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DATE: September 20, 2012

INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS

Geneva

COUNCIL**Forty-Sixth Ordinary Session
Geneva, November 1, 2012****REPORTS BY REPRESENTATIVES OF MEMBERS AND OBSERVERS
ON THE LEGISLATIVE, ADMINISTRATIVE AND TECHNICAL FIELDS***Document prepared by the Office of the Union*

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 XVI: Germany, Australia, Belarus, Belgium, Kenya, Latvia, Lithuania, Mexico, New Zealand, Poland, Republic of Moldova, Czech Republic, Romania, Switzerland, Ukraine and European Union.

Observer: Annex XVII: Serbia
3. Reports received after September 14, 2012, will be included as an addendum to this document, which will be published after the Council session.

[Annexes follow]

GERMANY

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

Nothing to report.

2. Cooperation in examination

Nothing to report.

3. Situation in the administrative field

Nothing to report.

4. Situation in the technical field

Nothing to report.

5. Activities for the promotion of plant variety protection

During the reporting period, we have received delegations from France, Ukraine, Saudi Arabia, Japan, China, Poland, Turkey and Belarus.

II. RELATED FIELDS

Nothing to report.

[Annex II follows]

AUSTRALIA

The format of this report follows that specified in previous years and briefly records information for the financial year ending 30 June 2012.

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

The *Plant Breeder's Rights Act 1994* (the PBR Act) was amended by way of the *Intellectual Property Laws Amendment (Raising the Bar) Act 2012* (No.35, 2012) to remove a transcription of the 1991 UPOV Convention from the schedule and to replace it with a link to the Australian Treaties Series Library so as to ensure that the official UPOV text, as in force for Australia, is used. Consequential changes to definitions (authority, territory and variety) were also included to confirm that existing wording had the same meaning as the Convention. A compiled version of the PBR Act is available at: http://www.comlaw.gov.au/Details/C2012C00467/Html/Text#_Toc325637592

1.1 PBR Regulations have been amended by way of:

Intellectual Property Legislation Amendment Regulations 2011 (1) [SLI 2011 No.62] and *Intellectual Property Legislation Amendment Regulations 2011 (2)* [SLI 2011 No.217]:

1.1.1 From 1 July 2011 provision 3F was elaborated to extend the range of senior Commonwealth employees who can declare days when the PBR Office is taken "not to be open for business".

Intellectual Property Legislation Amendment Regulations 2012 (1) [SLI 2011 No.66]:

1.1.2 Fee changes: Some fees were increased from 1 July 2012 while other increases will come into effect from 1 October 2012. Not all services provided under the PBR Act were affected.

1.1.3 On-line filing. A new provision was added (3(1) and 4F) to specify an "approved means" of lodging applications and making other requests. When applications are progressed using an approved means, they qualify for the lower fees established in 1.1.2 (above).

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

1.3 PBR case law: *Elders Rural Services Australia Limited v Registrar of Plant Breeder's Rights*. The action focused on a single potato variety ('Nadine') and to the statutory construction of the transitional provisions between the previous *Plant Variety Rights Act 1987* (the PVR Act) and the current *Plant Breeder's Rights Act 1994*, specifically whether the duration of a grant of rights made under the PBR Act in respect of an application made under the PVR Act but not fully processed at the time the current Act came into force, enjoys a term of protection calculated from the date of acceptance or a term of protection calculated from the date of grant. The case was complicated by the imprecise wording of the transitional provisions.

In 2011 the primary judge found in favor of the Registrar (i.e. ruling that the term of protection should be calculated from the date of acceptance).

However on appeal, the Full Court of the Australian Federal Court, overturned the decision of the primary judge and ruled that the grant to 'Nadine' was made under the PBR Act and that the duration of protection should be calculated from the date of grant.

This decision affects not only 'Nadine' but a small number of other 'transitional' varieties. Consequently the term of protection and corrected certificates have been issued to 117 varieties in total. Public notices have been published in the Australian *Plant Varieties Journal*.

The decision on *Elders Rural Services Australia Limited v Registrar of Plant Breeder's Rights* [2012] FCAFC 14 is available from: <http://www.austlii.edu.au/au/cases/cth/FCAFC/2012/14.html>

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 investigations to assess the feasibility of further cooperation were progressed.

3.&4. Situation in administrative and technical fields

The Australian PBR office has an accreditation system for 37 establishments to act as Centralised Test Centres (CTCs) for DUS testing for one or more plant types. Three new plant types were added in 2011/12 (Lomandra, Anigozanthos and Aloe).

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) 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	305	264	
Total 1988 to 2012*	7,141	5,875	1,266

*= as at 30 June 2012

5. Activities for the promotion of plant variety protection

IP Australia has been involved in the following promotional activities:

- “Plant Variety Protection according to the UPOV Convention”, WIPO-QUT Masters of Intellectual Property Law course, Queensland University of Technology, Brisbane, 21 July 2011;
- “The Impact of Plant Variety Protection under the UPOV Convention”, WIPO-QUT Masters of Intellectual Property Law course, Queensland University of Technology, Brisbane, 21 July 2011;
- “The UPOV Convention and Other International Treaties”, WIPO-QUT Masters of Intellectual Property Law course, Queensland University of Technology, Brisbane, 23 July 21 July 2011.

[Annex III follows]

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

1.1 Amendments of the law and the implementing regulations

A new Patent Law is being considered by the Council of Ministers of the Republic of Belarus. It will be approved in 2013. In accordance with Additions to the Tax Code which are considering by the Council of Ministers of the Republic of Belarus uniform rates of patent fees for residents and non-residents will be fixed.

1.2 Extension of protection to further genera and species

Under the Article 3-2(ii) of the UPOV Convention Belarus will start protecting of all plant genera and species in 2013.

2. Cooperation in examination

Belarus has concluded new agreements with Ukraine, Germany and Poland. New agreements with Russia are planned to be concluded soon.

3. Situation in the administrative field

– Changes in the administrative structure

Director of Inspection: Mr. Beinia Vladimir Alexandrovich
Head of DUS testing department: Mrs. Savchenko Tatsiana

– Changes in office procedures and systems

4. Situation in the technical field

DUS testing (two replications) is carried out at 2 trials stations within 2 years.

5. Activities for the promotion of plant variety protection

– Visits to and from non-members States and organizations

Belarus supports Kazakhstan and Serbia (information, consultation, providing with guidelines, trials demonstration)

– Publications

Patenting of plant varieties in the Republic of Belarus, 5 research papers

II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

Regulations to include varieties of horticultural crops (fruit and berry) into the National List of varieties and woody-shrub species were approved by Deputy Minister for Food and Agriculture of the Republic of Belarus.

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

Adaptation to the 1991 Act of the Convention

The Law on the Protection of Plant Varieties of January 10, 2011 adapts the plant variety protection regime to the 1991 UPOV Convention. The Law shall enter into force on a date to be set by the King.

Implementing Royal Decrees are currently being drawn up, preliminary drafts of which are to be submitted to the professional sectors concerned for consultation in the very near future.

However, access to plant variety protection in accordance with the 1991 Act remains possible in Belgian territory in light of the European Regulation in force in that regard, via the Community Plant Variety Office (CPVO).

2. Cooperation in examination

No changes.

3. Situation in the administrative field

– Changes in the administrative structure

No changes.

– Volume of activities – situation as at August 31, 2012

Between the date of the implementation of the legislation on plant variety protection in Belgium and August 31, 2012, 2,254 applications for protection were registered and 831 certificates were issued, of which 145 remain in force.

II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

1. National catalogues of varieties

Transposition of Directive 2011/68

- Ministerial Order of October 25, 2011 amending Annexes I and II of the Order of the Flemish Government of April 27, 2007 as regards the characteristics to be covered as a minimum by the examination and the minimum conditions for examining certain varieties of agricultural plant species and vegetable species.
- Ministerial Order of September 30, 2011 replacing Annexes I and II of the Order of the Walloon Government of May 27, 2004 on testing for the inclusion of varieties of agricultural plant and vegetable species in the national catalogue.

Transposition of Directive 2012/8

- Ministerial Order of June 8, 2012 amending Annexes I and II of the Order of the Flemish Government of April 27, 2007 as regards the characteristics to be covered as a minimum by the examination and the minimum conditions for examining certain varieties of agricultural plant species and vegetable species.
(As yet unpublished for the Region of Wallonia)

2. Control of seeds and seedlings – certification

Transposition of Directive 2010/60

- Ministerial Order of October 20, 2011 providing for certain derogations for marketing of fodder plant seed mixtures intended for use in the preservation of the natural environment.
- Ministerial Order of August 23, 2011, introducing certain derogations for marketing of fodder plant seed mixtures intended for use in the preservation of the natural environment.

Transposition of Directive 2012/1

- Ministerial Order of April 26, 2012 amending Annex I of the Order of the Flemish Government of December 16, 2005 regulating the marketing and control of cereal seed.
- Ministerial Order of June 7, 2012, amending the Order of the Walloon Government of February 9, 2006 on the production and marketing of cereal seed.

Regulations on seed inspection

- Ministerial Order of May 21, 2012 amending the Ministerial Order of June 21, 2010 regulating the control and certification of seeds of agricultural plants and vegetables.

3. Legislation on the release and marketing of GMOs

- Order of the Flemish Government of November 10, 2011 establishing specific measures for the co-existence of genetically modified, conventional and organic sugar beat crops.
- Order of the Flemish Government of November 10, 2011 establishing specific measures for the co-existence of genetically modified, conventional and organic potato crops.

[Annex V follows]

I. PLANT VARIETY PROTECTION

1.1 Situation in the Legislative field

The national Plant Variety Protection (PVP) in Kenya is provided under the Seeds and Plant Varieties Act (CAP 326) of 1972, which became operational in 1975 and was revised in 1991. Official regulations to guide the implementation of PVP service were put in place in 1994 and the office to administer the PVP was established in 1997 and has functioned under Kenya Plant Health Inspectorate Service (KEPHIS) since 1998. Kenya acceded to UPOV under the 1978 Convention on 13th May 1999, a revised draft of the legislation, which recognizes the 1991 Act of the UPOV convention has been done and is under final endorsement by the Parliament. Upon completion of this process, and with guidance of the UPOV Office, Kenya will accede to the 1991 Act of the UPOV Convention so as to empower the plant breeding and farming community recoup the benefits enshrined in this 1991 Act such as longer minimum duration of protection, strengthened Breeders' Rights, interim protection (Provisional Protection) and clarity in definition of the one entitled to protection "Breeder" and the subject matter of protection "Variety".

1.2 Extension of protection to further genera and species

Kenya extends Plant Variety Protection to all plant genera and species, other than algae and bacteria. At the moment, a total of sixty-one (61) taxons of selected plant species have been registered for protection in the country.

1.3 Case law

Under the Kenyan Seeds and Plant Varieties Act (Plant Breeders Rights) applications for Plant Breeders Rights are required to be published in the Kenya gazette, to allow those opposing any applications or grant of rights, to make the objections and make representations to the Authorized Officer – KEPHIS. The Authorized Officer determines the hearing of such representations but any applicant aggrieved by the decision of the Authorized Officer may appeal to the Seeds and Plants Tribunal and if further aggrieved by the decision of the Tribunal, final appeal to the High Court.

From the time of inception of the PVP service Kenya, a total of forty-eight (48) applications for PBRs have been contested. Out of these cases, thirty-one (31) applications have been heard and determined by the Authorised Officer. Hearing of representations for the remaining cases for seventeen (17) applications is ongoing. So far there has been no case that has been challenged through the Tribunal.

2. Cooperation in Examination

As per UPOV Article 32 on Special Agreements, The PVP office in Kenya has entered into international cooperation with other UPOV Member States and Intergovernmental Organizations in the utilization of the existing Distinctness, Uniformity and Stability (DUS) examination reports notably:

- European Community – Community Plant Variety Office
- Raad Voor Plantrassen (Board for Plant Varieties) – Netherlands
- The Plant Breeders' Rights Council – Israel
- Commissioner of Plant Variety Rights – New Zealand
- The registrar, National Department of Agriculture – South Africa
- Bundessortenamt – Germany

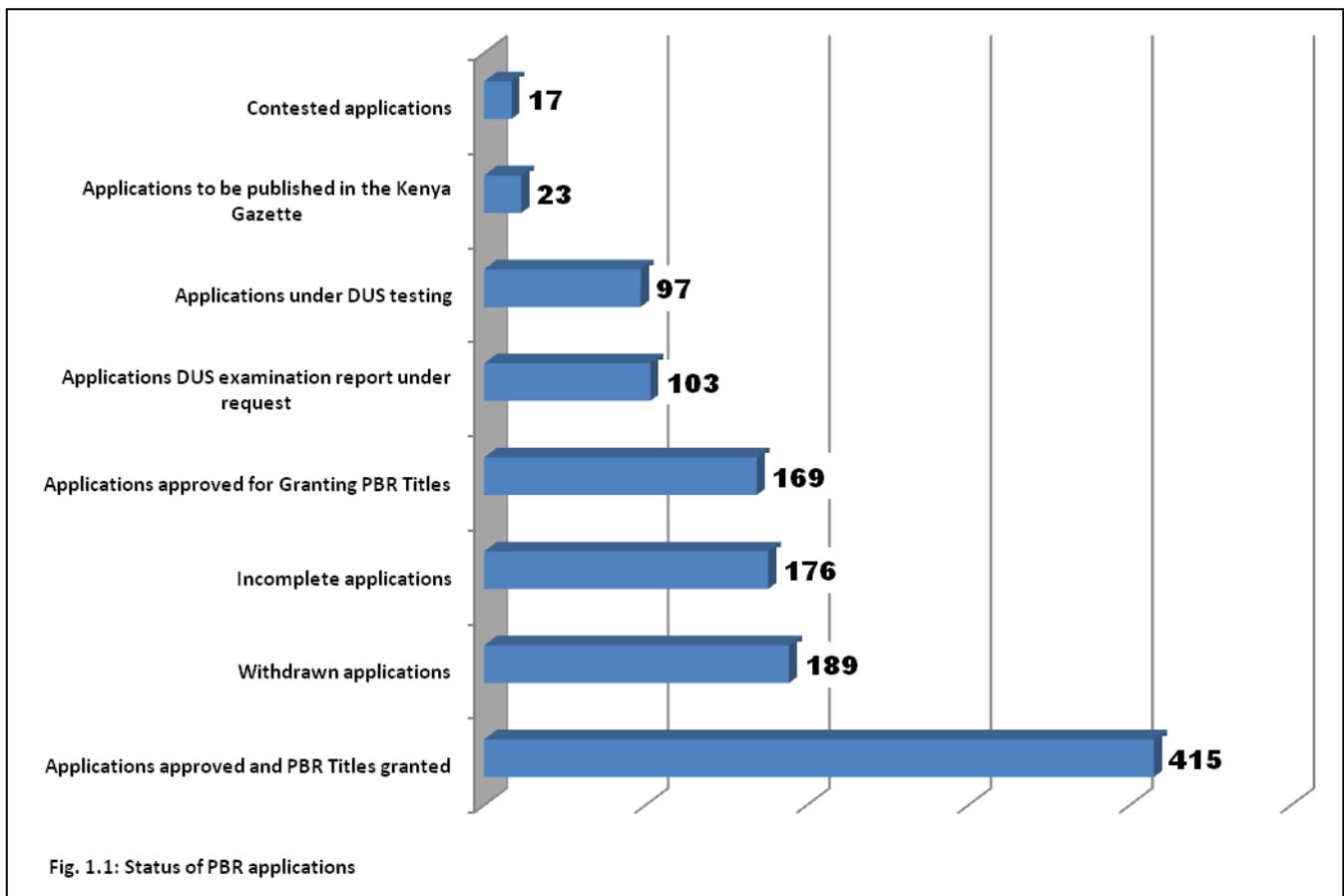
3. Situation in the Administrative fields

The administrative structure, office procedures and systems within the PVP office in Kenya remains the same. All correspondences need to be addressed to:

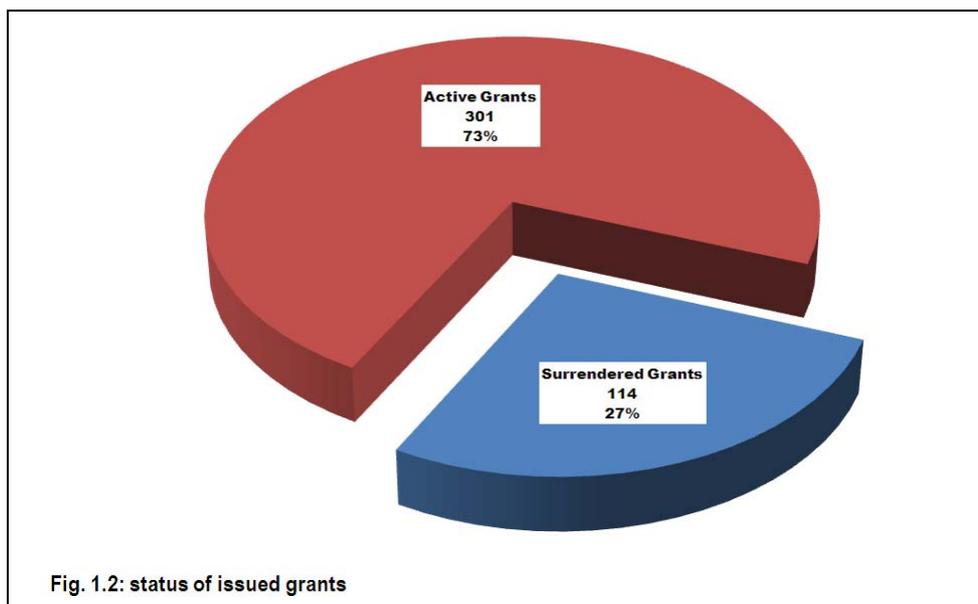
The Managing Director
Kenya Plant health Inspectorate Service
Headquarters, Oloolua Ridge, Karen
P. O. Box 49592-00100, Nairobi
Tel. +254 20 3597201 or +254 20 3597203
Cell: +254 723 786 779 or +254 733 874 141
e-mail: director@kephis.org
website: www.kephis.org

4. Situation in the Technical field

Since the inception of the PVP office in Kenya, a total of 1,189 applications for Plant Breeders' Rights have been received. Figure 1.1 below shows the status of such applications.



Reasons for withdrawn applications by the breeders include reduced interest in a variety by consumers and availability of better varieties to the breeder. Those applications either not meeting the novelty requirement and / or fail the DUS testing are withdrawn by the authorized officer – KEPHIS. The incomplete applications are either due to missing supportive documents that must accompany the application or due to non-payment of the application fee by the applicant. Applications approved for granting of PBR titles are those DUS examination report has been finalized and confirmed to be positive but awaits payment of grant for PBR certificate fee by the applicant. The date of payment of this fee becomes the official commencement date of protection of that variety in Kenya. To date, the total number of PBR Grants awarded is 415. Figure 2 shows the status of such granted titles.



The Office is in the process of domesticating most of the UPOV DUS test guidelines into National DUS testing Protocols.

5. Activities for the promotion of Plant Variety Protection

The PVP office in Kenya has been actively involved in a number of activities for the promotion of Plant Variety Protection in the Country and within the Africa region. Some of these promotional activities includes:

- Dissemination seminars on awareness creation on PVP services in the country. These seminars targets national agricultural research institutions, universities, policy makers, agricultural extension staff as well as the larger farming communities.
- The office has been instrumental in the development and launch of the seed policy in the country and in the development of institutional Intellectual Property (IP) Policy for various institutions.
- Within the region, the office has been instrumental in terms of technical assistance in the establishment of the PVP office in the United Republics of Tanzania and Zambia.
- The office has also offered DUS expertise in training of delegates from African Seed Trade Association (AFSTA), Association for strengthening Agricultural Research in Eastern and Central Africa (ASARECA), Burundi and Somalia.
- The office is also taking lead in the harmonization of variety testing within the East Africa cooperation.
- The office is also part of the drafting team developing the PVP legal framework for African Regional Intellectual Property Organisation (ARIPO).

[Annex VI follows]

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) - The Designation Agreement between Examination Office (State Plant Protection Service) and Community Plant variety Office is not into force since 1st of January 2011.

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

DDS test was carried out for Estonian fruit varieties:

- *Malus domestica* Borkh. - 3 varieties;
- *Prunus avium* L. - 1 variety;
- *Pyrus communis* L - 2 varieties.

DDS test was carried out for Latvia:

- *Malus domestica* Borkh. - 5 varieties;
- *Pyrus communis* L - 3 varieties;
- *Ribes uva-crispa* L. - 1 variety;
- *Chaenomeles japonica* L. - 3 varieties.

5. Activities for the promotion of plant variety protection

During the last year participant from Latvia took part at the following events:

- On February 16, 2011 at the meeting of the Administrative Council of the Community Plant Variety Office (CPVO) in Brussels, Belgium;
- On June 22 and 23, 2011 at the meeting of the Administrative Council of the Community Plant Variety Office (CPVO) in Angers, France
- On November 15 and 16, 2011 at the meeting of the Administrative Council of the Community Plant Variety Office (CPVO) in Angers, France ;
- On December 1 and 2, 2011 at the Annual meeting between the CPVO and Examination offices in Angers, France.

II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

Nothing to report.

LITHUANIA

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 19th of October, 2006 (Official Journal, 2006, No 118–4453) and last amended on 26th of April, 2012 (Official Journal, 2012, No 53-2643);
- Regulation No 1458 of the Government of the Republic of Lithuania of the 15th 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 8th 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 23rd 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 the 26th 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 11th of August, 2000, with the Polish Research Centre for Cultivar Testing regarding performing DUS tests will be amended in 2012;
- Agreement No 10 with Bundessortenamt (Federal Office of Plant Varieties), Germany, regarding transmission of the results on technical examination for DUS tests of the 30th of June, 2006, has been amended on the 18th of October, 2010, by the agreement No 19T-98.

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 as well legal protection;
- The Commission for Evaluation of Applications for Variety Protection has been approved by the Order No. A1-141 of the Director of the State Plant Service under the Ministry of Agriculture on the 6th of May, 2011;
- 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 the bilateral agreement of the 11th of August, 2000, or in other competent authority of the European Union by the breeders' request.

5. Activities for the promotion of plant variety protection

- On the 16th of February, 2011, Lithuania participated at the meeting of the Administrative Council of the Community Plant Variety Office (CPVO) in Brussels, Belgium;
- From the 30th to the 31st of May, 2011, Lithuania participated at the European Council meeting in Brussels, Belgium;
- On the 17th of June, 2011, Lithuania participated at the European Council meeting in Brussels, Belgium;
- From the 22nd to the 23rd of June, 2011, Lithuania participated at the meeting of the Administrative Council of the Community Plant Variety Office (CPVO) in Angers, France;
- From the 15th to the 16th of October, 2011, Lithuania participated at the meeting of the Administrative Council of the Community Plant Variety Office (CPVO) in Angers, France;
- From the 18th to the 22nd of October, 2011, Lithuania participated at the meeting of the Consultation Committee and Council of the International Union for the Protection of New Varieties of Plants (UPOV) as well as at the Symposium on Plant Breeding for the Future;
- Information Bulletin on Plant Breeder's Rights and National List of Plant Varieties No 1 (15) of the State Plant Service under the Ministry of Agriculture of the Republic of Lithuania was published on the 7th of January, 2011, and No 2 (16) – on the 21st of June, 2011.

II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

The Lithuanian National List of Plant Varieties 2011 has been approved by the order No A1-47 of the Director of the State Plant Service under the Ministry of Agriculture of the Republic of Lithuania on the 28th of February, 2011. 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 VIII follows]

MEXICO

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field1.1 Amendments of the law and the implementing regulations– Adaptation to the 1991 Act of the Convention

No direct changes to the legislation on the protection of plant varieties.

– Other amendments, including in respect of fees

The fees relating to the various payments involved in the processing of applications for a breeder's certificate in Mexico remained the same throughout the 2008 to 2011 period, before being amended in 2012 as follows:

Service	Amount (\$1 USD = \$13 MX)			
	2011		2012	
	\$MX	\$USD	\$MX	\$USD
Examination and processing of the application for protection of breeder's rights.	11,778.37	906.03	13,204.73	1,015.75
Issue of record of filing	626.38	48.18	702.23	54.02
Issue of breeder's certificate	5,763.76	443.37	6,461.75	497.06
Recognition of priority rights	626.38	48.18	702.23	54.02
Change of denomination	1,591.25	122.40	1,783.95	137.23
Registration of assignment of protection rights	1,113.70	85.67	1,248.57	96.04
Per certified copy of the certificate	318.07	24.47	356.59	27.43
Registration of total or partial assignment of rights	585.00	45.00	631.45	48.57
Copy of the description of the protected variety.	318.11	24.47	356.63	27.43
Submission of corrections or additional information for reasons attributable to the user	206.69	15.90	231.72	17.82
Annual approval of certificate protecting plant breeder's rights	2,458.04	189.08	2,755.71	211.98

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

No changes. Mexico's Federal Law on Plant Varieties is in accordance with the 1991 UPOV Act, however, ever since its enactment, this Law has offered protection to all plant genera and species.

1.3 Case law

No changes.

2. Cooperation in examination– Conclusion of new agreements (completed, in progress or planned):

No changes.

– Amendment of existing agreements (completed, under way or planned):

The agreement between the Community Plant Variety Office (CPVO) and the National Seed Inspection and Certification Service (SNICS) remains in force. Under this agreement, DUS testing on varieties of avocado is

carried out in Mexico on behalf of CPVO; indeed, such work is currently being performed with regard to five varieties.

3. Situation in the administrative field

– Changes in the administrative structure

In 2012, work was carried out to consolidate a project to restructure SNICS, making it possible to increase operational capacity in the technical, legal and administrative spheres within the service responsible for the registration of plant varieties in Mexico.

In 1996, work began to provide protection for varieties under the UPOV system. The number of staff assigned to carry out this task fluctuated between one and five people from 1996 to 2010.

As of June 2011, the number of staff directly involved in the process of registering varieties rose to 13, together with support from the SNICS legal unit, made up of six legal experts, which made it possible to improve standards in terms of efficiency, thus directly benefitting national and international breeders, as well as society as a whole.

– Changes in office procedure and systems

In July 2012, a system was implemented (trial period) that is designed to allow users to view the status of plant varieties being processed for registration in Mexico. Information relating to the progress of applications for a breeder's certificate and for registration in the National Catalogue of Plant Varieties (National List of Commercial Varieties) may be viewed. Those wishing to use the system may do so from any Internet access point by entering the following log-in details: user-name - "snics", and password - "snics".

Any feedback provided by the member countries, observers and general public concerning the workings of the system would be appreciated.

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

The number of species for which at least one application for a breeder's certificate is currently being processed now stands at 105, thereby boosting learning and the generation of knowledge concerning new technical aspects. Notably, there has been an increase in the number of horticultural and, in some cases, forest species.

5. Activities for the promotion of plant variety protection

– Meetings, seminars, etc.

The VIII International Workshop on the Evaluation of Distinctness, Uniformity and Stability of Plant Varieties was held from August 28 to 31. Five government officials attached to the departments responsible for the registration of varieties in Brazil, Ecuador, Nicaragua and the Dominican Republic (two participants) took part. Around 45 people from Mexico participated in the workshop, most of whom were from those regions of the country where training will have an impact on various crops of national and international interest.

– Technical assistance

In December 2011, with the financial support of the Food and Agriculture Organization of the United Nations (FAO), SNICS took part in the seminar-workshop "The Situation with regard to Phyto-genetic Resources and their Importance in terms of Honduras' Food Security". The seminar-workshop, held in Tegucigalpa, Honduras on December 14, 2011, was organized at the request of the Alliance of Organizations of Organized Civil Society with the aim of providing clarification concerning the international legal framework relating to seeds, breeder's rights and phyto-genetic resources.

II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

September 2011 saw the publication in the official organ of the Mexican Government (Official Journal of the Federation) of the Regulations under the Federal Law on Production, Certification and Trade in Seeds (Seed Law), enacted in 2007. Among other things, these Regulations complement and provide support for registration in the National List of Commercial Varieties, with special emphasis on those varieties for which the period of protection for the breeder's right has expired, or which have been preserved by rural communities through their practices, uses and customs, known in Mexico as commonly-used varieties. The Regulations also establish a legal basis for encouraging order in relation to productive activity linked to the mass propagation of varieties. More specifically, under the Regulations, inclusion in a catalogue of authorized *mantenedores* (natural persons or legal entities approved and authorized by the authorities to maintain the relevant characteristics of plant varieties and to preserve their genetic identity) is compulsory. This obligation is closely linked to the fact that, in the case of protected varieties, producers and *mantenedores* must prove that they are acting with the lawful authorization of the breeder, as also stipulated by the Seed Law.

[Annex IX follows]

NEW ZEALAND

I. 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 and supply to member states, for certain species on an as requested basis, under the general provisions of the Convention.

3. Situation in the administrative field

During the financial year ended 30 June 2012, 119 applications for plant variety rights were accepted (40 fewer than the previous year), 120 grants were issued (33 more than the previous year) and 126 grants were terminated (35 more than the previous year). At 30 June 2012 there were 1249 valid grants (6 fewer than the previous year).

The Office will introduce a new information technology system and on-line applications in December 2012. Plant Variety Rights homepage can be found at: <http://www.iponz.govt.nz/cms/pvr>

4. Situation in the technical field

A new examiner for agriculture and vegetable varieties was appointed in July 2012 to fill the vacancy left by the reassignment of that examiner to another role in the Intellectual Property Office of New Zealand.

Associated with the formal recording of Office processes and practices, the testing practice for specific genera continues to be documented. This year's focus has been on the testing of agricultural species.

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 near completion and has relied on wider industry cooperation. The siting of DUS trials on applicants properties will continue for the foreseeable future.

An agreement has been confirmed with the New Zealand Avocado Industry Council (AIC) for the DUS testing of avocado varieties utilizing AIC experts and the germplasm and variety collection.

The Test Guideline for *Actinidia*, with New Zealand as the leading drafter, was adopted and published by UPOV earlier in 2012. New Zealand is currently the leading drafter for the test guidelines for *Hebe* in the TWO and *Acca* in the TWF.

In cooperation with the United Kingdom, a project to correlate the flowering date of certain European bred varieties of ryegrass tested in New Zealand and certain New Zealand bred varieties tested in Northern Ireland has concluded with the exchange of data. The results will be used to improve the grouping of varieties for testing in both authorities and more clearly define an early or late ryegrass variety in Northern Ireland and in New Zealand.

5. Activities for the promotion of plant variety protection

New Zealand provided a DUS testing advisor for the Meeting for Harmonization of Test Guideline (TG) for oil palm in Bangi, Selangor, Malaysia 18-20 January 2012. The meeting was part of the program of activity for the East Asian Plant Variety Protection Forum.

New Zealand hosted two staff of the Intellectual Property Division of MAFF Japan for several days in February 2012. The visitors took photos of ornamental species and collected information relevant to the testing of several New Zealand native plant species.

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 X follows]

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.

The recent amendments to provisions in force have been introduced by the Act of July 1, 2011 amending the Act on the Legal Protection of Plant Varieties (POJ No 186/2011, item 1099). This Act entered into force on September 21, 2011.

The most important amendments apply to the provisions related to the exceptions to the breeder's right. The number of species for which the farmers can take the advantage of the agricultural exemption (farmer's privilege) has been extended from 8 to 17.

Moreover, the parameters describing a definition of a "small farmer" have changed. Currently, there is no necessity to pay the remuneration to the breeder in case of holders of agricultural land up to 10 ha for potato varieties and up to 25 ha for varieties of the remaining 16 species. Besides, the breeder's organization is now entitled to collect the remunerations for the breeder's benefit.

2. Cooperation in examination

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

Poland has 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 (5 varieties), Lithuanian (51 varieties), Estonian (11 varieties), Croatian (7 varieties), German (1 variety), French (1 variety), Slovenian (1 variety), Czech (21 varieties) and Hungarian (3 varieties) authorities as well as for the CPVO (8 varieties). These tests were done for different species of agricultural (85 varieties), vegetable (4 varieties), ornamental (12 varieties) and fruit (8 varieties) plants. Altogether, 109 varieties were tested as a commissioned work for these authorities.

As in previous years, some authorities, namely: the CPVO, Russia, Estonia, Romania, Croatia, Lithuania, Serbia, Belarus, Turkey, Slovakia, Finland and Slovenia 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.

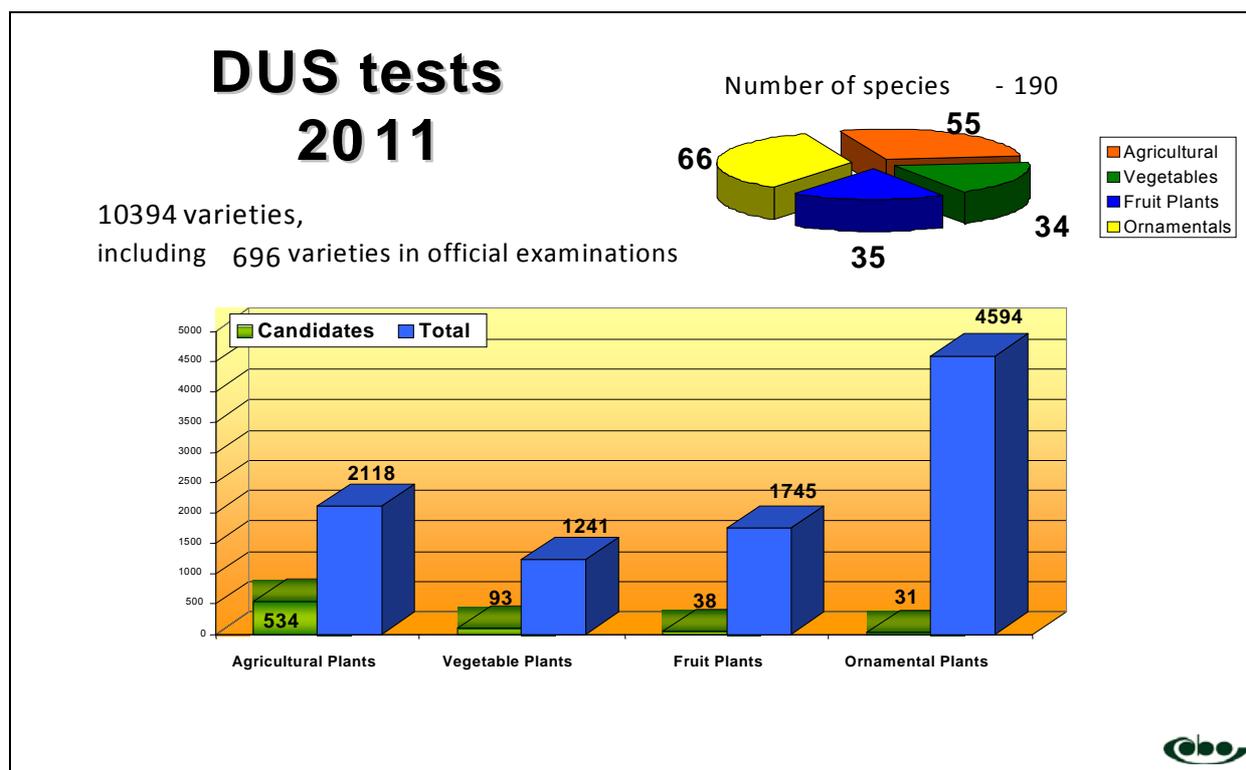
3.&4. Situation in the administrative and technical fields

COBORU variety testing activities in the field of DUS are done in 13 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 2011, 10,394 varieties within 190 plant species were tested (which included 9,698 varieties in reference collections and 696 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 2011



In 2011, COBORU received 70 applications for national PBR protection in total, which in comparison with the previous year (79) represents a slight decrease.

From January 1 to September 1, 2012, 56 new applications, including 50 domestic and 6 foreign, have been submitted for national PBR. This number is higher by 6 applications than that observed in the previous reporting period (50).

In 2011, COBORU granted 61 titles of national protection. At the end of 2011, there were 1,280 national PBR titles in force, which comparing to the previous year represents a decrease by 51 varieties.

In the reporting period (from January 1 to September 1, 2012), 75 titles of PBR protection have been granted. In total, 1,302 varieties are protected in Poland (as on Sept. 1, 2012).

Details on the statistics are given in the table.

In the column "Titles having ceased", 10 varieties for which - within the reported period - national PBR expired have also been included.

Species	Applications for PBR 1.01. – 1.09.2012			Grants of PBR 1.01. – 1.09.2012			Titles having ceased	Titles in force as on 1.09.2012
	domestic	foreign	together	domestic	foreign	together		
Agricultural	32	2	34	41	2	43	22	651
Vegetables	1	-	1	4	-	4	6	263
Ornamentals	11	4	15	10	8	18	20	259
Fruit plants	6	-	6	10	-	10	4	129
Miscellaneous	-	-	-	-	-	-	1	0
Total	50	6	56	65	10	75	53	1302

5. Activities for the Promotion of Plant Variety Protection

Representatives from Poland participate in the sessions of the UPOV organs and in the Technical Working Parties as well as in the Standing Committee on CPVR meetings, DG SANCO, Brussels and in the CPVO Administrative Council meetings.

Four examiners from Poland have successfully completed the UPOV Distance Learning Course "Introduction to the UPOV System of Plant Variety Protection under the UPOV Convention".

Meetings, seminars, etc.

On September 29, 2011, the 45th anniversary of the COBORU establishment combined with the 60th anniversary of our Experimental Stations for Variety Testing activity, were celebrated in COBORU headquarters in Słupia Wielka.

On October 11, 2011, the COBORU Director General participated in the conference, organized by the European Commission (DG SANCO) in cooperation with the Polish Presidency, entitled: "EU Plant Variety Rights in the 21st Century". He gave a speech related to the coexistence in our country of national and community plant variety protection systems. The results of the evaluation of the EU legislation on CPVR were discussed during the session.

On October 21, 2011, the European Commission in cooperation with the Polish Presidency and the CPVO organized in Geneva, within the framework of the 50th anniversary of the UPOV Convention, the Lunch Seminar on "15 years of supranational cooperation in plant variety protection: the European experience". The COBORU Director General gave there the presentation: "National systems and a regional plant variety right system run in parallel".

From June 24 to 28, 2012, COBORU organized a workshop for six experts from the State Inspection for Testing and Protection of Plant Varieties of the Republic of Belarus. Its aim was a training in the organization of the official fruit plant varieties assessment and the systems of national listing and granting PBR protection in Poland. The Belarusian colleagues visited COBORU headquarters in Słupia Wielka as well as our Experimental Stations in Zybiszów and Masłowice. They were acquainted with the practical aspects of running of experiments with this group of plants.

Visits

From September 6 to 10, 2011, COBORU hosted a delegation of three representatives from the State Inspection for Testing and Protection of Plant Varieties of the Republic of Belarus. The meeting was devoted to exchanging of views and information on changes and transformation related to the varieties examination, listing and legal protection which were recently done in PL and BY as well as the prospective plans, including these connected with the perspective of mutual cooperation. Additionally, they visited the Experimental Stations for Variety Testing in Słupia Wielka, Zybiszów and Masłowice.

On June 6, 2012 two representatives from France (GEVES and INRA) paid us a visit. During the meeting the views on foreseen changes related to the varieties examination, listing and legal protection resulting from the evaluation of the EU legislation were exchanged. Moreover, some aspects of possible mutual cooperation between COBORU and GEVES were discussed. Additionally, the guests visited the Experimental Station for Variety Testing in Słupia Wielka, including an inspection of field experiments.

From July 1 to 6, 2012, COBORU was visited by a delegation of nine representatives from the State Plant Service under the Ministry of Agriculture of the Republic of Lithuania. The guests have been acquainted with the COBORU organization and activities, operation of the Polish plant variety protection and national listing systems, the rules of conducting of the official examinations in our country as well as the varieties recommendation into practice. The negotiations related to mutual cooperation, including DUS tests performance service for Lithuania, were conducted. Additionally, the guests visited the Experimental Stations for Variety Testing in Słupia Wielka, Zybiszów, Śrem, Chrzastowo and Wróćikowo.

Publications

Every two months COBORU issues the *Polish Gazette for Plant Breeders' Rights and National List* (Diariusz), which contains detailed information referring to 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, 2012, has been published in the third number of the *Polish Gazette for Plant Breeders' Rights and National List* /No 3(110)2012/.

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

Additionally, the Research Centre for Cultivar Testing maintains and updates every two weeks a Homepage 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 2012. These official lists as well as updated lists of varieties are also available at www.coboru.pl.

[Annex XI follows]

REPUBLIC OF MOLDOVA

I. PLANT VARIETY PROTECTION

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

No changes.

Statistics

In the period from January 1, 2011 to December 31, 2011:

– 16 national applications and 2 foreign applications have been received, as follows:

Apple – 9, Maize – 5, Barley - 1, Wheat – 1, Tomato – 2.

– 11 national patents for plant varieties have been granted, as follows:

Galega – 1, Hairy Vetch. – 1, Salvia – 3, Calendula – 2, Wheat – 3, Barley – 1.

At 31.12.2011, 89 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, held within the AGEPI conference hall, the Agricultural University of Moldova as well as in the territory.

In November 2011, with the support of TWINNING Project and the participation of the EU Short Term Local Experts, it was organized a practical course for experts, breeders, interested persons, dedicated to the European practice on carrying out the examination of applications for plant variety patents, and DUS tests.

Publications

On a regular basis, AGEPI maintains the web site: www.agepi.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.

Moreover, recently, the updated versions (in Russian and Romanian languages) of the booklets “How to obtain a plant variety patent in the Republic of Moldova” have been published, as well as a digest of regulatory acts in the field of industrial property concerning the protection of plant varieties.

[Annex XII follows]

CZECH REPUBLIC

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field: Nothing to report.

2. Cooperation in examination

The bilateral agreements on cooperation in examination with Austria, Denmark, Hungary, the Netherlands, Poland, Romania, Slovakia, and Slovenia continue unchanged.

3. Situation in the administrative field: Nothing to report.

4. Situation in the technical field

Within the period from September 1, 2011, to August 31, 2012, 82 applications were received and 62 titles issued. At the later date, 695 titles were in force and 176 applications pending.

5. Activities for the promotion of plant variety protection

Experts of the Central Institute for Supervision and Testing in Agriculture participated in meetings of the UPOV Bodies (C, CAJ, CC, TC, TWA, TWC, TWV) and meetings organized by the CPVO (Administrative Council, meetings with experts on agricultural species and vegetable species, annual meeting with Examination offices).

II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

National List of varieties

The Act No. 219/2003 Coll., on the marketing of seed and planting material, and the implementing Decree No. 449/2006 Coll., on methods of tests of distinctness, uniformity, stability, and value for cultivation and use, were amended due transposition of the EU directives 2010/60/EU, 2011/68/EU, and 2012/8/EU.

[Annex XIII follows]

In the legislative field two orders were issued:

- No. 170/06-08-2012 Order of Ministry of Agriculture and Rural Development modifying the 1348/2005 Order for the approval of the Rules regarding the testing and registration of agricultural plants;
- No. 150/17-07-2012 Order of Ministry of Agriculture and Rural Development regarding the approval of the Regulation for the implementation of the 255/1998 Law regarding the protection of new plant varieties.

These two orders are in compliance with the new EU directives regarding testing, registration and protection of varieties.

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

This year, in the field of testing, 934 varieties were tested: 752 agricultural plant species, 134 vegetable, 29 fruit tree, 11 vine and 6 ornamental varieties and 73 varieties were registered in our national Official Catalogue: 64 varieties of agricultural plant species, 3 vegetable, 5 fruit tree and 1 vine.

In addition, 38 applications for protection, and 16 protection titles were issued.

Ten administrative headquarters of the variety testing centers were rehabilitated. The centers were equipped with new agricultural machines and laboratory equipment.

It was approved by the Agricultural Ministry to construct individual irrigation systems for six testing centers. This action is in the project stage.

The reference collection and the database are constantly increasing.

[Annex XIV follows]

SWITZERLAND

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

1.1 Amendments of the law and the implementation regulations

There have been no amendments to the legislative basis in the field of plant variety protection since October 2009.

1.2 Case law

To the best of our knowledge, no judgments in the field of plant variety protection have been handed down in the last year.

1.3 Extension of protection to other genera and species

All genera and species enjoy protection in Switzerland.

2. Cooperation with examination

No changes. Examinations are not conducted in Switzerland; these are always commissioned abroad, or, where appropriate, existing examination reports are adopted.

3. Situation in the administrative field

Nothing to report.

4. Situation in the technical field

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

5. Activities for the promotion of plant variety protection

The following people have visited the Office for Plant Variety Protection to obtain inspiration from the Swiss system in the last year:

- on December 8, 2011, a delegation of four women from Brunei;
- on March 28, 2012, Mr. Minh Thanh Nguyen of Viet Nam, Mr. Tadao Mizuno of Japan und Ms. Oksun Kim of the Republic of Korea.

[Annex XV follows]

UKRAINE

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

No changes.

2. Cooperation in examination

On July 28, 2011 the Program on Cooperation for 2001 to 2013 between the Ukrainian Institute for Plant Variety Examination and Official Entity of State Inspection on Examination and the Protection of Plant Varieties of Belarus Republic was signed.

Ukraine has practical experience in DUS test according to the List of Genera and Species, which varieties are examined on correspondence to the criteria of distinctness, uniformity and stability in the testing facilities of the state system of plant variety rights protection*, Botanical taxa, for which exchange of information on the results of field trials was made in 2011.

3. Situation in the administrative field

Regulation on the Ministry of Agricultural Policy and Food of Ukraine, approved by the Decree of the President of Ukraine of April 23, 2011№ 500/2011, specifies that the Ministry of Agricultural Policy and Food of Ukraine is the main body to establish and fulfill the official policy in rights protection for plant varieties.

4. Situation in the technical field

In 2011, 126 Test Guidelines on DUS Examination were revised and 31 National Guidelines were developed, respectively.

5. Activities for the promotion of plant variety protection

- Participation in 28th Extraordinary Session of UPOV Council (Switzerland, Geneva, April 7 to 9, 2011);
- Visit of representatives of the Research Centre For Cultivar Testing (COBORU), Republic of Poland (May 22 to 25, 2011);
- Visit of representatives of the Ministry of Agriculture and Food of the Republic of Belarus during the International Agricultural Exhibition AGRO-2011 (June 2 to 5, 2011);
- Technical visit to the Bundessortenamt (Federal Republic of Germany, Hanover) and COBORU (Poland) (June 4 to 11, 2011);
- Visit to the Committee for the State Testing and Protection of Plant Varieties of the Republic of Belarus (June 26 to 29, 2011);
- Technical visit to the Institute of Agricultural and Vegetable Crops, Novi Sad, Republic of Serbia (September, 5 to 8, 2011);
- Participation in the 82nd session of the Consultative Committee and 45th ordinary session of the Council of UPOV and Symposium on Plant Breeding for the Future, Geneva, Switzerland (October 16 to 22);
- Visit of representatives of the Institute for Food Safety (RIKILT), the Netherlands (October 24 to 28, 2011), roundtable discussion was held on Procedure of GM events registration in EU and Ukraine (October 27, 2011).

* This data has been provided and included in documents C/46/6 AND C/46/5, respectively.

The following publications were issued in 2011:

- State Register of Plant Varieties Suitable for Dissemination in Ukraine in 2011 (extract);
- List of Plant Varieties Perspective for Dissemination in Ukraine in 2011;
- Research Magazine “Plant Varieties Studying and Protection” (No. 13 and No. 14);
- Official Bulletin “Plant Variety Rights Protection” No. 1/3 (Catalogue of plant varieties registered in 2009 to 2011 (part 1), (part2); No. 1/4, No. 4, 2010, No. 1/1, No 1/2, No. 2/1, No. 2/3, No. 2/4, No. 3/1, No. 3/3, No. 3/4, 2011;
- Current Information Details on Examination Facilities.

and books:

- Small Encyclopaedia on Plant Variety Examination and the Protection of Breeder’s Rights;
- Procedure for Examination of Plant Varieties for Dissemination;
- Procedure for Official Sci-Tech Examination of Plant Varieties, Issue VII;
- State Register of Seed and Planting Material Producers 2010;
- Atlas of Morphological Characteristics for Plant Varieties of Cereal Crops;
- Technical and Economical Rationale for Current State of Technical Equipment in the Examination Facilities;
- Assessing Investments Resources for Technical Renovation of the Examination Facilities in Plant Variety Examination.

II. RELATED FIELDS OF ACTIVITIES OF INTEREST TO UPOV

Statistical data on plant variety protection in Ukraine during 2002-2011 was sent by email to upov.mail@upov.int along with this report.

[Annex XVI follows]

EUROPEAN UNION

Period: October 2011 - October 2012

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

I. PLANT VARIETY PROTECTION

1. Legislation

1.0 General

The presidency of the European Union (EU) was chaired by Poland from 1 July to 31 December 2011, by Denmark from 1 January to 30 June 2012 and by Cyprus from 1 July to 31 December 2011.

1.1 Amendment of the law and the implementation regulations

One amendment to the implementing Regulation (EC) No 1238/95 as regards the fee payable to the Community Plant Variety Office was adopted by the Commission Implementing Regulation (EU) No 510/2012 of 15 June 2012.

An external evaluation of the legislation took place from April 2010 to May 2011. The final report can be found on: http://ec.europa.eu/food/plant/propertyrights/index_en.htm. A conference to share and discuss the evaluation results took place on 11 October 2011. The European Commission is reflecting on the follow-up and the actions to be taken under the current Commission until 2014.

1.2 Case law

Between November 2011 and August 2012, the Court of Justice of the European Union delivered its decision on two preliminary rulings 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:

(i) C-140/10, Greenstar-Kanzi Europe NV v J. Hustin and J. Goossens

Preliminary Ruling from the Hof van Cassatie (Belgium):

Interpretation of Articles 11(1), 13(1-3), 16, 27, 94 and 104 of Regulation (EC) No 2100/94 (OJ 1995 L173, p. 14), as amended by Regulation (EC) No 873/2004 (OJ 2004 L162, 30.4.2004, p. 38) – Principle of exhaustion of Community Plant Variety Rights, licensing contract, action for infringement against a third party, infringement of the licensing contract by the person enjoying the right of exploitation in his contractual relationship with the third party).

The Judgment of the Court (First Chamber) was delivered on 20 November 2011 (62010CJ0140).

(ii) Case C-509/10. – J. and Th. Geistbeck v Saatgut-Treuhandverwaltungs GmbH

Preliminary ruling from the Bundesgerichtshof (Germany):

Interpretation of Articles 14(3) and 94(1) and (2) of Regulation (EC) No 2100/94 of 27 July 1994 on Community Plant Variety Rights (OJ 1994 L 227, p. 1) and Articles 5 and 8 of Commission Regulation (EC) No 1768/95 of 24 July 1995 implementing rules on the agricultural exemption provided for in Article 14(3) of Council Regulation (EC) No 2100/94 (OJ 1995 L 173, p. 14) – Infringement, obligation to pay the holder of such rights reasonable compensation and to compensate him for damage, criteria for determining reasonable compensation and damage.

The Judgment of the Court (First Chamber) was delivered on 5 July 2012 (62010CJ0509).

One court case is pending:

(iii) Case C-56/11 - Raiffeisen Waren-Zentrale Rhein-Main eG v 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.

The opinion of the Advocate General was delivered on 14 June 2012 (62011CC0056).

2. Cooperation in examination

- (a) Conclusion of new agreements: Nothing to report.
- (b) Amendment of existing agreements: Nothing to report
- (c) Memorandum of Understanding with third countries: Nothing to report

3. Situation in the administrative field

The Community Plant Variety Office (CPVO) is progressively moving to a paperless office. In this context, the President of the CPVO decided that as from 23 April 2012, the original of the decisions to grant Community Plant Variety Rights and certificates of protection will no longer be issued on paper but as electronic documents bearing an electronic signature.

In a transitional phase, a printout of these documents including the official variety description will continue to be sent on paper to applicants or their procedural representatives, together with details on how to access the original documents on the secured area of the CPVO website.

In the future, it is the intention of the Office to stop sending printouts on a systematic basis but only on request.

Changes in the Administrative structure

(a) Renewal of the mandate of the CPVO Vice-President

The Council of the EU decided on 19 March 2012, on the basis of a proposal from the European Commission drawn up after obtaining the opinion of the Administration Council of the Office, to renew the mandate of Mr. Carlos Godinho, as Vice-President of the CPVO for a period of five years.

(b) Appointment of the new Deputy Chairperson of the CPVO Board of Appeal

The Council of the EU by decision of 12 July 2011 has appointed Mrs. Sari Haukka as alternate to the Chairperson of the CPVO Board of Appeal for a period of five years from 15 October 2011.

4. Situation in the technical fields

4.1 Information concerning the functioning of the EU Plant Variety Protection

(a) Relation with examination offices

In 2011, the CPVO held its 15th annual meeting with its examination offices, which is also attended by representatives from the European Commission, the UPOV office as well as the breeders' organizations (ESA and Plantum) and representatives from the EU candidate countries in the frame of the CPVO Multi-Beneficiary program 2011-2013. The main subjects of discussion were:

- DUS examination: insufficient number of plants submitted for DUS, obligatory disease resistance testing in vegetables (state of affairs), “modified” varieties in the agricultural sector, non-submission of reference varieties and follow-up actions, information to be provided in chapter 16 (similar varieties) and chapter 17 (variety descriptions);
- Direct communications between the EO and applicants;
- EDV registration;
- Project to review the guidelines of the Administrative Council on variety Denominations;
- Information technology tools: promotion of the Variety Finder database and the “technical liaison officers” (TLO) restricted area of the CPVO website, E-exchange of documents with examination offices, state of affairs of the on-line application system, proposal in respect of the future exchange of structured data between the CPVO and its stakeholders.

Furthermore, the participants were informed on the state of affairs regarding the online application system, on the centralized database on variety denomination and the database on jurisprudence in decisions about the suitability of variety denominations as well as on the electronic exchange of documents with examination office.

(b) Preparation of CPVO protocols

In 2011, 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 2012. The following experts’ meetings were held to discuss the technical protocols of:

- Agricultural crops: *Oryza sativa* L., *Hordeum vulgare* L. sensu lato
- Vegetable crops: tomato, spinach
- Ornamentals crops: *Kalanchoë*, *Buddleja*, *Gaura*, and *Hydrangea*.

(c) Further development of the CPVO Variety Finder (centralised database for variety denominations)

In 2011, the centralized database on variety denominations was renamed the ‘CPVO Variety Finder’. It contains national data on varieties applied for granted plant variety rights, national listings of agricultural and vegetable species and some commercial registers. In total, more than 720,000 denominations originating from the EU and UPOV (International Union for the Protection of New Varieties of Plants) Member States have been included so far. The system includes a search tool with the purpose of testing proposed denominations for similarity, but also a retrieval tool to allow more general searches for details of varieties or species present in the database.

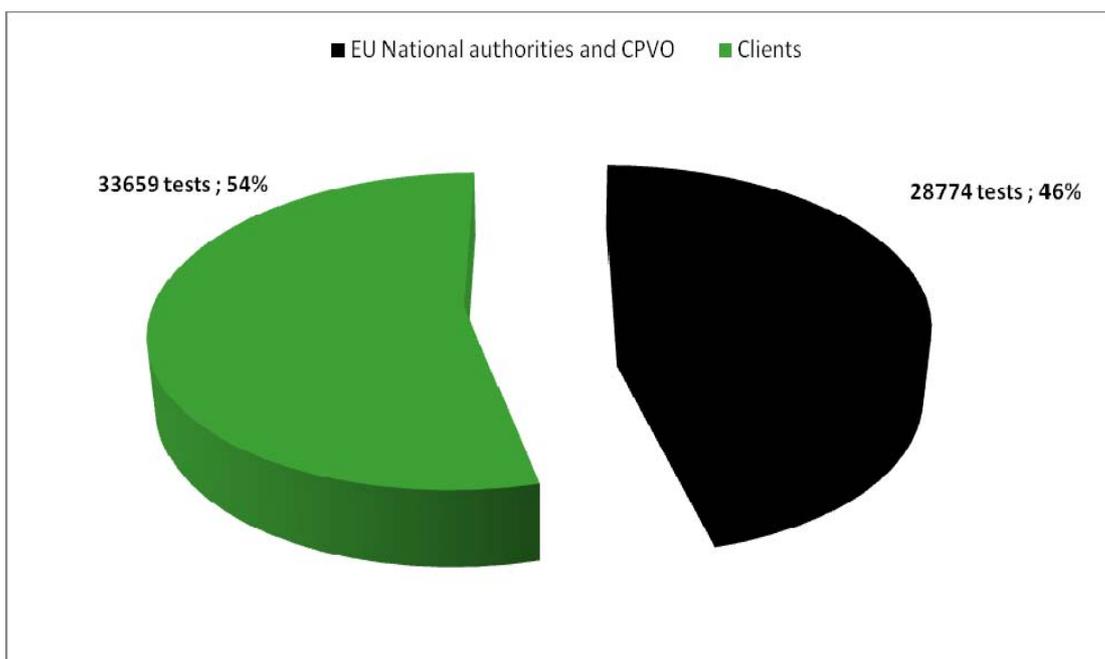
The Office regularly receives contributions directly from EU countries, commercial registers, and via UPOV for non-EU countries. There has been a steady increase in the number of contributions submitted per year since 2005, with 354 files included in the database in 2011.

Once their relevance has been checked, the Office also regularly includes new registers in the Variety Finder. In 2011, the commercial register of woody and perennial plants available commercially in the Netherlands provided the database with more than 40,000 additional varieties.

Since November 2011, the database has been freely available under the ‘Databases’ heading of the CPVO website. Identification is still necessary, therefore a login and password are provided promptly on request.

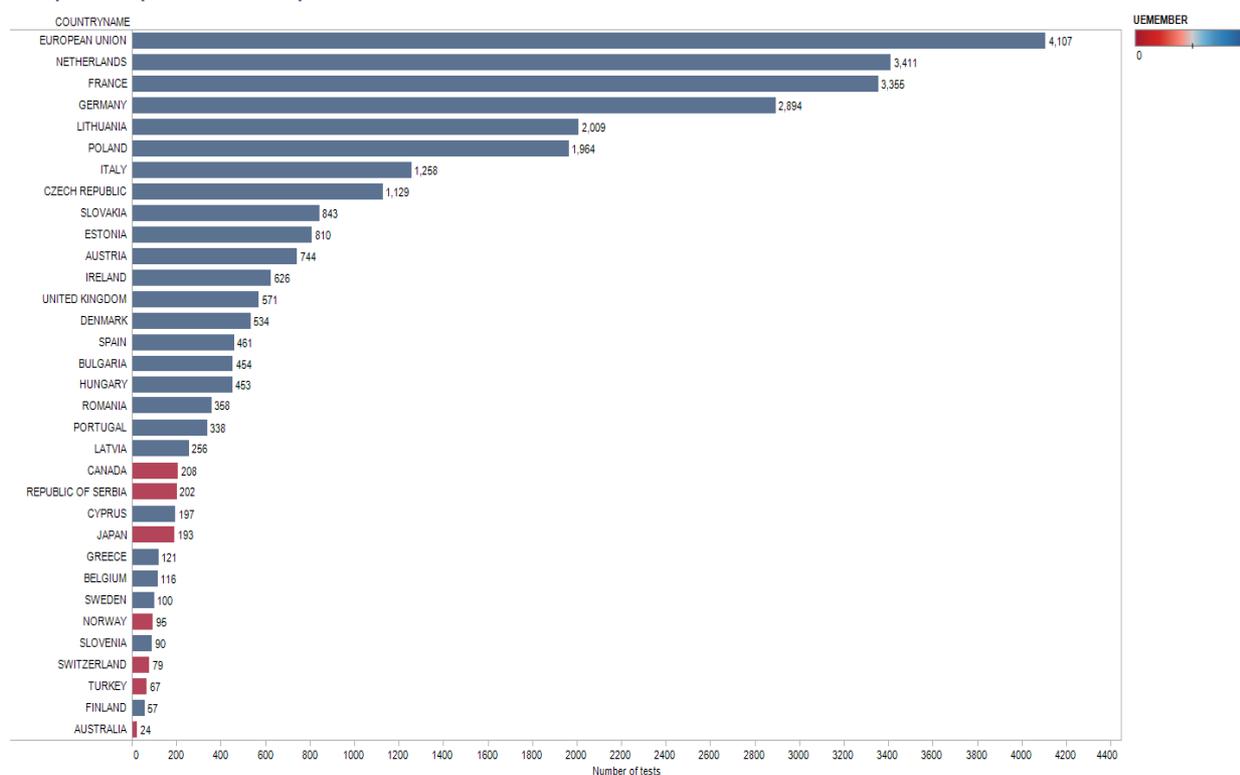
With nearly 60,000 tests performed in 2011, the database is a widely used tool, especially for testing the suitability of variety denominations. It is utilized by all stakeholders in similar proportions.

Number of tests for similarity performed by clients, EU national authorities and the CPVO in 2011



The Variety Finder is mainly used by EU national authorities but within the framework of UPOV cooperation, the Office also promotes its use by non-EU authorities, some of which seem to consult the database on a routine basis for the assessment of the suitability of variety denomination proposals.

Tests performed by country in 2011 (International or National Authorities)
* European Union (includes CPVO and EC)

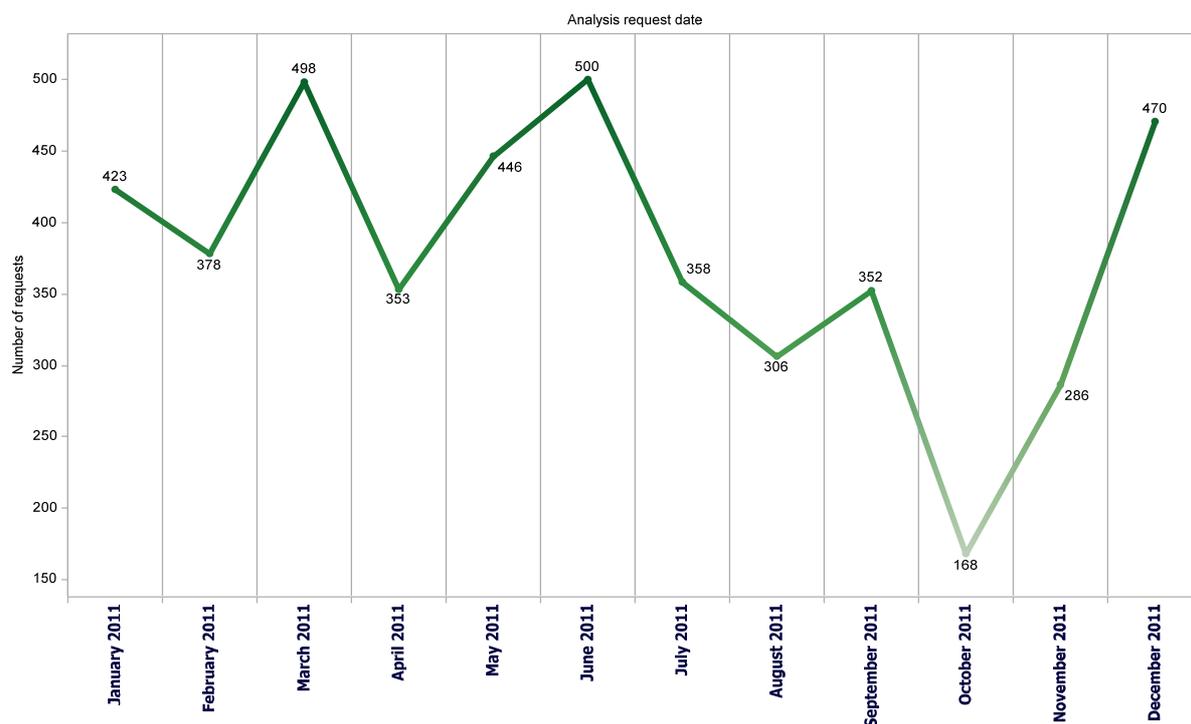


(d) Cooperation in denomination testing

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

The Office developed therefore a new project of cooperation in denomination testing in 2009 and it was released in the beginning of 2010. The EU national authorities have today the possibility to ask online for CPVO advice as to the acceptability of their new denomination's proposal also for variety listing for marketing. In the case of controversial opinions, exchanges of view 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 2011, 4,500 advices were issued (nearly twice as much as the year before) and some major EU countries in the EU started using the system on a regular basis.



Until now, requests for advice are mainly issued for varieties in the agricultural and vegetable sectors. After two years and a half, the system is successful with an estimation of two thirds of the new varieties of agricultural and vegetable species in the EU being the subject of a request for advice for the suitability of their denomination to the CPVO.

It is expected that, in future, such requests will increase in the fruit sector where the registration of new fruit varieties will be made obligatory before marketing with the entry into force of Directive 2008/90/EC on the marketing of fruit plant propagating material and fruit plants intended for fruit production.

Other cooperation actions have also been put in place in relation with variety denomination, especially in the ornamental sector: the KAVB in the Netherlands, responsible for the registration of bulb species, or the VKC in the Netherlands, registering varieties before their commercialisation in the auction system. These authorities have access to the CPVO Variety Finder, and regular exchanges of view about the suitability of denomination proposals take place with the CPVO.

On various occasions, the CPVO has received feedback from some 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 organised a working group in order to inform stakeholders which considerations are taken into account by the Office when interpreting the applicable rules. The European Commission, seven Member States and EU breeders' associations participate to this group. Exchanges of views took place in 2011 and 2012, concrete proposals were made and it was concluded that the interpretations of the rules made by the Office should be clearer and more transparent. The Office is currently working on a

document taking into account all proposals made. In some cases, their implementation will require a modification of the guidelines and of Commission Regulation (EC) No 637/2009. However, in most cases, a modification of the explanatory notes to the guidelines of the Administrative Council on the suitability of variety denominations will be sufficient. It is the intention of the Office to present a draft for comments to the Administrative Council of the end of 2012.

Still in the sector of variety denominations, the CPVO is currently investigating the possibilities to consider Community Trademarks registered before the Office for the Harmonisation of the Internal Market (OHIM). This would be done in a project of cooperation with this European Agency, whereby the denominations of varieties granted Community Plant Variety Rights would also actively be considered by OHIM when assessing the suitability of Community Trademark proposals.

4.2 Crop experts meeting

A meeting of vegetables experts was held in November 2011 to discuss: revisions to several technical protocols; conclusions on the implementation of certain obligatory disease resistances for national listing; submission of color photographs for vegetable species; possible acceptance of certain seed treatments for vegetable varieties submitted for DUS testing; and possible reserve list of characteristics for DUS testing.

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 EOs by the CPVO Administrative Council. Eleven assessments are scheduled for 2012. At the end of the year the first triennial cycle would be completed, covering all entrusted examination offices.

The recommendations by the assessment teams to the Administrative Council took into account the findings made during the on-site visits and, where necessary, changes implemented by EOs in respect of their scope of entrustment or in respect of adapting practice with the requirements of CPVO. As in previous years, a number of surveillance visits was organized in order to confirm the effectiveness of changes initiated by EOs in response to observations made by the assessment teams. One examination office decided to terminate its entrustment and withdrew its request for an assessment visit. In another case the entrustment was suspended for the period necessary to align arrangements for the DUS testing work with the requirements; in particular the coverage of variety collections had been considered too limited. At the end of the suspension period the situation will be evaluated.

5. Activities for the Promotion of Plant Variety Protection

5.1 International Meetings, Seminars

The Vice-President of the CPVO attended and contributed with presentations in the 10th Training Course on Plant Variety Protection for Latin-American countries organized by UPOV and the Spanish Authorities in cooperation with the INASE (Uruguay), in Montevideo (Uruguay), 12-16 December 2011.

The President of the CPVO attended and contributed with a presentation on International Cooperation on Plant Variety Rights and its Outlook at the 2012 International Plant Variety Protection Symposium in Tainan, Taiwan, Province of China, on 4 March 2012.

The President of the CPVO attended and contributed with a presentation to the Fifth East Asia Plant Variety Protection Forum Meeting in Bangkok, Thailand, 28-30 May 2012.

The President of the CPVO participated in the Expert Review Meeting on the ARIPO Draft Legal Framework for the Protection of New Varieties of Plants organized by ARIPO in cooperation with UPOV and with the financial assistance of the USPTO. The meeting was held in Harare, Zimbabwe, June 12-14 2012.

The President of the CPVO gave a presentation on the EU plant variety protection system in the 15th Plant Variety Protection Course in Wageningen on 25 June 2012 organized by Naktuinbouw.

5.2 Visits to and from non-members States and organizations

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

- Brazilian research institute IMAMT on 13 November 2011;
- Delegation from China on 24 November 2011;
- Delegation from Afghanistan on 23 November 2011;
- Delegation from Japan on 13 January 2012 in CPVO. In addition a meeting was organized in Brussels on 19 January between the Japanese delegation and representatives of the European Commission;
- Delegation from Russia on 6 June 2012;
- Delegation from Tunisia on 7 June 2012.

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 2011, the Office participated in two fairs:

- In January 2012, 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 2012 in Angers, France. The Office regularly participates together with GEVES, the French examination office, to this fair, organized mainly for growers of ornamental plants.

Furthermore, in cooperation with the Bundessortenamt, the Office held an Open Day and a workshop on the on-line application system. The events were attended by some 50 stakeholders (breeders, procedural representatives, examiners) and discussed current issues in the ornamental sector, as well as giving participants the opportunity to visit the field trials in Hannover.

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; Bosnia and 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.

For most of 2011, the continuation of the program was interrupted restarting only at the end of the year. It allowed the candidate countries to participate in the vegetable expert meeting as well as in the Annual meeting with the examination offices. In 2012, the program enabled mostly new experts from Croatia, the former Yugoslav Republic of Macedonia and 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 citrus, maize, sunflowers and vine as well as on the quality requirements to be met by an examination office. The new program that has been approved by the European Commission covers the period until 2014.

5.6 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).

(b) CPVO

The CPVO has decided in 2007 to create an online application system with the aim of allowing applicants and procedural representatives to fill in electronic forms and send applications to the CPVO by electronic means. The project development was started in 2008 and was made available in English in March 2010. In 2011 this possibility of filling e-applications was extended also to Dutch, French and German. The phase "two" of this project was concluded, and the main developments included in this phase were linked to new dynamic features in the questionnaires. The organization and display of forms/questions has been improved, e.g. now the answer to one question can constrain the display of sub-questions, as well as additional checks in the coherence of subsequent answers. Some optimizations to improve the overall speed of the website were also undertaken.

The Office organized workshops in France and Germany to introduce and explain the system to CPVO clients. These workshops have been also very useful to receive feedback and proposals for improvement from clients already using the system.

The Office also committed 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 to be taken into account, as well a complete support for multilingualism. A way to exchange structure data will be explored (XML files).

In the beginning of 2011 the CPVO has set up a solution in order to publish in a restricted area of the Office website, documents linked to the organization of technical examinations or takeover reports from examination offices.

During the year 2011 the CPVO has carried out a study in order to improve the current situation, where the sending of e-documents works only in one way (from the CPVO to the Examination Offices). The study has demonstrated that solutions BtoB (business to business) can be developed making use of exchange platforms, with the possible integration of these solutions in the existing CPVO information system.

A pilot experience with five national examination offices (France, Germany, Netherlands, United Kingdom, and Spain as observer) has been launched by the end of 2011 to use an exchange platform between partners in order to exchange a set of e-documents (purchase orders, invoices, technical reports...). The working group has had two meetings in 2012 (start-up meeting in January and a web conference in March). The series of documents to be exchanged has been established, the xml structures for metadata were validated and for the exchange platform, the working group has selected a type of solution based on the use of a service provider with a specific server.

An open call for tender has been launched by the CPVO in July, the selection of the supplier should be finished before the end of 2012 and the development phase will start right after. The result of the pilot experience should be available in 2013.

RELATED FIELDS OF ACTIVITIES, IF OF INTEREST TO UPOV

1. Marketing of seed and plant propagating material

In 2012 the Common Catalogues of varieties of agricultural plants and vegetable species were updated 7 and 5 times respectively. End of 2011, around 18,850 varieties of agricultural plant species and around 17,250 vegetable varieties have been accepted for marketing in the EU.

In addition, in May 2012, around 430 amateur varieties of vegetable species were registered in the EU.

The project on revising the legislation on marketing seed and plant propagating material is under way. An impact assessment report was prepared and the work on a new Regulation covering the 12 basic Directives is in progress.

2. Genetic resources

In order to implement the policy of the EU and its Member States on biodiversity and conservation of plant genetic resources, 22 conservation varieties of vegetable species and 142 of agricultural crops have been listed for commercial crop production under particular conditions for marketing in the EU.

3. GMOs

As regards cultivation of GMOs, the Commission made in 2010 a proposal to the European Parliament and the Council for the adoption of a Regulation aiming at granting freedom to Member States to restrict or prohibit cultivation of GMOs on their territory based on legitimate concerns other than those related to risks to human and animal health or the environment. The legal proposal is under discussion between the institutions.

4. R & D

4.1 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 organized 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 analyze 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 the taking of lightsprout pictures for their inclusion into the potato database.

The CPVO and the participants in the ring test are now analyzing the outcome in order to decide on a possible follow up.

4.2 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 analyzed 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 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 CPVO is currently discussing with GEVES, the coordinator, the practical follow-up to be given to the projects findings.

4.3 A potential UPOV option 2 approach for Barley high density SNP genotyping

This project was presented by NIAB from the United Kingdom; the grant agreement was signed in December 2010. The project considers three possible approaches:

- (1) Calculation of correlations between molecular and morphological distances;
- (2) Quantification of morphological and molecular distances against pedigree; and
- (3) Genomic selections for phenotypic predictions. The outcome of this project showed that there is a certain level of correlation but, before applying these results for DUS testing, further studies have to be made.

4.4 Harmonization of vegetable disease resistances

The CPVO formally approved earlier in 2012 the co-funding of the R&D project “Harmonization of vegetable disease resistances”, with project partners from France, Netherlands, Spain, Germany, United Kingdom, Hungary, Czech Republic, and the European Seed Association (ESA). The project is a follow-up to the earlier “Harmonization of vegetable diseases resistances” completed in 2008, although the new project will deal with disease resistances in pepper, pea and lettuce. A first meeting was organized in June 2012 by GEVES, the project coordinator, in order to obtain consensual agreement amongst the project partners on the schedule of work to be done, and the races/isolates and example varieties which would be utilized.

[Annex XVII follows]

I. PLANT VARIETY PROTECTION

1.1 Situation in the legislative field

The Law on Changes and Amendments of the Law on Protection of Plant Breeders Rights was adopted by the Parliament of the Republic of Serbia on November 22, 2011 („Official Gazette of RS“, No 88/11). Draft Law on Changes and Amendments of the Law on Protection of Plant Breeders' Rights has been examined on conformity with provisions of the 1991 Act of the International Convention for the Protection of New Varieties of Plants on its twenty-eighth extraordinary session of the Council of UPOV, held in Geneva on April 8, 2011. UPOV Council took a positive decision on the conformity of the Draft Law on Changes and Amendments of the Law on Protection of Plant Breeders' Rights with the provisions of the 1991 Act of the UPOV Convention. That allows Republic of Serbia to deposit its instrument of accession to the 1991 Act of UPOV Convention, and the Republic of Serbia has initiated procedure for membership in the International Union for the Protection of New Varieties of Plants (UPOV).

Law on Protection of Plant Breeders' Rights (hereinafter: the Law) regulates conditions, manner and procedure for protection of plant breeders' rights. In addition to that Law in order to protect breeders' rights, the other regulations of the Republic of Serbia are also being applied, in particular: the Law of Civil Procedure ("Official Gazette of RS" Nos. 125/04 and 111/09), the Law on Enforcement Procedure ("Official Gazette of RS" No. 125/04), the Law on General Administrative Procedure ("Official Gazette of FRY", Nos. 33/97 and 31/01, "Official Gazette of RS" No. 30/10), the Customs Law ("Official Gazette of RS" No. 18/10), the Regulation on Conditions and Manner of Application of Measures for the Protection of Intellectual Property Rights on the Border ("Official Gazette of RS" No. 86/10) and the Law on Contract and Torts/Law on Obligations ("Official Gazette of SFRY" Nos. 29/78, 39/85 and 57/89, and "Official Gazette of FRY" No. 31/93). The application of these regulations depends on the type of violation of the breeders' rights, or type of proceeding brought before a court or other competent authority.

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 field

According to the new Law on Ministries (“Official Gazette of RS”, No 72/12), since July 27, 2012 Ministry of Agriculture, Trade, Forestry and Water management (MATFWM) has been renamed to the Ministry of Agriculture, Forestry and Water Management (MAFWM). Plant Protection Directorate (PPD) as an administrative authority within MAFWM perform tasks related to plant variety protection (plant breeders rights), and within PPD, Group for Plant Variety Protection and Biosafety is in charge for implementation of the Law on Protection of Plant Breeders Rights and for all activities in the area of plant variety protection in the Republic of Serbia.

MAFWM has been 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, observation of the technical issues, providing expert opinions and proposals. Based on the results of the examination and proposal of the Expert Council, the Minister issues a decision on granting plant breeder's right. Register of Applications for PBR and Register of Protected Plant Varieties is available on web page of PPD:

(http://www.uzb.minpolj.gov.rs/index.php?option=com_content&view=article&id=233%3A2012-04-03-23-33-54&Itemid=14&lang=en)

4. Situation in the technical field

Nothing to report.

5. Activities for the promotion of plant variety protection

As a part of the framework of the Luxembourg Technical Assistance Project for Serbia, in cooperation with Serbian European Integration Office, MAFWM - Plant Protection Directorate, in September 21-22, 2011, organized two-days Seminar on Plant Variety Rights in the European Union, with a particular focus on Regulation 2100/94 on Community plant variety rights.

Ministry of Agriculture, Forestry and Water Management - Plant Protection Directorate in cooperation with USAID Agribusiness Project in Serbia and Dutch Embassy in Serbia, on April 19, 2012 organized Conference on Plant Breeders Rights and Membership of Republic of Serbia in UPOV, with aim to raise awareness about the importance of the UPOV membership, to promote and enhance understanding of the intellectual property and plant breeders rights, the necessity of protecting the intellectual property rights of a plant breeders and to educate plant breeders and producers of propagating material about the specific changes and implication of the Serbian membership in UPOV. As speakers on the Conference were participated Mrs. Yolanda Huerta, Legal Counsel from UPOV, Mr. Edgar Krieger from CIOPORA, Mr. Kees Van Etthekoven from Naktinbouw from the Netherlands, Mr. Kurth Werth, PBR expert from Association of producers of propagating material from the South Tyrol in Italy, and representatives of MAFWM-PPD.

Seminar on Protection of the Plant Breeders Rights was organized in June 29, 2012 for the producers of propagating material with the aim to introduce them with plant breeder's rights system, present situation in the EU and in Serbia in the legislative and administrative procedures related to plant breeders' rights.

The Republic of Serbia has continued to participate in Multi-beneficiary program of CPVO, as introduction to the Community plant variety rights system and administrative procedures regarding plant variety protection in the EU. The training and specialization of Plant Protection Directorate personnel are in progress in the program of cooperation with the CPVO. Workshop on DUS and VCU testing of maize and sunflower varieties was organized in Slovakia in July 24-25, 2012. Representatives of the Plant Protection Directorate participated in the study visit in UKSUP (Central Institute for Supervision and Test in Agriculture in the Slovak Republic). Training included tour of VCU and DUS field trials of maize and sunflower, discussion with experts from Slovakia, Czech Republic and CPVO related to practical application of DUS protocol, the reference collections of varieties and analysis of technical protocols for DUS trials. MB program also covers trainings for experts from the experimental stations where tests for distinctness, uniformity and stability of varieties (DUS tests) are conducted, and one representative attended the Plant Variety Protection Course organized by the Naktuinbouw and Wageningen UR Centre, in Wageningen, Netherlands. The aim of the Course was to support the introduction and practical implementation of plant variety protection in countries where this matter is being developed or has recently been passed.

II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

Information related to plant breeders rights and registration of plant varieties are available on the web site of the Ministry of Agriculture, Forestry and Water Management - Plant Protection Directorate:

www.uzb.minpolj.gov.rs/index.php?lang=en

www.minpolj.gov.rs

www.sorte.minpolj.gov.rs

[End of Annex XVII and of document]