered in class 31, in its Variety Finder, accessible to national authorities and breeders. Community trademarks will be taken into account by the Office when analysing proposals for variety denominations.

#### 4.2 Crop experts meeting

A meeting of vegetable experts was held on 5 and 6 December 2012 to discuss: revisions to several technical protocols; working rules on two “parallel” growing periods for DUS testing of vegetables; disease resistance testing issues; acceptable differences between responses in the technical questionnaire and observed characteristics of submitted plant material; greater cooperation between entrusted examination offices; situation on ongoing and future R&D projects in vegetables.

A meeting of agricultural experts was held on 11 and 12 October 2012 to discuss:

- Revisions to several technical protocols;
- Segregation of characteristics in hybrid varieties;
- Uniformity standards in male sterile parental crosses of 3-way hybrids;
- DUS testing of hybrids in oilseed rape and the testing of male sterile lines;
- DUS examination of modified varieties such as oil content or resistances;
- Situation on ongoing and future R&D projects in the agricultural sector
- Introduction of the new CPVO-TP Template for technical protocols.

A meeting of fruit experts was held on 16 and 17 October 2012 to discuss:

- Harmonisation of submission requirements;
- Minimum distance amongst fruit varieties in particular apples;
- Issues of relevance for the Plant Variety Rights system as regards the Directive on the marketing of propagating material of fruit plants;
- Situation of the R&D project “Reducing the number of obligatory observation periods in DUS testing for candidate varieties in the fruit sector”;
- Follow-up of the R&D “Management of peach tree reference collections”;
- Revisions of a few protocols and creation of new protocols for almond and olive.

A meeting of ornamental crop experts was held on 18 and 19 September 2012 to discuss:

- Outcome of the inquiry following the first application of the reviewed schedule for garden rose applications (closing date, submission period);
- Possible centralisation for the DUS testing of “small” species;
- Additional testing periods if not all characteristics have been observed during the foreseen number of cycles;

- Use of DNA profile in the DUS test of Phalaenopsis;
- Interpretation of the wording “testing period” (Final report) – “period of observation” (variety description);
- Development of a technical questionnaire based on national protocols;
- Modification of the cultivation scheme and the plant material requirements for Helleborus.

#### 4.3 Quality Audit Service

The CPVO's assessment programme for examination offices (EOs) was launched in January 2010. It is intended to provide a factual basis for the entrustment of examination offices by the CPVO Administrative Council. By the end of October 2012 all entrusted examination offices had been audited. The President of the Office produced an assessment report of the first triennial round of audits completed.

The assessments offered meaningful input to the CPVO Administrative Council's entrustment decisions. They had also triggered appropriate action by examination offices in areas where improvements were required. Overall the audits could provide confidence in the validity of DUS work carried out on behalf of the CPVO. The President's evaluation concluded that the programme had been successful. He also highlighted that continuous efforts would be done to further improve its effectiveness, that maintaining accountability and independence would remain a top priority and that introducing a risk based approach would allow to better target problem areas.

#### 5) Activities for the Promotion of Plant Variety Protection

##### 5.1 International Meetings, Seminars

The Vice-President of the CPVO participated in the seminar organised on the occasion of the 50<sup>th</sup> anniversary of OAPI, in September 2012 in Douala (Cameroon).

The President of the CPVO attended the Administrative Council of ARIPO on the 29<sup>th</sup> November 2012, in Zanzibar (Tanzania).

The Vice-President of the CPVO attended and contributed with presentations to the 11<sup>th</sup> Training Course on Plant Variety Protection for Latin-American countries organised by the UPOV, the World Intellectual Property Organization (WIPO), the Spanish Authorities and the USA Patent Office (USPTO) in cooperation with the INASE (Uruguay), in Montevideo (Uruguay), from 10 to 14 December 2012.

The President of the CPVO gave a presentation on the EU plant variety protection system at the 16th Plant Variety Protection Course in Wageningen on 24 June 2013 organized by Naktuinbouw.

The President of the CPVO attended and contributed with two presentations to the 6th East Asia Plant Variety Protection Forum (EAPVP forum), organized in Kuching (Malaysia) from the 29 June until the 7 July 2013.

The President of the CPVO attended the Regional Workshop on the ARIPO legal framework for the protection of new varieties of plants in Lilongwe (Malawi), from 20 to 25 July 2013.

##### 5.2 Visits to and from non-Member States and organizations

During the reporting period the CPVO had the honour to receive the following high level visits:

- Delegation from Thailand, Philippines and Malaysia on 25th October 2012
- Delegation from ARIPO from 5th to 7th November 2012
- Delegation from Egypt from 16th to 17th January 2013
- OECD Seed Schemes Secretariat on 11th April 2013
- CIOFORA members on 25th April 2013 in the framework of their Annual General Meeting organised in Angers

### 5.3 Participation in international fairs

The CPVO considers its participation in international fairs and open days at examination offices as a useful tool to promote the Community Plant Variety Rights system, to have direct contact with applicants and to provide information to growers. In 2013, the Office participated in two fairs.

- In January 2013, the Office attended the 'IPM' in Essen, Germany. The stand was shared with German colleagues from the Bundessortenamt. The focus lies with ornamentals.
- The 'Salon du Végétal' took place in February 2013 in Angers, France. The Office regularly participates together with GEVES, the French examination office, in this fair organised mainly for growers of ornamental plants.

### 5.4 The Multi-Beneficiary Program on the Participation of EU Candidate Countries in the EU Plant Variety System

Since 2006, the CPVO has been participating in the so-called 'Multi-Beneficiary Program' aimed at preparing candidate countries for accession to the European Union. This program was initially set up for Turkey and Croatia. In 2008 it was extended to the former Yugoslav Republic of Macedonia and, since 2009, it has been opened to all countries of the western Balkan region. Albania and Serbia expressed an interest in participating in its activities in 2009; and Bosnia & Herzegovina in 2010.

In the framework of this program, representatives of the national plant variety rights authorities were invited to participate in crop expert meetings held regularly at the CPVO. Furthermore, experts from the candidate countries were trained at the examination offices already working on behalf of the CPVO. Additionally, EU experts trained staff in the candidate countries.

In 2013, the program enabled an expert from Serbia to participate in a training course on plant variety protection given by the University of Wageningen. Furthermore, several workshops were conducted on DUS training of cereal, vegetable and fruit varieties. The program enabled experts from the beneficiary countries to participate in the seminar on the enforcement of plant variety rights held in Rome in May 2013. Until the end of the year, DUS trainings for Albanian crop experts on tomato, onion and cabbage testing are scheduled as well as workshops on variety denomination for Serbian experts, on the cooperation of the CPVO with its examination offices when processing applications and on the structure and duties of an examination office for experts from Bosnia & Herzegovina.

### 5.5 IT developments

#### a. Website of the Directorate General for Health and Consumers

The website of the Directorate General for Health and Consumers was redesigned and updated in 2012 in order to provide clearer information to the consumers, in particular on plant related legislation: marketing of seed and plant propagating material, Community Plant Variety Rights, plant genetic resources, plant health, GMOs, and pesticides ([http://ec.europa.eu/food/plant/index\\_en.htm](http://ec.europa.eu/food/plant/index_en.htm)).

#### b. CPVO

The Online Application service of the Office has developed over time, with increasing interest from applicants in the wake of numerous promotions of the tool by the Office. This system has allowed applicants to reduce errors.

Following this successful project, the Office also committed itself to make the system available to EU Member States willing to use it. As it was foreseen the CPVO has started a pilot project in this sense with two examination offices (GEVES and NAKTUINBOUW). The specificities of the National Procedures for Plant Variety Rights and National Listing (including VCU forms) have been taken into account, as well as complete support for multilingualism. A first version of the system is now ready to start a testing phase involving applicants (clients) filing fake applications in the autumn 2013. A way to exchange structure data will be explored (XML files).

Further to a successful feasibility study and development for the B2B (business to business) electronic exchange of documents, a pilot experience with five national examination offices (France, Germany, the Netherlands, the United Kingdom, and Spain as observer) has been launched in 2013.

The pilot phase is expected to be completed by the end of 2013 following which exchanges of documents between the CPVO and partners will be possible through the secure electronic platform, thereby reducing the time necessary for exchanges.

## RELATED FIELDS OF ACTIVITIES

### 1) Marketing of seed and plant propagating material

In 2013 the Common Catalogues of varieties of agricultural plants and vegetable species were updated 8 and 6 times respectively, including special supplements for the Croatian varieties. End of 2012, around 19600 varieties of agricultural plant species and around 18500 vegetable varieties have been accepted for marketing in the EU. In addition, in May 2013, 519 amateur varieties of vegetable species were registered in the EU.

In March 2012, the Implementing Directive 2012/8/EU of 2 March 2012 amending Directive 2003/90/EC and, in November 2012, the Implementing Directive 2012/44/EU of 26 November 2012 amending Directives 2003/90/EC and 2003/91/EC, setting out implementing measures for the purposes of Article 7 of Council Directives 2002/53/EC and 2002/55/EC, as regards the characteristics to be covered as a minimum by the examination and the minimum conditions for examining varieties of agricultural plant species and vegetable species were adopted in order to ensure that the varieties included in the Member States catalogues comply with the guidelines established by the Community Plant Variety Office (CPVO), as far as such guidelines had been established, and, for other, guidelines of the International Union for Protection of new Varieties of Plants (UPOV).

In November 2012, two Decisions were adopted in relation with EU equivalence for seed and forest reproductive material. The Decision No 1105/2012/EU of the European Parliament and of the Council of 21 November 2012 amending Council Decision 2003/17/EC extended its period of application until December 2022 and updated the country name of Serbia as well as the names of the authorities responsible for the approval and control of the production. The Decision No 1104/2012/EU of the European Parliament and of the Council of 21 November 2012 amending Council Decision 2008/971/EC recognised the 'qualified' category for forest reproductive material and updated the name of the authorities responsible for the approval and control of the production.

In May 2013, the Commission adopted a proposal for a Regulation on plant reproductive material (Plant reproductive material Law). This Regulation will replace 12 Directives. It will grant more responsibility and flexibility to operators dealing in production and marketing of plant reproductive material, enhance biodiversity and opportunities for niche markets, through less stringent requirements for old varieties and heterogeneous plant material, and for small local producers. It foresees to steer plant breeding towards environmental aims and streamline administrative procedures to support innovation. Finally it will establish a level playing field by introducing the principle of cost recovery. The proposal is part of a package which includes the revision of rules on plant health and official control. The proposal will now be discussed in the European Parliament and the Council.

In August 2013, the Commission adopted the implementing Regulation (EU) No 763/2013 amending Regulation (EC) No 637/2009 as regards the classification of certain plant species for the purpose of assessing the suitability of the denomination of varieties. Taking into account the evolution of the botanical name of tomato and the changes introduced in the CPVO Guidelines on varieties denomination, this text modifies the classes 4.2, 4.3 and 4.4 defining the "closely related species" to be taken into account for checking variety denominations. In addition the Commission adopted the implementing Directive 2013/45/EU amending Council Directives 2002/55/EC and 2008/72/EC and Commission Directive 2009/145/EC as regards the botanical name of tomato.

### 2) Genetic resources

In the framework of the policy of the EU and its Member States on biodiversity and conservation of plant genetic resources, in July 2013, 39 conservation varieties of vegetable species and 175 of agricultural crops were listed for commercial crop production under particular conditions for marketing in the EU.

### 3) GMOs

As regards cultivation of GMOs, the Commission adopted in 2010 a proposal for a Regulation of the European Parliament and the Council amending Directive 2001/18/EC as regards the possibility for the Member States to restrict or prohibit the cultivation of GMOs in their territory on legitimate concerns other than those related to risks to human and animal health or the environment. The proposed Regulation is under discussion in co-decision procedure between The European Parliament and the Council.

### 4) R & D

#### ON GOING PROJECTS

##### 4.1 Harmonisation of vegetable disease resistances

The CPVO formally approved earlier in 2012 the co-funding of the R&D project "Harmonisation of vegetable disease resistances", with project partners from France, the Netherlands, Spain, Germany, the United Kingdom, Hungary, Czech Republic, and the European Seed Association (ESA). The project is a follow-up to the earlier "Harmonisation of vegetable diseases resistances" completed in 2008, although the new project will deal with disease resistances in pepper, pea and lettuce. Work in the second half of 2012 was focused on the description and comparison of the existing tests for these disease resistances. The second meeting of the group took place in June 2013 in Angers, and the work is progressing according to the planning. The project is expected to be finalised in 2015.

#### NEW PROJECTS APPROVED:

##### 4.2 'Impact analysis of endophytes on the phenotype of varieties of *Lolium perenne* and *Festuca arundinacea*'

This project is coordinated by the CPVO (as administrative coordinator) and FERA - United Kingdom (as technical coordinator), with the following project partners: GEVES (France), Bundessortenamt (Germany), ESA (breeding companies: DLF Trifolium and Barenbrug). The project aims at clarifying the possible impact that the presence of endophytes in varieties of *Lolium perenne* (Lp) and *Festuca arundinacea* (Fa) might have on the phenotype, and thus on the expression of the characteristics observed during the DUS tests and eventual consequences in terms of quality requirements for material to be submitted for that purpose. The project foresees the assessment of four varieties from each species, with two stages of endophyte infections (0 % endophytes and 100 %). These varieties will be integrated into regular DUS tests during two growing cycles using the relevant CPVO technical protocol. The conclusive report is expected at the end of 2015. The preparation of the plant material started in January 2013 so that the establishment period of the plants takes place during 2013.

##### 4.3 'Reducing the number of obligatory observation periods in DUS testing for candidate varieties in the fruit sector'

This project is coordinated by the CPVO, with the following project partners: Bundessortenamt (Germany), Coboru (Poland), CRA-FRU (Italy), GEVES (France), OEVV (Spain), National Food Chain Safety Office (Hungary), NPVO (Czech Republic), Ciopora, and Plantum. Costs of DUS testing for candidate fruit varieties are relatively high compared to varieties in other crop sectors. The aim of the project is to determine (i) whether there is indeed technical justification of two satisfactory crops of fruit in order to make a conclusion on DUS and (ii) draw up a subsequent reliable variety description. Five species will be considered: peach, strawberry, apple, raspberry and grapevine. Varieties where the CPVO technical protocol has been implemented and which have been registered (national listing, national plant variety rights, and Community Plant Variety Rights) in the past 5 years should be considered.

The project was approved by the President of the CPVO at the end of 2012. It is expected to have a duration of 6 months. The outcome may lead to a reduction of the number of obligatory DUS cycles for candidate varieties with the consequent reduction of the DUS costs for applicants.

##### 4.4 'Modification of the cultivation scheme and the plant material requirements for *Helleborus*'

This project is coordinated by CPVO, as administrative coordinator, and Naktuinbouw, as technical coordinator. Currently, the DUS testing of *Helleborus* varieties in the framework of an application for



Community Plant Variety Rights is centralised at Naktuinbouw, where plants are cultivated outdoor in the full ground. This cultivation scheme seems not to be optimal. The purpose of the project is to investigate the suitability of cultivation in pots and its implementation. The duration foreseen for this project is of 18 months

#### 4.5 “Development of an improved COYU procedure”

This project is coordinated by Biomathematics and Statistics Scotland (BioSS) in collaboration with the Aarhus University (Denmark).

The project investigates how the COYU procedure could be improved by replacing the moving average adjustment method with a spline method. The properties of the new method will be tested during the project to ensure that it fits the requirements. An algorithm for the new method would be described, paving the way for implementation in software.

### FOLLOW-UP OF FINALISED PROJECTS

#### 4.6 “Construction of an integrated microsatellite and key morphological characteristic database of potato varieties in the EU Common Catalogue”

The CPVO project started in April 2006. The final report was received in spring 2008. The partners involved are Germany, the Netherlands, Poland and United Kingdom. The project delivered a database including marker profiles of potato varieties, key morphological characteristics and a photo library with light sprout pictures. The aim is to rapidly identify plant material of a vegetatively propagated crop where reference material has to be submitted every year and to ease the management of the reference collection in the sense that similar varieties can be identified from the enlarged virtual reference collection in the database. At the request of the breeders' association ESA (European Seed Association), the possible use of molecular means for variety identification for enforcement purposes has been taken into account.

In 2012 the CPVO organised a ring test involving not only the project partners but also the five CPVO examination offices for potato as well as the European Seed Association (ESA). The main objectives of the ring test were: (1) to grow a common set of eight varieties listed and protected in the EU and describe these varieties with the characteristics as mentioned in the CPVO technical protocol for potato, (2) to exchange variety descriptions and analyse sources of variation in variety descriptions and their elimination, as far as possible in order to decide upon the characteristics to be retained for the inclusion into the potato database, and (3) to agree upon the best method for taking lightsprout pictures for their inclusion into the potato database.

The CPVO is preparing a follow-up project which will deal, amongst other issues, with the following: entrustment of two laboratories responsible for the execution of the DNA profiles and storage of DNA samples, follow-up of the ring test organised in 2012. The project partners are continuing to update the database created during the project with harmonized data of morphological descriptions, lightsprout data and pictures.

#### 4.7 “Management of peach tree reference collections”

The aim is to create and manage a peach tree database, via the establishment of an EU *Prunus persica* tree collection structured in varietal groups, using a common database containing phenotypic, visual and molecular descriptions. The project amongst the four project partners (France, Spain, Italy and Hungary) was finished in 2011. The project partners analysed a total of 510 peach varieties in their reference collections (including 12 common to all of them), providing an invaluable exchange tool to draw up better phenotypic descriptions of peach varieties and structuring the reference collections according to the genetic background of the constituent varieties. A database for the storage and management of all these data (GEMMA) was created by GEVES, with the proposal that the full updating of the database would be continued in the future by all the project partners via the GEMMA framework, in order to have a more efficient selection of comparison varieties for peach DUS testing. The project partners and the CPVO are currently discussing the practical follow-up to be given to the projects findings, in particular the update and use of the database built in the framework of this project.

SERBIA

(September 2012 - September 2013)

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

1.1 On December 5, 2012, the Republic of Serbia deposited its Instrument of Accession to the 1991 Act of the UPOV Convention. On January 5, 2013, the Republic of Serbia has become the 71<sup>st</sup> member of the International Union for the Protection of New Varieties of Plants (UPOV).

Following the Law on Protection of Plant Breeders Rights ("Official Gazette of RS", No. 41/09 and 88/11) new "Rulebook on detailed conditions for variety testing" ("Official Gazette of RS", No.101/12) was adopted on October 17, 2012.

1.2 Extension of protection to further genera and species (made or planned)

Under current Law on the Protection of Plant Breeders Rights ("Official Gazette of RS", No. 41/09 and 88/11) all plant genera and species are subject to protection.

1.3 Case law

Nothing to report.

2. Cooperation in examination

Nothing to report.

3. Situation in the administrative and technical fields

The Ministry of Agriculture, Forestry and Water management (MAFWM), Plant Protection Directorate (PPD) is designated authority for the protection of the plant breeder's rights in the Republic of Serbia. The Plant Protection Directorate (PPD) as an administrative authority within the MAFWM performs tasks related to: protection of plants against harmful organisms; authorization and control of plant protection products and plant nutrition products; control of the use of plant protection products; registration of plant varieties; plant variety protection; biological safety (genetically modified organisms); phytosanitary inspections and other related tasks. Inside the PPD, Group for Plant Variety Protection and Biosafety exercises administrative procedures related to the provisions of the Law on Protection of Plant Breeders Rights and to granting of plant breeders rights, also as tasks related to GMO.

MAFWM-PPD established the Expert Council for Protection of Plant Breeders' Rights as a special expert body for the purposes of monitoring in the field of plant breeder's rights, considering the technical issues, providing expert opinions and proposals. Based on the results of the examination of varieties and proposals of the Expert Council, since the September 2012 to September 2013, for 94 varieties have been granted plant breeders right:

<b>GRANTED PLANT BREEDERS RIGHTS</b>				
<b>September 2012 – September 2013</b>				
<b>Botanical and common name</b>	<b>Variety denomination</b>	<b>Date of grant of PBR</b>	<b>Expiration date of granted PBR</b>	<b>Trade mark</b>
Malus domestica Borkh./ Apple	NICOTER	06.09.2012	10.05.2035.	
	NICOGREEN	06.09.2012	21.06.2034.	
	ROSY GLOW	12.12.2012	28.03.2036.	PINK LADY
	UEB 32642	12.12.2012	13.09.2035.	OPAL
	CRIPPS PINK	05.02.2013	09.06.2022.	PINK LADY
	COOP 39	05.02.2013	06.06.2036.	CRIMSON CRISP
	DALIVAIR	26.02.2013	30.03.2028	CHALLENGER
	BAIGENT	26.02.2013	16.06.2027	BROOKFIELD
	AZTEC	26.02.2013	16.05.2032	
Pisum sativum L / Pea	COMPANA	12.12.2012	12.12.2037.	
	AMBASSADOR	05.02.2013	16.11.2014.	
	ANGELA	26.02.2013	21.12.2031	
Triticum aestivum L./ Wheat	ALINEA	06.09.2012	06.09.2037	
	NIKOL	06.09.2012	06.09.2037	
	ANDINO	06.09.2012	29.09.2031	
	GALLUS	12.12.2012	15.09.2034	
	KOMAROM	12.12.2012	14.11.2032.	
	BALATON	12.12.2012	17.01.2032.	
	NS AVANGARDA	24.04.2013	24.04.2038	
	NS FUTURA	24.04.2013	24.04.2038	
	NS ILINA	24.04.2013	24.04.2038	
	NS ARTEMIDA	24.04.2013	24.04.2038	
NS ARABESKA	24.04.2013	24.04.2038		
Apium graveolens L. Var. Rapaceum (Mill.) Gaud) / Celeriac	REX	06.09.2012	31.12.2024	
	PRINZ	06.09.2012	02.12.2019	
Daucus carota L./ Carrot	ROMANCE	06.09.2012	06.09.2037	
Hordeum vulgare L./ Barley	GLADYS	06.09.2012	06.09.2037	
	CONCERTO	06.09.2012	01.12.2032	
	AMOROSA	12.12.2012	30.09.2030	
	NS PINON	24.04.2013	24.04.2038	
Prunus domestica L./ Plum	POZNA PLAVA	06.09.2012	06.09.2042	
	ZLATKA	06.09.2012	06.09.2042	
	NADA	26.02.2013	26.02.2043	
Capsicum annum L./ Sweet Pepper	PALANAČKO ČUDO	12.12.2012	11.06.2027.	
	SMEDEREVKA	12.12.2012	17.01.2033.	
	DORA	12.12.2012	20.02.2034.	
	STRIŽANKA	12.12.2012	12.10.2025.	
Fragaria x ananassa Duch/ Strawberry	NF 421	12.12.2012	17.12.2033.	ASIA
	NF 311	12.12.2012	30.01.2031.	ALBA
	NF 205	12.12.2012	24.01.2030.	ROXANA

	SALSA	05.02.2013	17.08.2030.	
	FIGARO	05.02.2013	30.01.2031.	
	CLERY	05.02.2013	30.01.2031.	
	GALIACIV	05.02.2013	23.03.2034.	
	ONEBOR	05.02.2013	11.01.2019.	MARMOLADA
	AROSA	05.02.2013	24.01.2030.	
	CIVRI30	05.02.2013	24.01.2030.	ELSINORE
	CIVMAD	05.02.2013	17.06.2024.	MADELEINE
	ANTEA	05.02.2013	20.03.2031.	
	SPLENDOR	05.02.2013	17.12.2032.	
Rosa L./ Rose	SCHEMOCBA	18.12.2012	01.02.2031.	RED NAOMI
	TANEFLE	24.04.2013	18.12.2027.	ELFE
	TANGUST	24.04.2013	16.07.2026.	AUGUSTA LOUISE
	TANELORAK	24.04.2013	13.12.2013.	BARCAROLE
	TANEIGLAT	24.04.2013	02.02.2020.	NOSTALGIE
Rubus subgenus Eubatus Moriferi et Ursini/ Blackberry	LOCH NESS	18.12.2012	19.12.2014.	
Rubus idaeus L./ Raspberry	FRUATFRI	05.02.2013	05.02.2038.	TULAMAGIC
	RAFZAQU	05.02.2013	05.04.2029.	HIMBO-TOP
	BRILLIANCE	05.02.2013	14.09.2029.	
Festuca rubra rubra/ Red fescue	REVERENT	05.02.2013	19.12.2015.	
Medicago sativa/ Alfalfa; Lucerne	PLATO	05.02.2013	22.05.2015.	
Zea mays L./ Corn; Maize	17INI30	05.02.2013	18.04.2027.	
	87DIA4	05.02.2013	06.08.2026.	
	MEF2195	05.02.2013	19.10.2034.	
	DK391	05.02.2013	16.02.2025.	
	DKC3511	05.02.2013	01.01.2027.	
	C3SUD402	05.02.2013	19.10.2034.	
	HCL4029	05.02.2013	05.02.2038	
	J0463Z	24.04.2013	28.02.2036	
	MEK6562	24.04.2013	24.04.2038	
Malus Mill./ Apple rootstock	M116	26.02.2013	30.06.2034	
Solanum tuberosum L./ Potato	SAGITTA	26.02.2013	13.06.2035	
	CHALLENGER	26.02.2013	08.05.2037	
	EVORA	26.02.2013	26.02.2043	
	CRISPS4ALL	26.02.2013	26.02.2043	
	FLAMENCO	26.02.2013	26.02.2043	
	COLOMBA	26.02.2013	26.02.2043	
	TAURUS	26.02.2013	21.01.2038	
	LUCINDA	26.02.2013	26.02.2043	
	SYLVANA	26.02.2013	13.02.2037	
	SIFRA	26.02.2013	13.02.2037	
	RONALDO	26.02.2013	26.02.2043	

	LEONARDO	24.04.2013	24.04.2043	
	MEMPHIS	24.04.2013	24.04.2043	
Glycine max/ Soybean	FAVORIT	24.04.2013	24.04.2038	
	TAJFUN	24.04.2013	24.04.2038	
	NS ALFA	24.04.2013	24.04.2038	
	NS VIRTUS	24.04.2013	24.04.2038	
	NS MAXIMUS	24.04.2013	24.04.2038	
	NS ZENIT	24.04.2013	24.04.2038	
	NS OPTIMUS	24.04.2013	24.04.2038	
Avena sativa L./ Oats	NS SIRIUS	24.04.2013	24.04.2038	
	NS JADAR	24.04.2013	24.04.2038	
	NS TARA	24.04.2013	24.04.2038	

#### 4. Activities for the promotion of plant variety protection

The Republic of Serbia has continued to participate in the Multi-beneficiary program of CPVO, as introduction to the Community plant variety rights system and administrative procedures regarding plant variety protection in the EU. In the frame of the "Multi-beneficiary Program on the Participation of Candidate Countries in the CPVO" representatives from Plant Protection Directorate participated on the:

- Seminar on DUS and VCU testing and listing of vine varieties, maintaining of vine varieties, bilateral agreement on vine varieties, September 11 to 12, 2012, Hasloch, Germany.
- Expert meetings in CPVO in Angers: for agricultural crops on October 11 to 12, 2012; for fruit on October 16 to 17, 2012; on the 16<sup>th</sup> Annual meeting between the CPVO and its examination offices on December 4 to 5, 2012; and on expert meeting for vegetable crops on December 5 to 6, 2012.
- Seminar on the Enforcement of Plant Variety Rights, May 30, 2013, Rome, Italy.
- Plant Variety Protection Course in the Wageningen University Centre, on June 17 to 28, 2013, in Wageningen, the Netherlands, for one expert for DUS from Fruit Institute in Cacak.

Representatives of Serbia took part at the Eighty-Fifth Session of the Consultative Committee and at Thirtieth Extraordinary Session of the Council of UPOV, held in Geneva on March 22, 2013.

## II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

Information related to plant breeders rights, as well as to registration of plant varieties (National List) are available on the web pages of the Ministry of Agriculture, Forestry and Water Management - Plant Protection Directorate

[http://www.uzb.minpolj.gov.rs/index.php?option=com\\_content&view=article&id=61&Itemid=14&lang=en](http://www.uzb.minpolj.gov.rs/index.php?option=com_content&view=article&id=61&Itemid=14&lang=en)  
[www.uzb.minpolj.gov.rs/index.php?lang=en](http://www.uzb.minpolj.gov.rs/index.php?lang=en)  
[www.sorte.minpolj.gov.rs](http://www.sorte.minpolj.gov.rs)  
[www.minpolj.gov.rs](http://www.minpolj.gov.rs)

### Plant genetic resources

The Republic of Serbia has ratified the International Treaty on Plant Genetic Resources for Food and Agriculture and has become a Contracting Party as of July 2, 2013. Serbia signed the Treaty in 2002. Treaty on PGR is a way to improve a close collaboration to strengthen conservation and the sustainable use of plant genetic resources in Serbia, and to facilitating its contribution to the Treaty as an international global mechanism governing food crops worldwide.

Serbia is also member of a number of other international treaties and commissions, including the Convention of Biological Diversity, the Cartagena Protocol on Biosafety, the FAO Commission on Genetic Resources for Food and Agriculture, the Bern Convention and the CITES Convention.

[Annex XXV follows]

I. PLANT VARIETY PROTECTION

Situation in the legislative field

- Extension of protection to further genera and species (made or planned):

On 6/2/2013 the Minister for Agriculture and Rural Development of Viet Nam issued Circular No 11/2013/TT-BNNPTNT on adding 21 genera and species in to the National list of genera and species protected in Viet Nam.

The detail of these genera and species we informed to the UPOV Office.

On 28/2/2013 the Minister for Agriculture and Rural Development of Viet Nam issued Circular No 16/2013/TT-BNNPTNT on Guiding for Plant Variety Protection based on the Decree No 88/2010/ND-CP of Government on the Decree details and guides a number of articles of the Law on Intellectual Property and the Law Amending and Supplementing a Number of Articles of the Law on Intellectual Property regarding rights to plant varieties.

Activities for the promotion of plant variety protection

In 2012-2013 with support from JICA project and other resources Viet Nam continued to organize workshop, seminar, and talking on plant variety protection for the local government staff, companies, breeders, institutes, universities and seed centers in provinces.

[End of Annex XXV and of document]