

Council**C/55/INF/4****Fifty-Fifth Ordinary Session
Geneva, October 29, 2021****Original:** English/German/Spanish
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**SITUATION IN THE LEGISLATIVE, ADMINISTRATIVE AND TECHNICAL FIELDS:
REPORTS BY REPRESENTATIVES OF MEMBERS AND OBSERVERS***Document prepared by the Office of the Union**Disclaimer: this document does not represent UPOV policies or guidance*

1. According to the practice introduced on the occasion of the twenty-sixth ordinary session of the Council, the reports from the representatives of members and observers on the situation in the legislative, administrative and technical fields of plant variety protection and related areas are requested to be submitted in writing, in advance, to increase the ability of the Council to carry out its tasks effectively.
2. Written reports were requested by the Office of the Union in the invitation circular relating to this session and a model format was proposed. The following reports were submitted (in alphabetical order of the names in French):

Members: Annexes I to XVI: Germany, Brazil, Denmark, Hungary, Lithuania, Mexico, New Zealand, Poland, Republic of Korea, Republic of Moldova, Romania, United Kingdom, Serbia, Singapore, Ukraine and European Union
3. Reports received after September 20, 2021, 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

- 1.1 On the basis of the Federal Fees Act, the "Federal Ministry of Food and Agriculture Special Regulation on Fees for Public Services Performed by Individuals in its Area of Responsibility" was drafted and published on July 21, 2021, in the Federal Gazette (Part I No. 45).

The Regulation will enter into force on October 1, 2021, and will replace the current Federal Plant Variety Office fee schedule of November 1, 2019 (No. 20/19).

1.2 No remarks.

1.3 No remarks.

2. Cooperation in examination

No remarks.

3. Situation in the administrative field

No remarks.

4. Situation in the technical field

The Federal Plant Variety Office is modernizing and expanding its operating facilities, in particular in Hanover, for testing and with regard to information technology.

5. Activities to promote the protection of plant varieties

Type of activity	Date	Location	Purpose of the activity	Participating countries /organizations (number of participants from each)
Training	October 2020	Online	IP Key China	France, Netherlands
Workshop	October 2020	Online	DUS testing data management	India (300 participants)
Exchange	November 2020	Online	Plant Varieties and Seeds Bill of Mongolia	Mongolia
Exchange	November 2020	Online	Draft Ethiopian guidelines for the conduct of VCU tests on barley and wheat	Ethiopia (10 participants)
Workshop	December 2020	Online	New European Union Plant Health Regulation	India (70 participants)
Workshop	April 2021	Online	Exchange on PVP post control measures	India (200 participants)
Exchange	April 2021	Online	Conduct of variety trials DUS + VCU	Ethiopia (10 participants)
Exchange	April 2021	Online	Presentation of the German plant variety testing system	Uzbekistan (10 participants)
Exchange	June 2021	Online	Presentation of the Uzbek plant variety testing system	Uzbekistan (10 participants)
Workshop	July 2021	Online	Plant variety protection testing - apples	Uzbekistan (10 participants)

II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

No remarks.

BRAZIL

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

1.1 Amendments of the law and the implementing regulations: Nothing to report.

1.2 Extension of protection to further genera and species

Species	UPOV CODE
<i>Adenium obesum</i> (Forssk.) Roem. et Schult.].	ADENI_OBE
<i>Bouvardia</i> Salisb.	BOUVA
<i>Eriobotrya japonica</i> (Thunb.) Lindl.	ERIOB_JAP
<i>Macadamia integrifolia</i> Maiden et Betche	MACAD_INT
<i>Macadamia tetraphylla</i> L. Johns.	MACAD_TET
<i>Ononis alopecuroides</i> L.	ONONI_ALO
<i>Linum usitatissimum</i> L.	LINUM_USI
<i>Solanum glaucophyllum</i> Desf	SOLAN_GLA

1.3 Case law: Nothing to report.

2. Cooperation in examination

Botanical name	UPOV CODE	Offering authority/ examination office
<i>Petunia</i> Juss.	PETUN	CPVO
<i>Zamioculcas zamiifolia</i> (Lodd. et al.) Engl	ZAMIO	CPVO
<i>Rosa</i> L.	ROSAA	The Netherlands
<i>Solanum tuberosum</i> L.	SOLAN_TUB	Australia

Agreements for cooperation in examination

Utilization of existing DUS test reports

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

Title of activity	Date	Location	Organizer(s)	Purpose of activity	Participating countries/ organizations (number of participants from each)	Comments
1. PVP in Brazil	November 11, 2020	Online presentation (available on youtube https://youtu.be/S9J5atZWZYo)	Federal University of Paraná	General course of Innovation management with a module of PVP	Brazil (806 views up to August 27, 2021)	
2. PVP in Brazil – WIPO Summer School – Intellectual Property for the agrifood sector	January 14, 2021	Online event (available on youtube https://youtu.be/ATgTtFiLAiA)	INPI (Patent and trademark office) WIPO Brazilian Association on IP (ABPI)	Basic information of PVP to lawyers and IP legal representatives and other professional on the topic	Brazil (722 views up to August 27, 2021)	
3. Plant Variety Protection	July 30, 2021	Online event (made available on youtube channel of this Ministry https://youtu.be/GRMlPeLhLSo)	Ministry of Agriculture, Livestock and Food Supply	Basic information of PVP	Brazil (263 views up to August 27, 2021)	
4. General course on IP	February 2 to April 2, 2021	Distance learning course	INPI (Patent and trademark office) WIPO	General course of IP with a chapter of PVP	Around 2000 participants (all of them Brazilians) acting in different areas (students, lawyers, legal representatives, public employees, researchers, etc.)	SNPC (PVP Office) examiners acted as tutors in the PVP discussions
5. General course on IP	April 27 to June 25, 2021 (in course)	Distance learning course	INPI (Patent and trademark office) WIPO	General course of IP with a chapter of PVP	Around 2000 participants (all of them Brazilians) acting in different areas (students, lawyers, legal representatives, public employees, researchers, etc.)	SNPC (PVP Office) examiners acted as tutors in the PVP discussions

II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

Nothing to report.

[Annex III follows]

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

1.1 Amendments of the law and the implementing regulations: No amendments.

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

1.3 Case law: No case law

2. Cooperation in examination:

No changes.

3. Situation in the administrative field

No changes.

4. Situation in the technical field

DUS trials monitoring plant development by manual assessments, image analysis, drone and multispectral recordings.

5. Activities for the promotion of plant variety protection: No remarks.

Date	Location	Organizer(s)	Purpose of activity	Participating countries/ organizations (number of participants from each)
3-3-21	Kobæk Strand	DanSeed	IP protection of plants by PBR or patents	DK nationals

II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

No remarks.

[Annex IV follows]

HUNGARY

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field:

1.1 Amendments of the law and the implementing regulations: No changes.

1.2 Extension of protection to further genera and species

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

1.3 Case law: No data.

2. Cooperation in examination

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

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

3. Situation in the administrative field

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

4. Situation in the technical field

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

[Annex V follows]

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 No IX-618 of 22nd of November 2001 as last amended on 15th of April, 2021;
- Regulation No 1458 of the Government of the Republic of Lithuania of the 15th of December, 2000, regarding Fees Rates;
- 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;
- 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:

- According to the amendments of the Law on Plant Variety Protection of the Republic of Lithuania on 26th of April, 2012, varieties of all plant genera and species could be protected in the Republic of Lithuania.

1.3 Case law:

- There is no case law relating to plant varieties protection in Lithuania in 2020.

2. Cooperation in examination

There are 2 signed agreements regarding the cooperation in examination in Lithuania:

- Bilateral agreement of the 11th of August, 2000, with the Polish Research Centre for Cultivar Testing (COBORU) regarding performing DUS tests, has been amended on 14th of November, 2012, by the Administration agreement No 1/2012/19T-247;
- Agreement No 10 with Federal Office of Plant Varieties (Bundessortenamt), 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 Plant Variety Division of the State Plant Service under the Ministry of Agriculture of the Republic of Lithuania is responsible for plant varieties testing, listing and legal protection as well;
- The Commission for Evaluation of Applications for Variety Protection approved by the Order No. A1-141 of the Director of the State Plant Service under the Ministry of Agriculture of the Republic of Lithuania on the 6th of May, 2011, has been amended on 9th October, 2020, by the Order of the Director of the State Plant Service under the Ministry of Agriculture of the Republic of Lithuania No A1-489;
- 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 of the Republic of Lithuania;
- 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 (COBORU) according to an Administration agreement No 1/2012/19T-247, amended 14th of November, 2012, or by the other competent authority of the European Union according to the breeder's request.

5. Activities for the promotion of plant variety protection

Title of activity	Date	Location	Organizer (s)	Purpose of activity	Participating countries/ organizations (number of participants from each)
1. Virtual meeting of the Administrative Council of the CPVO	30 th of September, 2020	Angers, France	CPVO	To discuss main questions regarding plant variety protection	European Commission (2), CPVO (7), UPOV (1), observers and member states (32 at all)
2. Virtual meeting of the Administrative and Legal UPOV Committee	28 th of October, 2020	Geneva, Switzerland	UPOV	To discuss main questions regarding plant variety protection	UPOV (7), European Commission (2), CPVO (3), Contracting Parties, observers and organizations (68 at all)
3. Virtual meeting of the Consultative UPOV Committee	29 th of October, 2020	Geneva, Switzerland	UPOV	To discuss main questions regarding plant variety protection	UPOV (7), European Commission (2), CPVO (3), Contracting Parties, observers and organizations (68 at all)
4. Virtual meeting of the UPOV Council	30 th of October, 2020	Geneva, Switzerland	UPOV	To discuss main questions regarding plant variety protection	UPOV (7), European Commission (2), CPVO (3), Contracting Parties, observers and organizations (68 at all)
5. Virtual CPVO meeting with the examination offices	23 rd of December, 2020	Angers, France	CPVO	To discuss main questions regarding plant variety protection	European Commission (2), CPVO (7), observers and member states (71 at all)

- Information Bulletin on Plant Breeder's Rights and National List of Plant Varieties No. 1 (33) of the State Plant Service under the Ministry of Agriculture of the Republic of Lithuania was published on the 20th of January, 2020, and No 2 (34) – on the 1st of June, 2020

II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

- The Lithuanian National List of Plant Varieties 2020 has been approved by the order No A1-75 of the Director of the State Plant Service under the Ministry of Agriculture of the Republic of Lithuania on the 27th of February, 2020. 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 VI follows]

MEXICO

PLANT VARIETY PROTECTION

1. Situation in the legislative field

Mexico has been a party to the UPOV Convention since August 1997 and the current legislation is in accordance with the 1978 Act. However, in recent years, work has been conducted on proposals to amend the 1996 Federal Law on Plant Varieties.

1.1 Amendments to the law and to the regulations

The fees are updated annually and may be consulted at:

<https://www.gob.mx/cms/uploads/attachment/file/606574/Cuotas-Derechos-2021.pdf>

1.2 Extension of protection to further genera and species

All genera and species have been protected in Mexico since the law was published.

2. Cooperation in examination

Amendments to existing agreements

The Technical Cooperation Agreement between the Community Plant Variety Office (CPVO) and the National Seed Inspection and Certification Service (SNICS), signed in 2008, has been updated on various occasions. The latest extension covers the period 2020-2025. Under the Agreement, Distinctness, Uniformity and Stability (DUS) testing is carried out for avocado, guava, Mexican pine nut and pitahaya.

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

Title of the activity	Date	Place	Organizers	Purpose of the activity	Participating countries/organizations (number of participants from each)	Comments
Forum on "Enforcement of plant breeders' rights with regard to vegetables and ornamentals"	20 and 21 May 2021	Mexico City, online	SNICS, the Mexican Committee for the Flowers and Ornamentals Product System, the Embassy of the Netherlands and the Netherlands Horticultural Inspection Service	To analyze the strategic and regulatory factors that allow the transfer and use of plant innovations in Mexico, as well as to promote the use of certified seeds	Mexico, Chile, Colombia, Dominican Republic, Ecuador, Peru and Netherlands	It was agreed at the Forum to set up a working group made up of the various stakeholders in the ornamentals value chain. Proposals were also discussed on how to ensure the effective enforcement of plant breeders' rights

[Annex VII follows]

NEW ZEALAND

PLANT VARIETY PROTECTION

1. Situation in the legislative field

The Plant Variety Rights Act 1987 remains in force, conforming to the 1978 Act of the Convention.

The New Zealand government has continued with the review of the Plant Variety Rights (PVR) Act 1987, however the anticipated progress in 2020 was delayed by the pandemic. The new Plant Variety Rights Bill was introduced to Parliament in May 2021 and received its first reading. It has now been referred to the Economic Development, Science and Innovation select committee for consideration. A discussion document regarding new Regulations was released in August 2021, with options and advice expected to be provided to the Minister in late 2021. Detailed information regarding the Plant Variety Rights Act review is available at: <https://www.mbie.govt.nz/business-and-employment/business/intellectual-property/plant-variety-rights/plant-variety-rights-act-review/>

The Intellectual Property Office of New Zealand (IPONZ) has begun a review of PVR fees. A discussion document was circulated to targeted users in August 2021 to collect information and assist in the development of fees options. Final options will be released for wider public consultation in late 2021 or early 2022.

It is anticipated that the new regulations will come into effect, along with the majority of the provisions of the Bill and the new PVR fee structure in mid-2022.

2. Cooperation in examination

New Zealand continues to purchase test reports from member states, for certain species on an as required basis, under the general provisions of the Convention. New Zealand continues to supply a test report, on request from an Authority, at no cost.

3. Situation in the administrative field

During the financial year ended 30 June 2021, 116 applications for plant variety rights were accepted (25% increase on the previous year), 88 grants were issued (11% decrease on the previous year) and 93 grants were terminated (9% decrease on the previous year). At 30 June 2021 there were 1289 valid grants, a slight increase on the previous year.

The steady decline in recent years of the number of applications for varieties belonging to species used as ornamentals has reversed with a 50% increase in the number of applications for these varieties in the last year.

Preparation has begun for the necessary operational changes resulting from the implementation of the expected new law in mid-2022. This follows on from a wide-ranging review of operational activities and Office functions carried out in 2020 and 2021. Changes to process and practice will be the result of new elements in legislation and the enhancement of existing practices.

PVRO experienced a 40% change of staff in 2020, a significant event for a smaller organization. This occurrence has provided an opportunity to review the workload of the four examiners and to diversify species experience and knowledge across more than a single examiner.

4. Situation in the technical field

The use of foreign test reports for foreign bred fruit varieties continues to be an important topic for discussion between foreign applicants and Examiners. A range of explanatory information is already present on the website, however further information appears to be required. For the first time in 2020, a foreign test report for an apple variety was used for the New Zealand decision. A project to assess the use of foreign test reports for

foreign bred *Rubus* varieties is nearing a conclusion with the aim of providing a more objective basis as to whether or not a foreign test report for a particular *Rubus* variety can be utilised.

The Plant Variety Rights Office (PVRO) and the Ministry of Primary Industries (MPI) have initiated quarterly meetings regarding plant importation and biosecurity requirements. The meetings provide improved information for PVRO regarding changes to importation and quarantine requirements and better inform MPI of species for which foreign breeders are making variety applications. An MPI review of a species importation protocol could signal to PVRO that testing of foreign varieties in that genus could be delayed due to difficulties in accessing plant material of that species. An increase in PVR applications for varieties in a certain species could signal to MPI that attention may be needed regarding the importation rules for that species. Biosecurity requirements and availability of plant material for foreign bred varieties continue to be seen as an issue for variety importers and domestic plant breeders.

[Annex VIII follows]

POLAND

Period: September 1, 2020 – August 31, 2021

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

The Act of June 26, 2003 on the Legal Protection of Plant Varieties (consolidated text: OJ of 2018, item 432; amended by OJ of 2020, item 288) constitutes the legal basis for the national PBR protection system in Poland. Its consolidated version has been published in the OJ of 2021, item 213.

According to *The Act of February 13, 2020 on amendment of the Law – the Code of Civil Procedure and some other laws* (OJ of 2020, item 288), which entered into force on July 1, 2020, the District Court in Warsaw has been designated as the competent one in the intellectual property rights matters.

The Polish plant variety protection law is based on the 1991 Act of the UPOV Convention. Since November 1, 2000, all plant genera and species are eligible for PBR protection in Poland.

In respect of the fees, the Decree of the Minister of Agriculture and Rural Development of February 17, 2004 on fee rates for the lodging an application for the Plant Breeders' Rights protection, DUS testing as well as for the granting and the maintenance of the exclusive right titles (OJ No 60 of 2004, item 567; OJ of 2015, item 2166) is in force.

Poland became the UPOV member on November 11, 1989 and acceded to the 1991 Act of the UPOV Convention as the twenty-fourth State, on August 15, 2003.

2. Cooperation in examination

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

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

In the reporting period, Poland carried out DUS tests for the authorities from the following countries: Austria (2 varieties), Belgium (2 varieties), Czech Republic (23 varieties), Estonia (18 varieties), France (1 variety), Hungary (19 varieties), Latvia (5 varieties), Lithuania (69 varieties), Romania (1 variety), Russian Federation (1 variety), Slovenia (9 varieties), Sweden (1 variety), Switzerland (23 varieties), United Kingdom (1 variety) as well as for the CPVO (109 varieties).

These tests were done for the different species of agricultural (133 varieties), vegetable (23 varieties), ornamental (93 varieties) and fruit (35 varieties) plants.

Altogether, 284 varieties were tested as a commissioned work for the above mentioned authorities.

As in previous years, some authorities, namely: Austria, Canada, CPVO, Czech Republic, Denmark, Estonia, France, Iran (Islamic Republic of), Latvia, Lithuania, Netherlands, Republic of Moldova, Romania, Russian Federation, Serbia, Slovenia, Sweden, Switzerland, Turkey and United Kingdom took the technical examination results over from COBORU, in order to base their decisions for their own procedures.

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

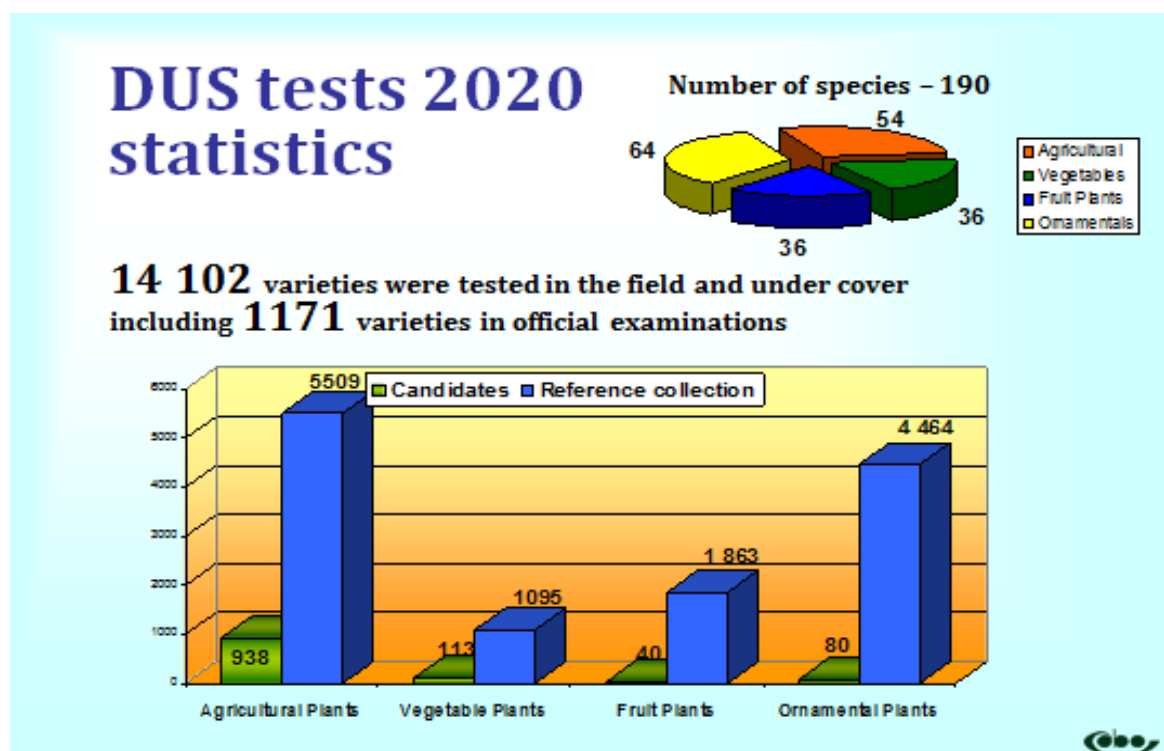
3. and 4. Situation in the administrative and technical fields

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

In 2020, 14 102 varieties within 190 plant species were tested (which included 12 931 varieties in living reference collection and 1171 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 2020



In 2020, COBORU received 148 applications for national PBR protection in total, which constitutes an increase by 21 applications in comparison with the previous year.

From January 1 to September 1, 2021, 94 new applications, including 65 domestic and 29 foreign, have been submitted for national PBR. This number is lower by 4 applications than that observed in the previous reporting period (98).

In 2020, COBORU granted 101 titles of national protection (12 titles more than in 2019). At the end of 2020, there were 1292 national PBR titles in force, which comparing to the previous year represents a significant increase by 61 varieties.

In the period from January 1 to September 1, 2021, 88 titles of national PBR protection have been granted. In total, 1327 varieties are protected in Poland (as on Sept. 1, 2021).

Details on the statistics are given in the table below.

In the column "Titles having ceased", 8 varieties for which - within the reported period - national PBR expired are included.

Plant Species	Applications for PBR 1.01. – 1.09.2021			Grants of PBR 1.01. – 1.09.2021			Titles having ceased	Titles in force as on 1.09.2021
	domestic	foreign	together	domestic	foreign	together		
Agricultural	35	5	40	3	39	42	30	739
Vegetable	12	1	13	16	1	17	11	209
Ornamental	14	22	36	13	9	22	9	260
Fruit	4	1	5	6	1	7	3	119
Total	65	29	94	38	50	88	53	1327

5. Activities for the promotion of plant variety protection

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

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

Within the reporting period, the UPOV Distance Learning Course "Introduction to the UPOV System of Plant Variety Protection under the UPOV Convention" (DL-205) has successfully been completed by one DUS examiner and the UPOV Distance Learning Course "Examination of applications for plant breeders' rights" (DL-305) has successfully been completed by two COBORU experts.

Publications

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

The list of varieties protected by national Plant Breeders' Rights (including provisional PBR's), valid as on June 30, 2021, has been published in the third number of the *Polish Gazette for Plant Breeders' Rights and National List*, i.e. No 3(164)2021.

The Official Gazette can also be found on our website, in the section: *Publications*.

Additionally, the Research Centre for Cultivar Testing maintains and updates systematically a homepage www.coboru.gov.pl that contains the official information on PVP matters in Poland.

During the reporting period COBORU was involved in the following promotional activities:

Title of activity	Date	Location	Organizer(s)	Purpose of activity	Participating countries/ organizations (number of participants from each)
1. Cooperation meeting: Ukrainian Institute for Plant Variety Examination (UIBOR) / COBORU	21.12.2020	On-line meeting	COBORU	New cooperation agreement	PL: 8 UA: 9
2. Uzbekistan State Commission for Variety Testing of Agricultural Crops and COBORU meeting	17.03.2021	On-line meeting	COBORU	Kick-off meeting on future cooperation	PL: 2 UZ: 3

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Title of activity	Date	Location	Organizer(s)	Purpose of activity	Participating countries/ organizations (number of participants from each)
3. Poland/Ukraine Working Group	24.03.2021	On-line meeting	Ministry of Agriculture and Rural Development - Poland	Review of the status and prospects of cooperation in the field of: trade in agro-food products, phytosanitary and veterinary matters, rural development, production and marketing of organic products, seed production and plant variety protection	PL: 16 UA: 9
4. Twinning Project Meetings: EU Delegation for Ukraine, State Plant Protection Service (SPPS) - Latvia, Naktuinbouw - Netherlands, State Plant Health and Seed Inspection Service (SPHISI – PIORIN) – Poland, COBORU - Poland	15.12.2020 15.04.2021 14.06.2021 28.07.2021	On-line organizational meetings	European Commission, SPPS - Latvia, UIBOR - Ukraine, Ministry of Foreign Affairs of the Republic of Poland	Twinning Project: "Approximation of national legislation of Ukraine in the fields of state supervision (control) of GMOs in open systems, protection of plant variety rights, and seed and seedling production in line with EU norms and standards"	EU:2 LV:3 NL:2 PL:4 UA:4 DE:1
	01.07.2021 09.07.2021	On-line working meetings		Comparison of the Law of Ukraine "On the protection of plant varieties rights" with the relevant EU legislation	PL: 1 NL: 1 UA: 3 LV: 1

II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

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 May 2021. These Official Lists as well as updated lists of varieties are also available at: www.coboru.gov.pl

[Annex IX follows]

REPUBLIC OF KOREA

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field: Nothing to report

2. Cooperation in examination

Based on MOU between Intellectual Property Office of Singapore (IPOS) and Korea Seed & Variety Service (KSVS), KSVS is carrying out technical examination on behalf of IPOS, and KSVS send technical examination result to the Department of Crop Production of Viet Nam according to MOU between two authorities.

3. Situation in the administrative field: Nothing to report

4. Situation in the technical field

KSVS has been developing image analysis software to get phenotypic data from DUS pictures. The program includes automatic measurements of size of leaves, flowers, and seeds. This year KSVS started using the data for the examination reports. This software has user-friendly functions such as management of photo data, photo editing and automatic analysis. We will add color program of matching petal color and RHS color chart number as well.

5. Activities for the promotion of plant variety protection: Nothing to report

II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

Nothing to report.

[Annex X 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 offered to varieties of all botanical genera and species, including hybrids between genera and species.

1.3. Case Law

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

2. Cooperation in examination

Utilization of existing DUS report offered by:

- GEVES, Beaucouzé, FR
- Research Centre for Cultivar Testing, PL

3. Situation in the administrative field: No changes.

Changes in the Procedural and Protection System

Two (2) national test guidelines were developed for:

- *Paeonia lactiflora* Pall. MTG 19-1
- *Mentha x verticillata* L. MTG 20-1

Statistics

In the period from January 1, 2020 to December 31, 2020:

- 31 applications have been received (24 for national applicants and 7 for foreign applicants), as follows:

- Apple (*Malus domestica* Borkh) – 1
- Barley (*Hordeum vulgare* L.) – 1
- Bean (*Phaseolus vulgaris* L.) – 1
- Blackberry (*Rubus fruticosus* L.) – 1
- Durum wheat (*Triticum durum* Desf.) - 1
- Giant miscanthus (*Miscanthus x giganteus* J. M. Greef & Deuter ex Hodk. & Renvoize) - 1
- Grapevine (*Vitis vinifera* L. ssp. *sativa* D.C. x *Muscadinia rotundifolia* Michx.) – 2
- Greek oregano (*Origanum vulgare* L. ssp. *hirtum* letsw.) – 1
- Japanese quince (*Chaenomeles japonica* (Thunb.) Lindl.) – 1
- Maize (*Zea mays* L.) – 2
- Oregano (*Origanum vulgare* L. ssp. *vulgare* L.) – 1
- Paulownia (*Paulownia*) – 1
- Sage (*Salvia sclarea* L.) - 1
- Sorghum (*Sorghum bicolor* (L.) Moench var. *caffrorum* (L.) subvar. *oryzoidum*) – 1
- Sorghum x Sudan Grass (*Sorghum bicolor* (L.) x *Sorghum bicolor* (L.) var. *sudanse*) – 1
- Soybean (*Glycine max.* (L.) Merrill) – 3
- Sweet cherry (*Prunus avium* L.) – 2
- Sweet sorghum (*Sorghum bicolor* (L.) Moench var. *saccharatum* (L.)) – 2
- Tomato (*Solanum lycopersicum* L.) – 1
- Topinambur (*Helianthus tuberosus* L.) – 1

Triticale (*Triticosecale* Witt) – 1
Wheat (*Triticum aestivum* L.) – 4

- 43 patents for plant varieties have been issued (37 for national applicants and 6 for foreign applicants), as follows:

Apricot (*Prunus armeniaca* L.) -1
Barley (*Hordeum vulgare* L.) - 1
Common hazel (*Corylus avellana* L.) - 1
Durum wheat (*Triticum durum* Desf.) - 1
European plum (*Prunus domestica* L.) - 2
Giant miscanthus (*Miscanthus×giganteus* J. M. Greef & Deuter ex Hodk. & Renvoize) - 1
Grapevine (*Vitis vinifera* L.) - 4
Horse mint (*Mentha longifolia* L. Huds.) - 1
Maize (*Zea mays* L.) - 6
Onion (*Allium cepa*) - 3
Pear (*Pyrus communis* L.) - 1
Peas (*Pisum sativum* L. (partim)) - 1
Peppermint (*Mentha piperita* L.) - 1
Sage (*Salvia sclarea* L.) - 1
Sorghum alnum (*Sorghum alnum* Parodi) - 1
Sour cherry (*Prunus cerasus* L.) - 1
Sweet pepper (*Capsicum annuum* L.)- 7
Tomato (*Solanum lycopersicum* L.) - 1
Walnut (*Juglans regia*) - 4
Wheat (*Triticum aestivum* L.) - 4

273 plant variety patents were valid on 12/31/2020.

4. Situation in the technical field: No changes.
5. Activities for the promotion of plant varieties protection

On a regular basis, AGEPI maintains the website www.agepi.gov.md, where the national legislation in the field of plant varieties protection can be accessed, as well as the application forms for a plant variety patent, and useful related information for applicants and breeders, available in Romanian, Russian and English languages.

Information materials related to the protection of plant varieties are distributed under the different activities organized by AGEPI or in which AGEPI is involved, like seminars, IP awareness campaigns and exhibitions.

Since 2016 the Republic of Moldova represented by AGEPI is a participating member of the UPOV project on the development of an electronic application form UPOV PRISMA.

[Annex XI follows]

PLANT VARIETY PROTECTION

1. Situation in the legislative field

Ministerial Order No. 1/ 2020 for modifying of the *Ministerial* Order No. 1348/2005 for the approval of the Rules regarding the testing and registration of agricultural plants and Order No. 1349/2005 for the approval of the Rules regarding the testing and registration of vegetables.

This order is in compliance with the new EU Directive 2019/1985 from November 28, 2019 regarding testing and registration varieties.

2. Cooperation in examination

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

The sale of DUS technical reports to EU authorities or other European countries continued.

3. Situation in the administrative field

There were no changes in the administrative structure and procedure system.

The construction of a new cold storage for agricultural species has been completed in order to expand the reference collection.

4. Situation in the technical field

In 2020, in the field of testing, 1169 varieties were tested: 947 agricultural plant species, 123 vegetables, 14 ornamentals, 42 fruit trees and shrubs, 43 vine varieties and 297 varieties were registered in our national Official Catalogue: 252 varieties of agricultural plant varieties, 35 vegetables, 8 fruit trees and shrubs and 2 vines.

In addition, for PBR, 50 applications for protection, and 40 protection titles were issued.

[Annex XII follows]

UNITED KINGDOM

PLANT VARIETY PROTECTION

1. Situation in the legislative field

1.1 Amendments of the law and the implementing regulations

Legislation was implemented in relation to the exit of the UK from the European Union:

The Plant Breeders' Rights (Amendment etc.) (EU Exit) Regulations 2019 - This statutory instrument (SI) legislates to ensure continued protection in the UK of varieties granted Community Plant Variety Rights before exit day and enables prospective holders to apply for UK PBR in respect of applications for CPVR which are pending on exit day. The SI makes operability amendments to the Plant Varieties Act 1997 and its secondary legislation. Council Regulation 2100/94 and its implementing regulations are revoked.

The Plant Breeders' Rights (Amendment) (EU Exit) Regulations 2020 – This SI implements Articles 54 to 61 on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community which relate to intellectual property and include Community plant variety rights (CPVR). The main purpose of the amendments is to ensure that varieties with CPVR at the end of the Transition Period remain protected in the UK by giving them a corresponding right under UK legislation.

1.2 Extension of protection to further genera and species: Nothing to report.

1.3 Case law: Nothing to report.

2. Cooperation in examination: Nothing to report.

3. Situation in the administrative field

There has been a reduction in admin fees per application from £741 to £450. Combined national listing and plant breeders' rights applications now also attract only a single admin fee of £450 rather than two fees, but only if applied for at the same time.

4. Situation in the technical field: Nothing to report.

5. Activities for the promotion of plant variety protection: Nothing to report.

[Annex XIII follows]

SERBIA

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

1.1 Amendments of the law and the implementing regulations: There were no changes.

- Other amendments, including in respect of fees

New fees related to plant breeders rights are published in the Law On Administrative Fees (Official Gazette of RS No. 62/21, consolidated text), which have been in force since July 1, 2021.

1.2 Extension of protection to further genera and species

All plant genera and species are subject to protection under the Law on the Protection of Plant Breeders Rights ("Official Gazette of RS", No. 41/2009 and 88/2011).

2. Cooperation in examination: No changes.

3. Situation in the administrative field

- Changes in the administrative structure: There were no changes.

Ministry of Agriculture, Forestry and Water Management - Plant Protection Directorate is designated authority for the protection of the plant breeders' rights in the Republic of Serbia. Plant Protection Directorate performs also tasks related to: protection of plants against harmful organisms; authorization and control of plant protection and plant nutrition products; plant variety registration for National List; biological safety (GMO); phytosanitary inspections. Within Plant Protection Directorate, Group for Plant Variety Protection and Biosafety exercises administrative procedures related to provisions of the Law on Protection of Plant Breeders Rights and to granting of plant breeders rights, also as tasks related to biological safety (GMO).

- Changes in office procedures and systems: There were no changes.

4. Situation in the technical field

Serbia participate in the UPOV PRISMA PBR Application Tool.

Since September 2020 to September 2021, plant breeders' rights have been granted for 54 plant varieties, based on the results of the examination of plant varieties and proposals of the Expert Council for Protection of Plant Breeders' Rights, as a special expert body of the Ministry of Agriculture, Forestry and Water Management - Plant Protection Directorate.

PVP registers, also as other information related to plant breeders' rights are available on the web page: https://www.uzb.minpolj.gov.rs/index.php?option=com_content&view=article&id=61&Itemid=14&lang=en

[Annex XIV follows]

SINGAPORE

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

1.1 Amendments of the law and the implementing regulations

There has been no amendment made to the Singapore plant variety protection (PVP) legislation after the report to the Council in 2020.

The latest Singapore PVP legislation is as follows:

- Singapore PVP Act
- Singapore PVP Rules

1.2 Extension of protection to further genera and species

Singapore has allowed the protection of all plant genera and species since 30 July 2014.

1.3 Case law: No updates.

2. Cooperation in examination: No updates.

3. Situation in the administrative field: No updates.

4. Situation in the technical field: No updates.

5. Activities for the promotion of plant variety protection: No updates.

II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

No updates.

[Annex XV follows]

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

1.1 Changes in the legislation and application of legal norms

The Resolution of the Cabinet of Ministers of Ukraine No 1344 dated 28.12.2020 "Some Issues of Optimization of the System of Central Executive Bodies" canceled the decision on the reorganization of the Ministry of Agrarian Policy and Food of Ukraine.

In accordance with the points 1, 3 of the Regulation on the Ministry of Agrarian Policy and Food of Ukraine, approved by the Resolution of the Cabinet of Ministers of Ukraine No 124 dated 17.02.2021 "Some Issues of Activities of the Central Executive Bodies", the Ministry of Agrarian Policy and Food of Ukraine is entrusted with the powers of the central executive body, which ensures the formation and implementation of the state agrarian policy in the field of plant variety protection.

Therefore, the corresponding changes to the regulations in the field of plant variety protection in regard to the part of the change of the Competent body are planned to be introduced in 2021.

2. Cooperation in examination

Over the course of 2020, Ukraine exchanged 125 reports on the results of the DUS field trials. Ukraine used the reports on the DUS examination of the following countries: Austria, Czech Republic, Hungary, Italy, Netherlands, Romania, Serbia, Slovakia, Spain, United Kingdom, United States of America, and provided the reports to the Russian Federation, Serbia and Turkey.

3. Situation in the administrative field

In 2020, the Ministry of Agrarian Policy and Food of Ukraine, the Competent body for the registration of plant variety rights in Ukraine, was restored.

4. Situation in the technical field

The changes were introduced to the Guidelines on conducting examinations of plant varieties for distinctness, uniformity, and stability, for:

- Cereals group;
- Buckwheat (*Fagopyrum esculentum* Moench);
- Flax, linseed (*Linum usitatissimum* L.);
- Red Fescue, *Festuca ovina*, *festuca bovina*, *Festuca tenuifolia*, *Festuca trachyphylla*, *Festuca heterophylla*, *Festuca pseudovina*, *Festuca rupicola* (*Festuca rubra* L., *Festuca ovina* L., *Festuca filiformis* Pourr., *Festuca brevipila* R. Tracey, *Festuca heterophylla* Lam., *Festuca pseudovina* Hack. ex Wiesb., *Festuca rupicola* Heuff.);
- Kentucky bluegrass (*Poa pratensis* L.);
- Chinese Cabbage (*B. rassaica rapa* L. var. *pekinensis* (Lo ur.) Kitam.);
- Lettuce (*Lactuca sativa* L.);
- Bilberries and blueberries (*Vaccinium angustifolium* Aiton; *V. corymbosum* L.; *V. formosum* Andrews; *V. myrtilloides* Michx.; *V. myrtilus* L.; *V. virgatum* Aiton; *V. simulatum* Small);
- Chrysanthemum genus (*Chrysanthemum* L.);
- Black Cumin (*Nigella sativa* L.);
- Gentian sage (*Salvia patens* Cav.).

The Guidelines on conducting examinations of plant varieties for distinctness, uniformity, and stability were developed for :

- Quinoa (*Chenopodium quinoa* Willd.);
- Sweetpotato (*Ipomoea batatas* (L.) Lam.);
- Common ginger (*Zingiber officinale* Rose.).

5. Activities for the promotion of plant varieties protection

Title of activity	Date	Location	Organizer(s)	Purpose of activity	Participating countries/ organizations (number of participants from each)	Comments
"Plant Varieties Studying and Protection" Print ISSN 2518-1017 Online ISSN 2518-7457 № 1, 2, 3, 4, volume 16 2020 http://journal.sops.gov.ua/	quarterly	Kiev, Ukraine	Ukrainian Institute for Plant Variety Examination, Plant Breeding & Genetics Institute – National Center of Seeds and Cultivar Investigation of NAAS, Institute of Plant Physiology and Genetics, National Academy of Sciences of Ukraine	Publications on plant variety studying and science, genetics, breeding and seed production, plant physiology, biotechnology and biosafety, plant production, plant variety market, plant varieties protection, international cooperation, information systems and technologies, young scientist's view, history of science, anniversaries	Ukraine	
Bulletin "Plant Varieties Protection", № 1, № 2, № 3, № 4, № 5, № 6 2020. https://sops.gov.ua/uploads/page/buletyn/B_3_2020.pdf	quarterly	Kiev, Ukraine	Ukrainian Institute for Plant Variety Examination	Bulletin issued pursuant to the Law of Ukraine "Plant Varieties Protection" for the purpose of official information activity in the field of plant variety rights and implementation of Ukraine's international obligations arising from its membership in the International Union for the Protection of New Varieties of Plants (UPOV)	Ukraine	
VIII International Applied Research Conference of Young Scientists and Specialists "Breeding, Genetics and Technologies for Growing Crops" https://sops.gov.ua/uploads/page/5ea14c5ce8a3e.pdf	24.04.2020	village Centralne, Kyiv region	V.M. Remeslo Myronivka Institute of Wheat, National Academy of Agrarian Sciences of Ukraine; Ukrainian Institute for Plant Variety Examination	Definition of modern trends in agricultural research and evaluation of plant varieties	Ukraine, Belarus, Moldova, Azerbaijan (162 participants)	published a collection of conference materials
I International Applied Science conference "The Newest Agrotechnologies" https://conference.ukragroexpert.com.ua https://conference-ua.ukragroexpert.com.ua/wp-content/uploads/2020/09/%D0%97%D0%B1%D1%96%D1%80%D0%BD%D0%B8%D0%BA.pdf	10.09.2020	Kyiv	Ukrainian Institute for Plant Variety Examination (Ukraine); National University of Life and Environmental sciences of Ukraine (Ukraine); The Institute of Bioenergy Crops and Sugar Beet NAAS (Ukraine); Bila Tserkva National Agrarian University (Ukraine); Institute of Plant Physiology and Genetics NAS (Ukraine); Ltd Research Institute of Agrarian Business (Ukraine); University of East Sarajevo (Bosnia and Herzegovina)	The establishment and deepening of scientific connections, the exchange of experience and the dissemination of knowledge about the importance of the scientific approach in agriculture, and the search for solutions to applied and theoretical tasks in the agricultural sector and plant varieties testing	Ukraine, Hungary (32 participants)	published a collection of conference materials
IV Internet conference of young scientists "Genetics and Breeding of Agricultural Plants - from Molecule to Variety" https://sops.gov.ua/uploads/page/5f634fd4031cc.pdf	18.09.2020	Kyiv, Odesa	Ukrainian Institute for Plant Variety Examination; Plant Breeding & Genetics Institute – National Center of Seeds and Cultivar Investigation of NAAS,	Application of modern methods of biotechnology and genetics in agriculture and variety testing	Ukraine, (34 participants)	published a collection of conference materials

II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

The statistical information on plant variety protection in Ukraine for the years 2001-2020 is sent by email to upov.mail@upov.int.

[Annex XVI follows]

EUROPEAN UNION¹
Period: July 2020 - July 2021

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

PLANT VARIETY PROTECTION

1) Legislation

1.0 General:

The United Kingdom left the European Union with a transition period running until 31 December 2021. Consequently it is no longer participating in the Community Plant Variety Rights System. All Community Plant Variety Rights in force in the EU until 31 December 2021 have been transferred into national plant variety rights of the United Kingdom.

1.1 Amendment of the law and the implementing Regulations:

The European Commission adopted a proposal for a Regulation of the European Parliament and of the Council on the extension of the term of Community plant variety rights for the species asparagus and the species groups flower bulbs, woody small fruits and woody from 25 to 30 years. An agreement has been found between the institutions and the Regulation should be adopted before the end of 2021.

1.2 Case law:

Judgment of the General Court of 14 July 2021 in Case T-181/20 'Stark Gurger'

By judgment of 14 July 2021, the General Court dismissed the action lodged by the appellant in its entirety, and ordered it to pay the costs.

The Court upheld the Board of Appeal (BoA) findings on the determination of the testing location for the candidate variety of *Malus domestica* Borkh 'Stark Gurger'. The appellant contested, since the rejection of the application, that the pruning method used by the Examination Office (EO) and the testing location at Geves-Angers was not appropriate for the assessment of the distinctness pursuant to Article 7 of the Regulation on Community Plant Variety Rights, also due to the differences in the climatic conditions present at the EO and the ones where the variety was developed.

The General Court came to the same conclusion as the Community Plant Variety Office (CPVO) BoA that the Office had no obligation nor to apply the pruning method suggested by the appellant, nor to change the testing centre. To this end, the Court argued that it is for the Administrative Council of the CPVO to entrust competent offices for the technical examination of candidate varieties, according to Article 55(1) of the Regulation on Community Plant Variety Rights and Article 13(1) of the Commission Regulation (EC) No 874/2009. The selection of the testing site was unambiguous and preliminary to the specific application under discussion. Furthermore, the CPVO would have had no say in the changing of the testing facility, which was designated for all species or varieties belonging to the same mutation group as resulting from the Announcement of the Administrative Council.

Moreover, the Court held that the data regarding the genetic proximity held no bearing in the assessment of distinctness and rejected in their entirety the pleas regarding an alleged failure of the BoA in the obligation to state reasons and the right to be heard.

Judgment of the General Court of 14 July 2021 in Case T-182/20 'Gala Perathoner'

By judgment of 14 July 2021, the General Court dismissed the action lodged by the appellant in its entirety, and ordered it to pay the costs.

The Court upheld the Board of Appeal (BoA) findings on the determination of the testing location for the candidate variety of *Malus domestica* Borkh 'Gala Perathoner'. The appellant contested, since the rejection of the application, that the Examination Office (EO) incorrectly determined the picking time of the fruits of the

candidate variety. In the appellant's opinion the optimum time for harvesting the candidate variety was to be determined by means of the starch regression index.

Moreover, the appellant argued that the testing location at Geves-Angers was not appropriate for the assessment of the distinctness pursuant Article 7 of the Regulation on Community Plant Variety Rights, also due to the differences in the climatic conditions present at the EO and the ones where its variety was developed.

The General Court came to the conclusion that the EO correctly applied the relevant technical protocol to the DUS examination of the candidate variety (CPVO Protocol TP/14/2), which did not foresee the use of starch regression as the only mean to determine the optimum time to harvest the material. Relating to this plea, the Court also confirmed that the BoA correctly founded its argumentations on the applicable technical protocol to reject the appeal and, therefore, did not infringe the appellant's right to be heard nor its obligation to state reasons.

The Court, following the CPVO's reasoning, stated that it is for the Administrative Council of the CPVO to entrust competent offices for the technical examination of candidate varieties, according to Article 55(1) of the Regulation on Community Plant Variety Rights and Article 13(1) of the Commission Regulation (EC) No 874/2009. The selection of the testing site was unambiguous and preliminary to the specific application under discussion. Furthermore, the CPVO would have had no say in the changing of the testing facility, which was designated for all species or varieties belonging to the same mutation group as resulting from the Announcement of the Administrative Council.

2) Cooperation in examination

2.1 Conclusion of new agreements:

The Administrative Council of CPVO agreed in April 2021 that the CPVO conclude an agreement with the Ministry of Agriculture, Forestry and Fisheries of Japan (MAFF), to take over DUS reports and to carry out technical examination on behalf of CPVO for the species *Eutrema japonicum* (Miq.) Koidz. (syn. *Wasabia japonica* (Miq.) Matsum.)

2.2 Amendment of existing agreements:

Extension of the agreement with SNICS Mexico – Servicio Nacional de Inspeccion y Certificacion de Semillas to carry out DUS examinations for the species *Psidium gujava*.

2.3 Memorandum of Understanding with third countries:

See under 2.1, in addition nothing to report.

3) Situation in the administrative field

Nothing to report.

4) Situation in the technical field

4.1 Information concerning the functioning of the EU Plant Variety Protection

a. Relation with Examination Offices

In December 2020 the CPVO held its 24th annual meeting with its Examination Offices (EO), which was also attended by representatives from the European Commission, the UPOV office, the European Patent Office and the breeders' organisations (CIOPORA, Euroseeds, Plantum and ECO-PB), as well as by representatives from Switzerland and Norway as non-EU PVR authorities. The meeting was held as a video conference. The main subjects of discussion were the following:

- Use of national protocols for Community Plant Variety Rights applications;
- Time schedule for adoption of CPVO technical protocols;
- Characteristics and observed only once in multi-annual testing;

- Taking over reports from national DUS procedures;
- Developing guidance for the contracts between EOs and technically qualified bodies.

Furthermore, the participants were informed of the state of play of R & D projects, IT projects and the calculation of costs by the EOs.

b. Preparation of CPVO protocols

In 2020, experts from the EU 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 2021. Experts' meetings were held to discuss the technical protocols of:

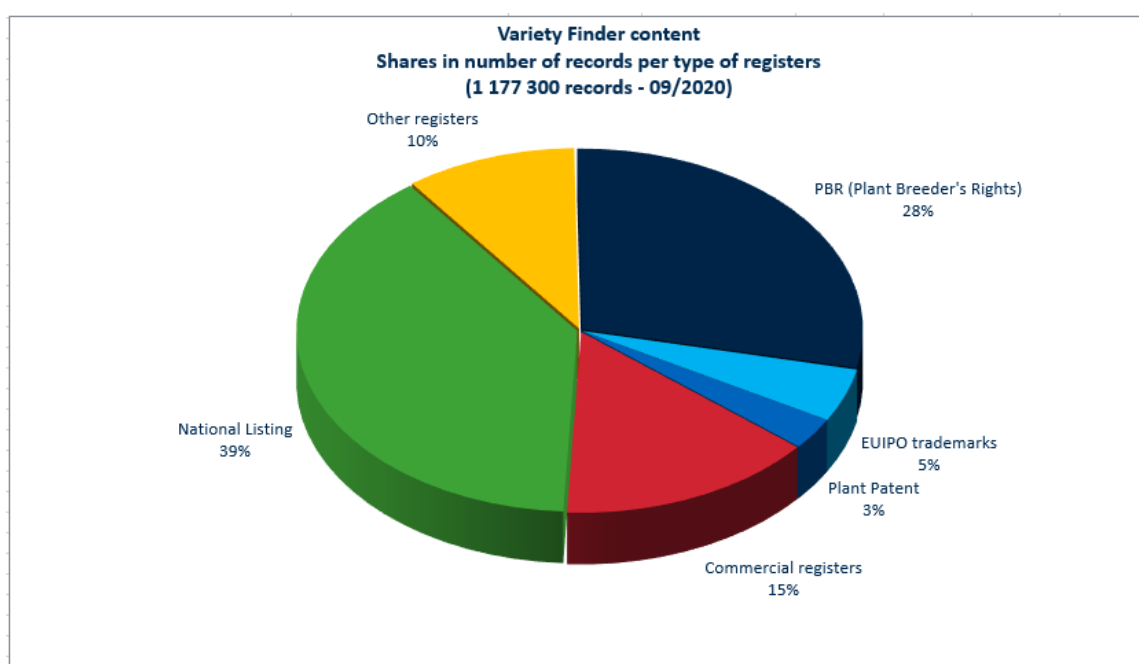
- Agricultural crops: cocksfoot, cotton and quinoa.
- Vegetable crops: fennel, leaf beet, melon, water melon, tomato, tomato rootstock, cabbage, leaf chicory and lettuce.
- Ornamental crops: *Alstroemeria* L., *Phalaenopsis* Blume and *Anigozanthos* Labill. and *Macropidia fuliginosa* (Hook.) Druce.
- Fruit crops: blueberry, walnut, and kiwifruit.

c. Further development of the CPVO Variety Finder

Maintained and developed by the CPVO since 2005, the web-based CPVO Variety Finder database contains information on registers of more than 70 countries with a general search tool. It also includes a similarity search tool to test the suitability of denominations. The general principle is to update the database as soon as data are officially published. A memorandum of understanding has been signed with UPOV to share the task of collecting data from EU Member States and non-EU countries and ensure a regular data exchange.

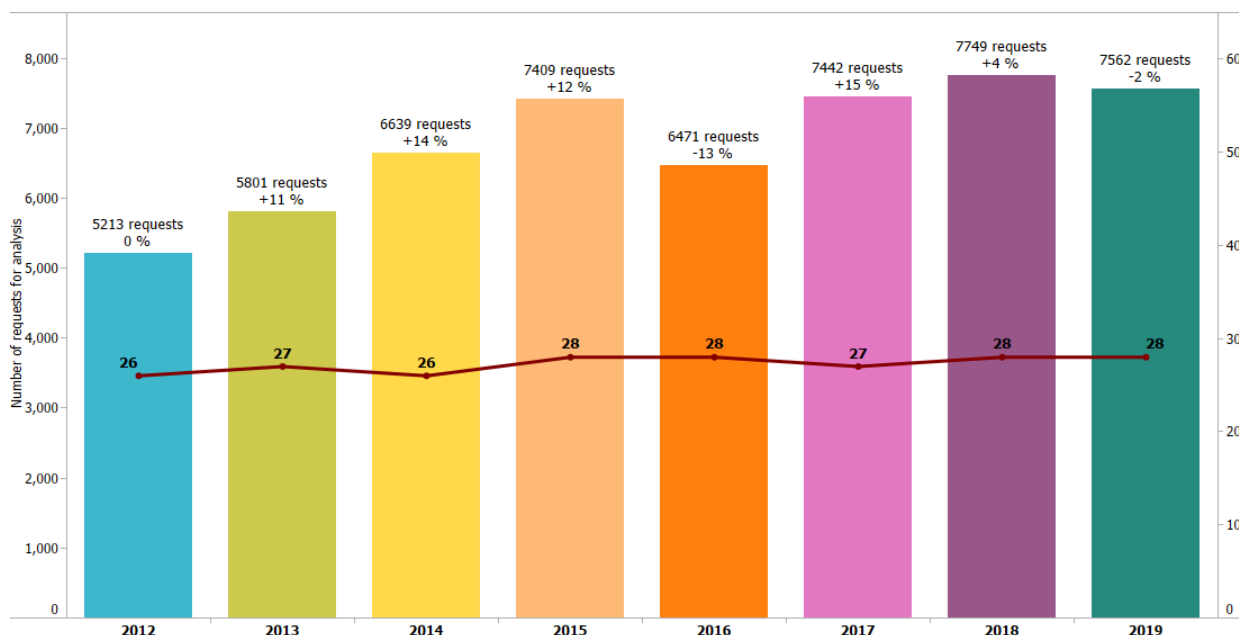
In total, more than 1 million records originating from EU and UPOV members have been included in the Variety Finder. The use of the Variety Finder has constantly increased over recent years. CPVO clients represent the biggest group of users with more than 50 % of the tests of similarity launched. Around 80 000 denomination similarity tests are launched every year.

The graph below gives an overview of the content of the database with the number of records per type of register.



d. Cooperation in denomination testing with EU Member States

Number of requests for advice received and contributing national authorities by 31 December 2019
(2012-2019)



Although there was a slight fall in the number of requests for opinion in 2019, the cooperation in denomination testing has demonstrated a great vitality over time. This service ensures harmonisation of approaches and a greater convergence in the application and implementation of the denomination rules, for the benefit of the plant variety protection system and the parties concerned. The service on cooperation is based on a dynamic and collaborative process that allows to remain responsive as regards to the interpretation of the rules and needs for evolution.

4.2 Crop experts meeting

A meeting of agricultural experts was held in October 2020 to discuss:

- hybrid wheat testing and the consideration of elongated plants as a new form of off-types in wheat,
- observing in multi-annual tests certain characteristics only once,
- replacing the FAO numbers by flowering time in maize,
- methods for cyclic planting in grass testing,
- update on the Office's R&D strategy was provided,
- Revisions to several technical protocols and new technical protocols.

A meeting of vegetable experts was held on 2-3 December 2020 to discuss:

- the merge of the S2 and S3 Gazette of the Office and its consequences for the entrustment and cultivation types,
- the EU Plant Passport and phytosanitary certificates,
- adoption and publication of national technical protocols by the CPVO,
- a new template letter for obtaining reference varieties or the organisation of field expert meetings,
- Revisions of several vegetable technical protocols.

A meeting of fruit experts was held in November 2020 to discuss among others:

- testing of apple mutation groups,
- technical verifications,
- confirming applicants the receipt of plant material,
- obtaining reference varieties for DUS testing,
- observing in multi-annual tests certain characteristics only once,
- the number of plants of reference varieties to be assessed),
- plant health issues and R & D projects.

A meeting of ornamental experts was held on 08-09 October 2020 to discuss among others:

- Number of plants of reference varieties,
- Characteristics observed only once during multi-annual testing,
- Adoption and publication of national protocols – procedure under discussion,
- Interpretation of the MS/MG methods and potential consequences on the distinctness decision,
- Potential consideration of disease resistances in ornamental CPVO protocols,
- Obtaining reference varieties for DUS testing – new template,
- Additional propagation step for some crops - exchange of experience,
- Feedback from EOs in relation to the Plant Passport/Phytosanitary certificate.

4.3 Quality Audit Service

The Quality Audit Service (QAS) was heavily impacted by the Covid-19 pandemic and had to adjust its working methodology and schedule of assessment to entrusted EU examination offices accordingly. Whereas nine assessment exercises had been programmed for the whole of 2020, only two of these were able to be carried out in September 2020. Taking into account the circumstances, the Administrative Council of the CPVO agreed in September 2020 to prolong the current QAS assessment cycle by one year until the end of 2022. Since the Covid-19 pandemic continued into 2021 together with travel restrictions, QAS developed a “Plan B” for undertaking virtual assessment exercises to examination offices via teleconferencing facilities. During the first half of 2021, QAS carried out four virtual assessment exercises, and once the vaccination programme in the EU was implemented together with the EU Digital Covid Certificate, QAS was able to complete three on-site assessments to examination offices. The implementation of the plan B for virtual assessments together with the regular on-site assessments, means that QAS is on track to complete all its scheduled assessment for 2021.

During the first half of 2021 the revision process of the CPVO's Entrustment requirements for examination offices concerning e.g. organisation and the procedure for DUS tests started. It is undertaken in consultation with the stakeholders (entrusted examination offices, breeders' organisations and QAS technical experts) to take into account developments and improvements in DUS testing. The revision process is expected to be finalised at the end of 2021 for approval of the Administrative Council in March/April 2022.

Ongoing evaluation activities were undertaken by QAS in the second half of 2020 and first half of 2021 in relation to the OAPI project by teleconferencing means and their designated examination offices in Cameroon, Senegal, Côte d'Ivoire and Burkina Faso. During this period QAS also provided training through virtual seminars in the context of the IPKey Latin America and CarIPI projects to numerous countries in central and South America on the organisation on DUS testing in order to ensure the independence and impartiality of the technical examinations.

5) Activities for the Promotion of Plant Variety Protection

5.1 International cooperation

On 4 October 2017, the CPVO adopted its international cooperation strategy in harmony with the EU trade policy in the field of intellectual property rights in order to support the external dimension of EU policies. In the framework of said strategy, the CPVO became stakeholder of the IP Key international cooperation projects.

The IP Key international cooperation projects are directed by the European Commission and implemented in collaboration with the European Union Intellectual Property Office (EUIPO) to strengthen IP protection in China, Latin America and ASEAN countries. In addition to IP Key projects, the European Commission has started the implementation of CarIPI in the Caribbean region and AfrIPI in Africa. The activities carried out in the framework of these projects include the organisation of seminars and mutual trainings as well as the provision of studies and legal support to the beneficiary countries.

Due to the breakout of the Covid-19 pandemic all international cooperation projects were affected in the implementation of activities in presence. Most of the activities were transformed in online events.

Under **IPKey China**, in the past years, Chinese experts had the opportunity to attend a two-week training session on DUS examination, held in presence at EU Examination Offices' premises. In October 2020, with a combined effort of six EU Member States' examination offices (Czech Republic, France, Germany, Hungary, Netherlands and Spain) and the CPVO, the event was transformed into an online seminar. More than 60 experts from MARA (Ministry of Agriculture and Rural Affairs) and NFGA (National Forestry and Grassland Administration) attended the training. In November 2020, over 150 participants and speakers from the EU and China, took part to a webinar on PVR Enforcement. The activity allowed both parties to share experiences, thanks to the participation of all stakeholders involved in enforcement activities, and discussed the latest developments in terms of plant variety protection legislation.

Under **IPKey South-East Asia**, the CPVO contributed to the implementation of several technical webinars and trainings for IPO officials, concerning mainly the UPOV 1991 Act and the benefits of the UPOV system. Two series of webinars, one in November 2020 and one in June 2021 focused on the benefits of PVR systems for sustainable farming and global food security. These series of webinars were a fruitful occasion to share views on the benefits of UPOV 1991 membership for farmers and breeders, as well as the most compelling issues concerning PVP in South-East Asia. The second activity carried out in 2021 consisted in a legal training for Thai officials, carried out jointly with UPOV, focusing on different aspects of the UPOV Convention.

Under **IPKey Latin America**, in November 2020, a Regional Workshop on Cooperation in the examination of PVP applications, focusing on independence in the carrying out of DUS examination and on identifying and avoiding conflicts of interest, involved the CPVO, UPOV and the Spanish Plant Variety Office (OEVV). The regional workshop was a valuable occasion for beneficiaries to share their experience with each other, the EU and international partners. During the event several countries expressed interest in further discussing quality schemes in the management of DUS tests.

As regards the **CarIPI** project, the CPVO contributed to the implementation of two activities in April 2021. The first webinar focused on the independence in the conduct of DUS examination and the management of conflict of interest in Examination Offices. The main target audience were IP and PVP Offices and the technical bodies involved in R&D and DUS examination of the Dominican Republic, Saint Vincent and the Grenadines and Trinidad and Tobago. Nevertheless, the activity was open to the rest of the CARIFORUM countries. The second activity focused on the sharing of experience of the Dominican Republic on the implementation of a PVP system, which was a follow up of the activity carried out in May 2020 on the revision of the PVP legislation. The webinar was directed to all CARIFORUM States, and of particular interest for countries that had just acceded the UPOV system, like Saint Vincent and the Grenadines.

After Saint Vincent and the Grenadines (SVG) deposited its instrument of accession to UPOV on the 22nd February 2021, on 22nd March 2021 SVG has become the seventy-seventh member of UPOV. In June 2021, an activity has been launched to provide support to SVG to adapt the legislation and assistance in the implementation of the relevant administrative provisions.

The 1st February 2020 the **AfriPI** project (Intellectual Property Rights Action for Africa) started with 7 months inception phase, and will last for a period of four years. The project is funded under the Pan-African programme and implemented by the EUIPO. The starting phase of the project was severely affected by the Covid-19 pandemic, rendering quite challenging the collection of information from beneficiary countries. In the first Annual Working Plan (AWP) of the project, it was foreseen the involvement of the CPVO in implementing an activity on the promotion of the Arusha Protocol. The workshop was initially planned in October 2020, but it has been postponed to the third quarter of 2021. In July 2021 the CPVO in cooperation with UPOV proposed three activities to be included in the second AWP of the AfriPI project.

Aside from IPKey projects on 22 July 2021 the CPVO was invited as speaker to the International Symposium on New Plant Variety Conservation, hosted by the Chinese Academy of Forestry (NFGA). The seminar concentrated on different key concepts under UPOV 1991, such as EDVs, novelty and varieties of common knowledge, as well as the protection of harvested material. The event involved also representatives from China explaining farmers' rights under the Chinese PVP system and the different scenarios for the use of molecular techniques under the PVP system.

UPOV meetings

The European Commission and CPVO representatives attended the UPOV Council, the Consultative Committee, the Legal and Administrative Committee as well as working groups on international cooperation, the electronic application form, on variety denominations as well as the TWGs meetings.

EAPVP

Due to the Covid-19 pandemic, the 13th East Asia Plant Variety Protection (EAPVP) Forum meeting was postponed and took place in November 2020. The 14th annual forum is foreseen in August – September 2021 and will be hosted by Japan. The EAPVP Forum annual meeting serves the purpose of reporting on the previous year's activities and to plan future cooperation initiatives, including updates on the EAPVP Pilot project on establishing an e-PVP platform.

CPVO – European Patent Office

The CPVO and the European Patent Office (EPO) constantly cooperate with each other, under the umbrella of two agreements, the Administrative Arrangement (AA) No 2016/0009 signed on 11 February 2016, on Bilateral Cooperation to exchange information and best practices in the area of plant-related patents and plant variety rights, and the Agreement 2018/0264 on practical aspects on the implementation of the AA. Both agreements will come to an end in February 2022 and discussions for renewal are currently ongoing.

As implementation for the agreement, in January 2021 the two organisations held a joint workshop on the results of the G3/19 Opinion of the Enlarged Board of Appeal of EPO. The main issue at stake concerned the patentability of mutagenesis process and the products obtained thereof. The meeting was also an occasion to further explore the legal set-up for hearings held via videoconference, to face unprecedented situations like the Covid-19 pandemic and exploit the possibilities granted by new technologies.

OAPI

In the beginning of July 2019, the EU Commission signed a contract with the African Intellectual Property Office (OAPI) in Geneva providing funds for a so-called Road Map aiming at the promotion of intellectual property to foster the creation of new varieties adapted to the African market and to provide an incentive to make superior varieties existing elsewhere available to OAPI area. The project is managed by OAPI, the CPVO is - together with UPOV, GEVES, GNIS, and Naktuinbouw - a partner.

Due to sanitary restrictions linked to the Covid-19 pandemic, the activities with an involvement of CPVO experts requiring a physical presence (assessing testing facilities) planned for January and February 2021 had to be postponed. The implementation of the project will continue until the second quarter of 2022. OAPI nevertheless conducted seminars dedicated to breeders and seed producers in May in Brazzaville and in June 2021 in Libreville to which the CPVO contributed by electronic means.

5.2 Training

During the year 2020-2021, the CPVO was involved in the preparation of several trainings, mainly carried out online, due to the outbreak of the Covid-19 pandemic including:

- Presentation of the CPVO to Master Students in Plant Breeding from the Beauvais' Institut Polytechnique UniLaSalle on 28 September 2020
- Webinar on EDVs in cooperation with Vegepolys on 9 October 2020
- Presentation of the CPVO to ESA students on 5 November 2020
- Presentation of the CPVR system within the LLM in Intellectual Property of the University of Maastricht on 12 January 2021
- Seminar to the CEIPI and the Paris BAR Association on the Opinion G3/19 of the EPO BoA
- Seminar on Harmonisation of IP practices in EU at CEIPI on 13 April 2021
- Training to EUIPO examiners on Variety Finder on 19 April 2021
- Presentation of the CPVR system within the LLM in Intellectual Property of the Trinity College, Dublin on 23 April 2021
- World IP Day presentation on PVR (Luxembourg IP Office) on 26 April 2021
- Seminar to Université Claude Bernard Lyon 1 on 6 May 2021
- Presentation of the CPVR system within the Magister Lvcentinvs (IP LLM) of the University of Alicante on 10 May 2021
- 3 Webinars recorded for Wageningen University course on PBR
- Participation to Webinar 'How innovation in plant breeding boosts sustainable farming in the EU' (Euroseeds/HFFA) on 17 May 2021
- IP HELPDESK webinars:
 - Introduction to PVP in the EU 9 March 2021
 - IP in the Agrifood sector 29 April 2021
 - NBTs 8 June 2021

- Virtual Training Center – Webinar on enforcement of PVRs on 25 May 2021
- Workshop on the Cooperation service in Denominations testing and Variety Finder on 3 June 2021 (Permanent WG on Variety Denominations).

5.3 Meetings with Stakeholder organisations

The European Commission and the CPVO attended the virtual Euroseeds Annual meeting on 11-13 October 2020 and the virtual annual meeting of CIOFORA Deutschland on 24th February 2021. The European Commission and CPVO also met the breeders organisations on a bilateral basis: e.g. CIOFORA 17/03/2021 and Euroseeds & Plantum 03/03/2021. The CPVO also organized a formal annual bilateral meetings with AIPH.

5.4 Participation in international fairs and open days

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. However, due to sanitary restrictions linked to the Covid-19 pandemic the fairs the Office usually attends ('IPM' in Essen and 'Salon Sival' in Angers) together with its partners from the examination offices were cancelled.

5.5 IT developments

The CPVO online application tool is designed to be used by EU Member States in order to receive national applications and it has been fully operational for Dutch National Listing and Plant Variety Right applications since the end of 2019. Further integration of additional EU Member States is possible and will be more facilitated as the work on harmonisation of technical questionnaires within the EU progresses.

After several years of allowing PRISMA applications to be electronically transferred to the CPVO Online Applications system, the CPVO is continuing its cooperation with UPOV PRISMA, and has co-jointly decided on four projects in order to address several shortcomings from the initial project:

- an audit of the current state of the project
- a study and implementation of procedures to better organize and automate the implementation of changes in forms in both systems
- the support of a so-called "bulk-upload" of applications from PRISMA to CPVO (for a limited list of species and clients)
- the bi-directional transfer of application data (i.e. to also support sending of application data from CPVO Online Applications system to UPOV's PRISMA).

The third project will be dealt with in priority for Maize as a pilot species.

6. R & D

6.1 IMODDUS ad hoc working group

As one of the three objectives of the previous R&D strategy of the CPVO adopted by the Administrative Council (AC) in March 2015, the AC has voted for the creation of a CPVO ad hoc working group on biomolecular techniques. This working group is named IMODDUS which stands for Integration of Molecular Data into DUS testing. The aim of the group is to work on projects in the different crop sectors which would allow for the application of biomolecular techniques in DUS tests where these techniques can contribute to efficiency and quality.

The group is composed of BMT experts from interested examination offices and breeders organisations. Experts from laboratories universities, the industry, etc. can also be invited by the chairperson of the group.

In February 2021, a videoconference was organized. The agenda covered presentations and discussions on the following items:

- The draft CPVO R&D strategy for 2021-2025,
- R&D in the context of the Green Deal: integration of SDGs in breeding programs and their potential use as evaluation criteria for R&D projects supported by CPVO,
- UPOV latest molecular developments,
- Update on the US PVP system and use of molecular techniques in decision making procedures,

- Ongoing IMODDUS R&D projects;
- Molecular tasks of INVITE EU project,
- Molecular markers to support the assessment of Distinctness in cross-pollinated species: allelic frequencies and concept of vmD (value molecular Distinctness),
- Access to databases, confidentiality and cost sharing: e.g. INVITE model agreement, CPVO Potato database partnership agreement.

In 2021, IMODDUS contributed to the evaluation of two new R&D project proposals whose assessment procedure should be concluded before the end of the year. In 2021, one project positively considered by IMODDUS in 2020 started on durum wheat (DurdusTools): “Integration of molecular data into DUS testing in Durum wheat - development of a common online molecular database and a genetic distance calculation tool”. It is a follow-up of the Durdus project which allowed the development of a genotyping protocol using a commercial chip, and the definition of a preliminary genetic threshold for the management of the reference collection.

Meanwhile, four other projects previously validated by IMODDUS continued to make progress:

Hemp

“Development of a SNP marker set in Cannabis to support DUS testing”.

The other R&D projects previously evaluated positively by IMODDUS and granted co-financing made steady progress during the period:

Tomato

“International validation of a SNP set to determine genetic distances for the management of tomato reference collection”

Oilseed rape

“Developing a strategy to apply SNP molecular markers in the framework of winter oilseed rape DUS testing.”

Apple

“Developing molecular markers allowing the distinction of apple mutants (sports)” (by associating sequencing, transcriptomics and epigenetics data).

6.2 INVITE

INVITE stands for “INnovations in plant Variety Testing in Europe to foster the introduction of new varieties better adapted to varying biotic and abiotic conditions and to more sustainable crop management practices”. It aims at improving efficiency of variety testing and availability of information to stakeholders on variety performances under diversified production conditions and on biotic and abiotic stresses for 10 crops. It addresses DUS and performance testing in a balanced way and intends to maximize synergies between them through related activities based on phenotyping, genotyping, modelling and database management.

In addition to its participation to the tasks of the project, CPVO is in charge of managing all issues related to the access to historical data and reference materials held by the examination offices (EOs). In collaboration with Euroseeds, the workpackage leaders and the participating examination offices, CPVO designed an agreement to frame the access to these data and materials by the partners of INVITE’s consortium. In 2021, based on the individual consents obtained from the breeders by the participating EOs, CPVO supported the definition of encoding keys for the authorized varieties (~6800) and the coordination of the data extraction.

The first review of the project by external experts missioned by the Commission took place in June 2021. The progress described in the periodic technical report (covering the first 18 months of the project from 01/07/2019 (M1) to 31/12/2020 (M18)) was considered very positively by the reviewers. Despite the delay due to the Covid19 pandemics and the negotiations with breeders for access to historical data and reference material, INVITE has produced 17 Deliverables of the 19 expected during this period and achieved 23 on the 32 Milestones planned. An extension of 6 months of the end of the project is proposed by the coordinator to complete all planned tasks. The collaboration with INNOVAR (the second laureate consortium of the SFS-29-2018 call, which focuses on the development of a machine learning approach for the optimization of variety testing in wheat) continued with a focus on the setting of common trials for wheat.

6.3 Other R&D projects

Harmorescoll

HARMORESCOLL is aimed at setting up, at the European level, a coordinated system to give access to reference material for performing disease tests for DUS according to CPVO protocols and UPOV guidelines. It involves examination offices and seed companies with Euroseeds membership. The project is coordinated by GEVES and Naktuinbouw. It started in 2020 and is scheduled for 3 years.

Melon

The objective was to set up a common database containing variety descriptions and photos stored within all of the CPVO's entrusted examination offices for melon. As the data will not be harmonised between countries, the database will not directly be used to select the reference varieties to compare to the candidates but will facilitate the identification of the available reference materials and their maintainers. The database is now operational and was used by Naktuinbouw (NL), GEVES (FR), INIA/OEVV (ES), UKSUP (SK) and DGAV (PT) this year.

The following 2 projects will start in 2022 subject to adoption of the CPVO budget in October 2021:

Hydrangea

Harnessing molecular data to support DUS testing in ornamentals: a case study on Hydrangea.

Tomato – Pepper –Melon

Updating DUS resistance tests according to pests' evolution:

- Setting up resistance tests to ToBRFV for tomato and pepper
- Improvement of resistance test melon/Aphis gossypii.

[End of Annex XVI and of document]

ⁱ This report uses the terminology of the United Nations.