



CAJ/72/2 Add.
ORIGINAL: English
DATE: October 27, 2015

INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

Geneva

ADMINISTRATIVE AND LEGAL COMMITTEE

Seventy-Second Session
Geneva, October 26 and 27, 2015

ADDENDUM TO DOCUMENT CAJ/72/2

DEVELOPMENT OF INFORMATION MATERIALS CONCERNING THE UPOV CONVENTION

Document prepared by the Office of the Union

Disclaimer: this document does not represent UPOV policies or guidance

The Annex to this document contains a presentation made by the European Union on its system concerning essentially derived varieties, at the seventy-second session of the Administrative and Legal Committee (CAJ).

[Annex follows]



Essential Derived Varieties (EDVs) under the Community Plant Variety Rights (CPVR) system

Seventy-second session of the UPOV Administrative and Legal Committee
Geneva, 26 and 27 October 2015

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Applicable legal provision

- Art. 87(2)(h) Regulation (EC) No 2100/94 (Basic Regulation)
- The Register of CPVRs shall contain the following particulars:

The identification of the varieties as initial and essentially derived including the variety denominations and the names of the parties concerned.



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Preliminary remarks

- The CPVO does not conduct an examination concerning the information entered into the Register of CPVRs supporting the claim that a variety is an EDV from an already protected variety.



Conditions under which EDVs will be registered in the Register of CPVRs

- EDVs which are not protected or for which no application for registration is pending can be entered into the Register provided the initial variety is registered with the CPVO (Art. 13.5.a Basic Regulation) and where this variety is not itself an essentially derived variety.
- If the EDV is protected itself, the information that it is an EDV of a protected initial variety can also be entered in the Register of CPVRs.



Information to be provided to the CPVO

- Identification of the varieties as initial and essentially derived (act of derivation),
- A proposal for a suitable denomination pursuant to Article 63 of Regulation 2100/94, and
- The characteristics in which the EDV is distinct from the initial variety.



Information to be provided to the CPVO

- A declaration that the EDV is a variety within the meaning of Article 5 of Regulation 2100/94.
- If it exists, an official description of the EDV.



Who can make the request for entry in the Register of CPVRs

- In case the request is made by the titleholder of the initial variety and the breeder of the EDV, such request shall show signatures of both parties (in fact the request must be made by 2 different parties).



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Who can make the request for entry in the Register of CPVRs

- In case the request was made by only one person, the acknowledgement signed by the other party pursuant to Art. 99 of the basic Regulation or the final decision or judgment (for instance from a national court by means of a declaratory judgment) which contains an identification of the varieties concerned.



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Case where the entry of an EDV in the Register will be refused

- Where the holder of the initial variety and the breeder of the EDV are the same (natural or legal) person, the EDV will not be registered.



Appeals against decisions not to register an EDV

- Decisions not to register particulars of an EDV into the Register of CPVRs can be subject to appeal pursuant to Art. 67 Basic Regulation as they refer to entry of information in the Register under Art. 87 Basic Regulation.



Number of EDVs entered in the Register - Chapter 12 of the Official Gazette

- 30 requests.
- 25 registered and published.
- 5 not registered nor published.

