

**Council****C/56/INF/4****Fifty-Sixth Ordinary Session  
Geneva, October 28, 2022****Original:** English/German/Spanish  
**Date:** September 22, 2022

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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 XIX: South Africa, Germany, Bosnia and Herzegovina, China, Denmark, Egypt, Ghana, Japan, Kenya, Mexico, New Zealand, Poland, Republic of Korea, Republic of Moldova, Czech Republic, Serbia, Singapore, Ukraine and European Union
3. Reports received after September 12, 2022, will be included as an addendum to this document, which will be published after the Council session.

[Annexes follow]

SOUTH AFRICA

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

1.1 Amendments of the law and the implementing regulations

Regulations for Plant Breeder's Rights Act No. 12 of 2018 published in the SA Government Gazette No. 46543 on 10 June 2022 for public comments.

- adaptation to the 1991 Act of the Convention:

None to report.

- other amendments, including in respect of fees:

The fees on plant breeders' rights for the 2022/23 financial year, ending 31 March 2023, were published in the SA Government Gazette No. 46242 on 14 April 2022.

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

The declaration of Cannabis L. [Hemp] published in the SA Government gazette No. 46382 on 10 June 2022.

2. Cooperation in examination

None to report.

3. Situation in the administrative field

No changes to report

4. Situation in the technical field for the period January to December 2021

1 additional taxa have been declared in terms of the Plant Breeders' Rights Act during.

308 PBR applications were received of which 44% [137] were for Agricultural crops, 12% [35] for Ornamental crops, 40% [123] for Fruit crops and 4% [13] for Vegetable crops.

Total of 325 PBR grants from January to December 2021 were :

Agricultural crops	127
Vegetable crops	15
Fruit crops	108
Ornamental crops	75

As of December 2021, a TOTAL of 3482 varieties had valid plant breeder's rights in South Africa, of which 29% were for Ornamental crops, 36% for Agricultural crops, 28% for Fruit crops and 7% for Vegetable crops.

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)
NUMPRO Meeting [Nuclear Material Producers]	17 May 2022	Willows Country Lodge and Conference Centre, Pretoria SA	Potato Certification Service	Report on PBR on potato varieties	SA Potato Industry ± 60 participants

II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

None to report.

[Annex II follows]

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

No remarks

2. Cooperation in examination

No remarks

3. Situation in the administrative field

The Federal Plant Variety Office is proceeding according to schedule with implementation of the provisions of the Online Access Act. A key step in that process, the creation of individual mailboxes for breeders, which will make it possible to send them fee notices online, should be complete by October.

4. Situation in the technical field

No remarks

5. Activities to promote the protection of plant varieties

Type of activity	Date	Location	Organizer(s)	Purpose of the activity	Participants (number of participants from each)	Comments
Technical Assistance and Information Exchange Instrument (TAIEX) study tour	June 2022	Germany	TAIEX Department of the European Commission  Federal Plant Variety Office	Support for the development of a Distinctness, Uniformity and Stability (DUS) testing system	Kosovo (3 participants)	TAIEX program of the European Commission
Seminar on the use of biomolecular methods	December 2021	Online	Federal Ministry of Food and Agriculture	Technical exchange on the use of biomolecular methods in plant variety testing	India (around 160 participants)	German-Indian cooperation project (July 2019 to December 2022)
Seminar on the conduct of plant variety trials (DUS) in wheat and barley	June 2022	Germany	Federal Plant Variety Office	Training in the conduct of plant variety trials, application of the test guidelines and trial evaluation	India (5 participants)	
Seminar on the conduct of plant variety trials (DUS) in rapeseed and mustard	June 2022	Germany		Training in the conduct of plant variety trials, application of the test guidelines and trial evaluation	India (3 participants)	
Internship	July 2022	Germany		Support for the development of a own testing system for approving and protecting plant varieties in Ethiopia	Ethiopia (1 participant)	

II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

No remarks

[Annex III follows]

## BOSNIA AND HERZEGOVINA

## I. PLANT VARIETY PROTECTION

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.	08-12 February 2021	Teleworking activities	Twinning BA 18 IPA AG 03 19	Capacities in area of Plant Breeders' Rights	Administration of BiH for Plant Health Protection (PHPA), Department for Plant Health - Ministry of agriculture, forestry and water management of Republika Srpska - Ministry of agriculture, water management and forestry of the Federation of BiH - Department of Agriculture, Forestry and Water Management of Brčko District BiH - Republic Administration for Inspection Affairs of Republika Srpska - Federal Administration for Inspection Affairs - Inspectorate of Brčko District of BiH	Strengthening administrative and operational capacities in area of Plant Breeders' Rights via knowledge base transfer and skills improvements
2.	26.-30 April 2021	Teleworking activities	Twinning BA 18 IPA AG 03 19		Administration of BiH for Plant Health Protection (PHPA), Department for Plant Health - Ministry of agriculture, forestry and water management of Republika Srpska - Ministry of agriculture, water management and forestry of the Federation of BiH - Department of Agriculture, Forestry and Water Management of Brčko District BiH - Republic Administration for Inspection Affairs of Republika Srpska - Federal Administration for Inspection Affairs - Inspectorate of Brčko District of BiH	Harmonizing primary legislation in place (law) with Law according the Union acquis and UPOV Convention in area of plant breeders' rights
3.	28 June – 2 July 2021	Teleworking activities	Twinning BA 18 IPA AG 03 19		Administration of BiH for Plant Health Protection (PHPA), Department for Plant Health - Ministry of agriculture, forestry and water management of Republika Srpska - Ministry of agriculture, water management and forestry of the Federation of BiH - Department of Agriculture, Forestry and Water Management of Brčko District BiH - Republic Administration for Inspection Affairs of Republika Srpska - Federal Administration for Inspection Affairs - Inspectorate of Brčko District of BiH	Harmonizing primary legislation in place (law) with Law according the Union acquis and UPOV Convention in area of plant breeders' rights

## II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

The expert carried out and discussed gap analysis with Bosnian colleagues and review and discussed the draft rulebook on Small Farmers.

As far as the gap analysis is concerned Special attention was given to:

- The implementing measures on fees for granting and maintaining PBR to be drafted
- Commission for the protection of new varieties of plants to be established
- Committee for appeal to be set up
- Draft rulebook on the register of PBR
- Draft rulebook on the definition of small farmer

As to the rulebook on small farmer, the most substantial comment was related to the criteria on the ground of which the limit of 3 hectares was identified. This is the limit to size of the holdings below which the farmers would be exempted from the payment of royalties on protected varieties, according to the optional exemption within the UPOV Convention.

This limit should be established taking to account the general features of agriculture in BiH, the average size of the holdings, the main crops, with the aim to find a fair balance between legitimate interests of the breeder and cost benefit analysis to collect royalties on the defined small farmers.

Examples were given by the presentations on the situation in Poland, Czech Republic, the Netherland, Italy and in general within the EU context.

According to the EC Regulation 1768/95 (implementing article 14 of the basic regulation 2100/94 on PBR) the farmer producing less than 92 tons of cereals and/or 185 tons of potatoes is considered "small farmer" and, as such, is not required to pay any royalties to the breeder.

It was also noted the need of some minor editorial and linguistic revision of the English version of the draft rulebook.

The mission has been greatly facilitated by the collaboration of the colleagues of PHPA. Taking to account the conditions of working by videoconference, no difficulties have been encountered.

It is recommended to:

- Start the process for the adoption of the amendment of article 19 of the Law.
- Start the process for the adoption of the Decision on establishing a joint commission for granting the breeders' rights and protection, including the identification of the representative of the relevant Institutions.
- Check consistency between articles and the annexes of the rulebook on registers and start the process for the approval, including the drafted Certificate.
- Start the process for the approval of the rulebook on small farmers.
- Reflecting on the amended needed to the rulebooks on the Commission and on fees for listing to be used also for PBR purposes.

## RESULTS

- a. Amendment text of article 19 of the Law
- b. Final text of the Decision on the Joint Commission for granting the breeders' rights and protection
- c. Certificate on granting of the breeder's right
- d. Final text of the rulebook on registers
- e. Final text of the rulebook on Small Farmers

[Annex IV follows]

## CHINA

## I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

## 1.1 Amendments of the law and the implementing regulations

The amendment of Seed Law of the People's Republic of China has been implemented since March 1, 2022.

2. Cooperation in examination

No changes

3. Situation in the administrative field

No changes

4. Situation in the technical field

No changes

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
Seminar on Plant variety Protection between developing countries	May 24 to June 1, 2022	Online	China	To introduce Chinese Plant variety Protection system in accordance with UPOV Convention to developing countries	Five countries, including 26 participants	

## II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

No changes

[Annex V follows]

## I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

No changes

2. Cooperation in examination

No changes

3. Situation in the administrative field

No changes

4. Situation in the technical field

DUS-testing is done at the same level as previous years.

In July, we received a question from Euroseeds regarding challenges in achieving distinctness in spring barley. It seems there are some issues in this regard. There are several reasons for these challenges: on the one hand, there is a relatively large reference collection in spring barley and on the other hand, many candidate varieties have pedigree overlaps. For example, most spring barley varieties have MLO resistance and in recent years, a specific variety has been frequently used as a crossing partner. In other words, the varieties are morphologically similar, the "morphological space" (number of traits x possible expressions) being relatively narrow, which is why we see these distinctness problems. Actual rejections due to distinctness problems are, however, relatively rare.

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.	March 8, 2022	Kobæk Strand	Danseed	The socio- economic and environmental values of plant breeding in the EU	DK nationals	

## II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

No changes

[Annex VI follows]

## EGYPT

## I. PLANT VARIETY PROTECTION

Situation in the legislative field*Extension of protection to further genera and species*

We added a new species: BORAGE and Nigella.

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.	11 May 2022	Egypt	ISTA	A presentation is presented as a promotion .	52 countries
2.	May 2022	Egypt	League of Arab States	Celebrating the world day of IP	All sections of IP
etc.	2021	Egypt	Netherlands (virtually)	Exchange information	Holland

## II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

Starting to upload data in PLUTO.

[Annex VII follows]

## GHANA

## I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

## 1.1 Amendments of the law and the implementing regulations

- adaptation to the 1991 Act of the Convention

The Plant Variety Protection Act, 2020 (Act 1050) is compliant with the relevant international conventions including the 1991 Act of the UPOV Convention.

- other amendments, including in respect of fees

The fees schedule including the implementing regulation have been submitted to the Ghanaian Parliament, awaiting approval.

## 1.2 Extension of protection to further genera and species

Ghana protects all genera and species (s.1 of Act 1050).

## 1.3 Case law

Ghana is yet to implement the system so no case law yet.

2. Cooperation in examination

No agreement yet.

3. Situation in the administrative field

The administrative structure and systems as specified in the Act remains the same (s. 39 to 45 of Act 1050).

4. Situation in the technical field

The IP office and the Crops Directorate of the Ministry of Food and Agriculture need to develop expertise for the office.

5. Activities for the promotion of plant variety protection

Title of activity	Date	Location	Organizer(s)	Purpose of activity	Participating countries/ organizations (number of participants from each)	Comments
1.	2023-2024	Ghana	GHIPO	The IP Office to train staff of IP office in the examination of novelty and variety denomination (including relevant databases)	UPOV GHIPO Collaborators	Planning is under way for this program
2.	2023	Ghana	GHIPO	The IP Office to liaise with the Ministry of Food and Agriculture to initiate awareness on PVP and engagement with the Ghana Genetic Rescue Centre (Gene Bank)	UPOV GHIPO Collaborators	Planning is under way for this program

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Title of activity	Date	Location	Organizer(s)	Purpose of activity	Participating countries/ organizations (number of participants from each)	Comments
3.	2023	Ghana	GHIPO	The IP Office to liaise with the Ministry of Food and Agriculture, the Crops Research Institute and the Savannah Agricultural Research Institute of the Council for Scientific and Industrial Research to continue to raise awareness	UPOV GHIPO Collaborators	Planning is under way for this program
4.	2023	Ghana	GHIPO	The IP Office to liaise with the Ministry of Food and Agriculture undertake identification of DUS testing centers and their needs	UPOV GHIPO Collaborators	Planning is under way for this program
5.	2023	Ghana	GHIPO	Training to build the capacity of DUS examiners (including access to relevant databases)	UPOV GHIPO Collaborators	Planning is under way for this program
6.	2023	Ghana	GHIPO	Enhancing DUS at the Ministry of Food and Agriculture	UPOV GHIPO Collaborators	Planning is under way for this program
7.	2024	Ghana	GHIPO	Continuous awareness and training	UPOV GHIPO Collaborators	Planning is under way for this program

[Annex VIII follows]

JAPAN

I. FINANCIAL CONTRIBUTION

Funds in trust from the Government of Japan (JP-FIT)

Japan made a contribution of 340,407 Swiss francs in the form of Funds in trust in 2021, intended to support the activity of UPOV Secretariat aimed at the establishment and implementation of the Plant variety Protection system in the Asian region, such as:

- i. Consultation meetings with legal/technical officials of the relevant countries;
- ii. International legal workshop activities organized by the Office of the Union (e.g. Workshop on drafting legislation in accordance with the UPOV Convention);
- iii. National workshops for raising PVP awareness in Asian countries;
- iv. international workshops on PVP under the UPOV Convention;
- v. Annual Meetings of the East Asia Plant variety Protection (EAPVP) Forum; and
- vi. EAPVP Pilot Project to facilitate efficient application and examination procedures in the Asian region.

II. PLANT VARIETY PROTECTION

1. Situation in the legislative field

*Amendments of the law and the implementing regulations*

The Ordinance for Enforcement of the Plant variety Protection and Seed Act (Ordinance of the Ministry of Agriculture, Forestry and Fisheries (MAFF), No.83 of December 3, 1998) was amended and came into effect on April 1, 2022. In order to conduct countermeasure against infringement, the Advisory Opinions system are established to compare the characteristics of the allegedly infringing varieties with "Variety Description" of the protected variety, in accordance with Article 35.3 of the Act.

2. Cooperation in examination

*Conclusion of new agreements*

MAFF of Japan concluded, on March 11, 2022, the agreement with the Community Plant Variety Office (CPVO) that the Center for Seed and Seedlings of Japan (NCSS) carries out DUS examination on behalf of CPVO for species *Eutrema japonicum* (Miq.) Koidz. (syn. *Wasabia japonica* (Miq.) Matsum.)

3. Situation in the administrative field

*Electronic Application System*

MAFF has operated a national electronic application system (Variety registration data Integrated Portal System (VIPS)) for Plant variety Protection since 2018 for the convenience of applicants. Applicants can submit their application documents and pay fees for applications and registrations electronically through the system. 1,360 applications were filed through VIPS until March 31, 2022. VIPS is under development to be linked with UPOV PRISMA.

4. Situation in the technical field

New national Test Guidelines (TGs) for 32 genera and species were developed in 2021.

NCSS, Japan's DUS growing test institute, is jointly working with Naktuinbouw (Netherlands) to establish the calibration manuals for DUS test to harmonize DUS test. The calibration manuals provide users with easy-to-understand reference material including informative photographs explaining how to observe and measure characteristics of candidate varieties. This joint activity is working on 10 plants, i.e. Anthurium, Eggplant, Chrysanthemum, Gerbera, Tomato, Tulip, Rose, Lettuce, Carnation and Watermelon. All manuals were completed and are now available on website of NCSS as well as Naktuinbouw: [http://www.naro.affrc.go.jp/english/laboratory/ncss/dus\\_growing\\_test/index.html](http://www.naro.affrc.go.jp/english/laboratory/ncss/dus_growing_test/index.html)

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

### 5.1 *East Asia Plant variety Protection (EAPVP) Forum*

In line with the "10-Years Strategic Plan of EAPVP Forum (2018-2027)", which was adopted at its 11<sup>th</sup> Annual Meeting held in 2018, each member country is promoting Individual and/or regional Activities regarding Plant variety Protection.

The 15<sup>th</sup> Annual Meeting was held on July 13, 2022 via electronic means, where Cooperation Activities were adopted and the progress of EAPVP Pilot Project was reported.

### 5.2 *EAPVP Pilot Project (e-PVP Asia)*

The 11<sup>th</sup> Forum Annual Meeting agreed to commence the Pilot Project (PP) as a regional cooperation activity which was proposed by Japan and Viet Nam. The PP consists of two phases, that is phase 1 (development and testing; 2018-2022) and phase 2 (operation; 2023-). The PP held nine meetings since October 2018.

#### i. Participating countries

Current participating countries are Japan and Viet Nam. Brunei Darussalam Darussalam, Malaysia and Myanmar are provisional participating countries. The UPOV Office is a resource partner. EAPVP Forum member countries wish to join the PP, they could participate it if they are the member of UPOV. EAPVP member countries which have officially committed to join UPOV, upon their request, can be provisional participating countries during Phase 1. Any EAPVP Forum member countries may attend PP meetings.

#### ii Benefits of the e-PVP Asia

For breeders/agents

The e-PVP Asia will provide:

- A single online platform for submitting application data to PVP Offices of e-PVP Asia participating countries; and
- A platform to exchange DUS reports among e-PVP Asia participating countries, which would contribute to saving time and money by minimizing the number of DUS examinations.

For participating PVP Offices

The e-PVP Asia (PVP platform) will:

- Enhance DUS cooperation among PVP Offices of e-PVP Asia participating countries, which will contribute to filling capacity gap in DUS examination due to the difference of human resources, infrastructure, and nature condition for growing trials.

#### iii. Progress of PP

At the 9<sup>th</sup> PP meeting by correspondence in March 2022, the Project schematic were agreed and the User's screens of e-PVP modules were presented. The PP participating countries shared this Project scheme to all Forum members. The development of the PP was reported to the 15<sup>th</sup> EAPVP Forum annual meeting.

### 5.3 *International training course organized by Japan International Cooperation Agency (JICA)*

A three month international training course "Plant variety Protection and Quality Control System of Seeds to Facilitate Distribution of High Quality Seeds" was operated by JICA with cooperation of the UPOV secretariat, from August 22 to October 6, 2022 via online platform with 14 trainees participated from Bangladesh, Indonesia, Nepal, Philippines, Thailand, Uzbekistan, Viet Nam and Zambia.

5.4 List of the EAPVP cooperation activities (April 2021 – March 2022)

Title of activity	Date	Location	Organizer(s)	Purpose of activity	Participating countries/ organizations (number of participants from each)	URL for details
1. International Seminar on the Protection of New Plant varieties	September 1, 2021	Japan (virtual means)	JATAFF, MAFF of Japan	To increase awareness on the PVP system under the UPOV convention	EAPVP members, UPOV, CPVO and USPTO	<a href="http://eapvp.org/report-data/japan/international_seminar2021/">http://eapvp.org/report-data/japan/international_seminar2021/</a>
2. Seminar on the Enforcement of Plant Breeders' Rights	January 12, 2022	Viet Nam (virtual means)	Ministry of Agriculture and Rural Development of Viet Nam	To raise awareness of the PVP system among market control personnel, economy police officers, etc.	Brunei Darussalam (2), Cambodia (4), China (1), Indonesia (9), Lao People's Democratic Republic (1), Malaysia (23), Myanmar (3), Philippine (16), Republic of Korea (3), Thailand (4), Viet Nam (58)	<a href="http://eapvp.org/report-data/vietnam/ministry-of-agriculture-and-rural-development-of-vietnam-held-online-seminar-on-the-enforcement-of-plant-breeders-rights/">http://eapvp.org/report-data/vietnam/ministry-of-agriculture-and-rural-development-of-vietnam-held-online-seminar-on-the-enforcement-of-plant-breeders-rights/</a>
3. DUS training workshop	January 18-19, 2022	Japan (virtual means)	NCSS of Japan	To build the capacity of authorities in the ASEAN region countries.	Brunei Darussalam (2), Cambodia (4), Indonesia (4), Lao People's Democratic Republic (5), Malaysia (3), Myanmar (3), Philippine (4), Thailand (3), Viet Nam (5)	<a href="http://eapvp.org/report-data/japan/ministry-of-agriculture-forestry-and-fisheries-of-japan-held-capacity-building-workshop-1-introduction-of-pvp-upov-tq1-3/">http://eapvp.org/report-data/japan/ministry-of-agriculture-forestry-and-fisheries-of-japan-held-capacity-building-workshop-1-introduction-of-pvp-upov-tq1-3/</a>
4. Seminar on Breeder's Exemption in PVP under UPOV Convention	January 26, 2022	Indonesia (virtual means)	Ministry of Agriculture of Indonesia	To raise the awareness of the farmer's right under the UPOV system.	Brunei Darussalam (6), Cambodia (5), China (4), Indonesia (76), Lao People's Democratic Republic (1), Malaysia (20), Myanmar (3), Philippine (16), Republic of Korea (4), Thailand (5), Viet Nam (1)	<a href="http://eapvp.org/report-data/indonesia/ministry-of-agriculture-of-indonesia-held-online-seminar-on-breeders-exemption-in-pvp-under-upov-convention/">http://eapvp.org/report-data/indonesia/ministry-of-agriculture-of-indonesia-held-online-seminar-on-breeders-exemption-in-pvp-under-upov-convention/</a>
5. DUS training workshop (expert course)	February 14-15, 2022	Japan (virtual means)	NCSS of Japan	To build the capacity of authorities in the ASEAN region countries	Brunei Darussalam (1), China (6), Indonesia (4), Lao People's Democratic Republic (2), Republic of Korea (1), Thailand (3)	<a href="http://eapvp.org/report-data/japan/ministry-of-agriculture-forestry-and-fisheries-of-japan-held-capacity-building-workshop2-technical-training-for-pvp-senior-staff/">http://eapvp.org/report-data/japan/ministry-of-agriculture-forestry-and-fisheries-of-japan-held-capacity-building-workshop2-technical-training-for-pvp-senior-staff/</a>
6. Workshop on Plant variety Protection - Plant Breeders' Rights and Farmers' Benefits-	February 28, 2022	Cambodia (virtual means)	Ministry of Agriculture, Forestry and Fisheries of Cambodia	To increase awareness on the PVP system under the UPOV convention	Cambodia (26), China (8), Indonesia (186), Lao People's Democratic Republic (2), Malaysia (8), Myanmar (2), Thailand (4)	<a href="http://eapvp.org/report-data/cambodia/ministry-of-agriculture-forestry-and-fisheries-of-cambodia-held-online-workshop-on-plant-variety-protection-%e2%80%95plant-breeders-rights-and-farmers-benefits%e2%80%95/">http://eapvp.org/report-data/cambodia/ministry-of-agriculture-forestry-and-fisheries-of-cambodia-held-online-workshop-on-plant-variety-protection-%e2%80%95plant-breeders-rights-and-farmers-benefits%e2%80%95/</a>

[Annex IX follows]

## PLANT VARIETY PROTECTION

### 1. Situation in the legislative field

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

Plant Variety Protection 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 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 13<sup>th</sup> May 1999. In 2012, the Seeds and Plant Varieties Act was amended to incorporate components of the 1991 UPOV Convention. On April 11, 2016, Kenya deposited the instrument of accession to the 1991 UPOV Convention. Kenya is now bound by the 1991 UPOV Convention effective from May 11, 2016. Currently Kenya is in the process of reviewing of PBR Regulations to facilitate implementation of optional exemption.

#### 1.2 Genera and species covered

Kenya extends Plant Variety Protection to all plant genera and species. At the moment, a total of ninety (90) taxon of selected plant species have been registered for protection in the country.

#### 1.3 Case law

Under the Kenyan Seeds and Plant Varieties Act, 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 determine 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.

### 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 DUS examination reports notably,

- European Community – Community Plant Variety Office
- RaadVoorPlantrassen (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
- Department for the Environment, Food and rural Affairs (DEFRA) – United Kingdom
- Intellectual Property Division, Export and International Affairs Bureau – Japan
- Korea Seed and Variety Service – Republic of Korea

### 3. Situation in the administrative fields

The administrative structure, office procedures and systems within the PVP office in Kenya remains the same, however the PBR applications can be done online. Kenya has embraced the use of UPOV PRISMA application tool for all genera and species. Kenya has automated its plant variety protection system, where all Plant variety protection processes are online.

4. Situation in the technical field

4.1 Application and Grant of Plant Breeders' Rights

Since inception of the PVP office in Kenya until end of 2021, a total of 1886 applications have been received by Breeders' Rights and 838 plant breeders right grants have been issued.

The figures below show the status of PBR in Kenya.

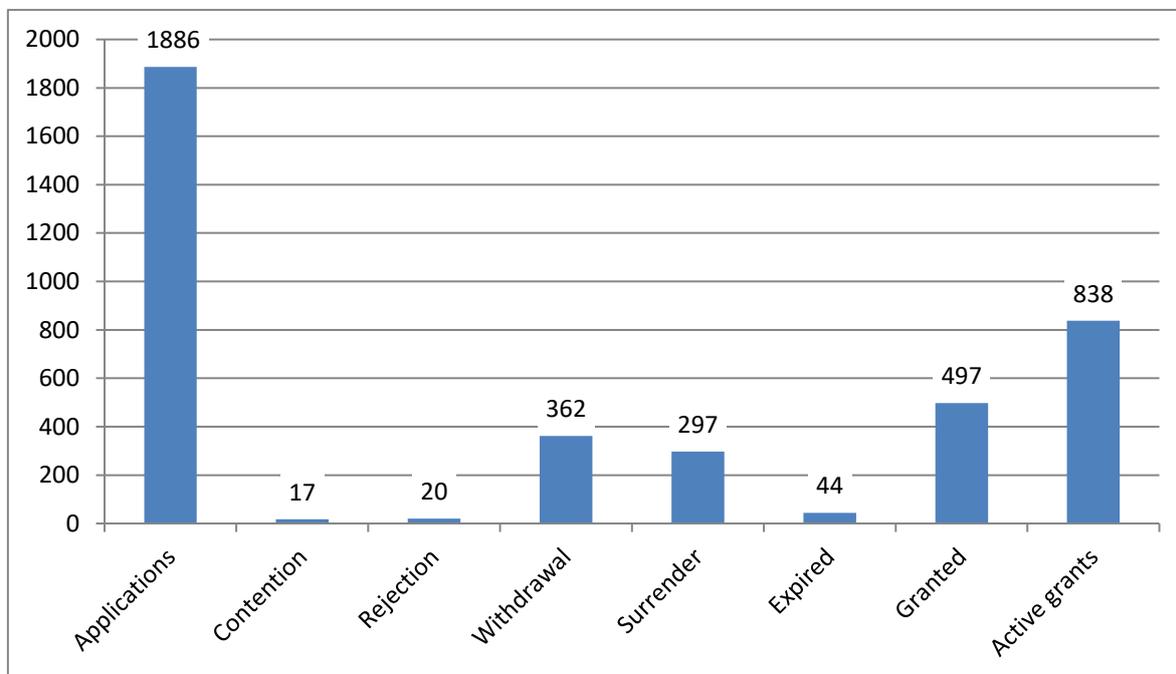


Figure 1: PBR status since inception to Dec 2021

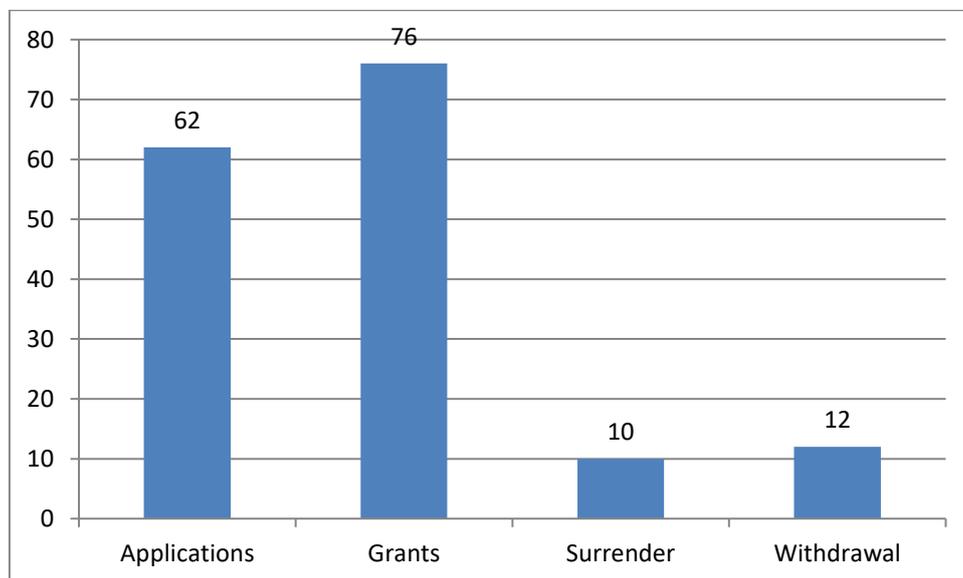


Figure 2: PBR status in Kenya for the year 2021

Reasons for withdrawn or surrender of applications by the breeders include reduced interest in a variety by consumers and availability of better varieties to the breeder. The date of payment of PBR grant fee becomes the official commencement date of protection of that variety in Kenya.

#### 4.2 DUS testing

The Office is conducting DUS for Pigeon pea, Maize, Millets, Sorghum, Potatoes, wheat, pasture, Beans, chicory and Teff. National test guidelines have been developed for some of these crops.

#### 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 is working with other sectors in agriculture to ensure that operating regulations are in conformity with the Seed and Plant Varieties Act and by extension the UPOV Convention.
- The Office has also been involved in exposing delegations from Djibouti, Eritrea, South Sudan, Somalia and Ghana to the Kenyan PVP system.

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

[Annex X 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 Plant Varieties Act.

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

1.2 Extension of protection to further genera and species

All genera and species have been protected in Mexico since the Act was passed.

2. Cooperation in the examination: Nothing to report.

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

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

5. Activities to promote the protection of plant varieties

Title of the activity	Date	Location	Organizer(s)	Purpose of the activity	Participating countries/organizations (number of participants from each)	Comments
1. Workshop on the process of registering plant varieties and its importance	April 21, 2022	Mexico City, online (Google Meet)	The National Seed Inspection and Certification Service and the National Forestry, Agriculture and Livestock Research Institute	To provide researchers, breeders and application drafters of the National Forestry, Agricultural and Livestock Research Institute with the basic technical and administrative skills needed to file applications regarding plant varieties.	Mexico (131 participants)	Given the keen interest shown by attendees in the workshop topics and the request that more staff be trained in those areas, the Institute plans to hold a second workshop.
2. Workshop on the process of registering plant varieties and its importance	May 4, 2022	Mexico City, online (Google Meet)	The National Seed Inspection and Certification Service and the Mexican Association of Seed Growers	The aim of the Service's comprehensive training program is to build the capacity of its technical staff to regulate and monitor compliance with the law in respect of seeds and plant varieties and to raise awareness thereof among users of its services.	Mexico (20 participants)	20 people from different private seed companies attended.

C/56/INF/4  
Annex X, page 2

Title of the activity	Date	Location	Organizer(s)	Purpose of the activity	Participating countries/organizations (number of participants from each)	Comments
3. Workshop on filing applications to register plant varieties	May 9, 2022	Mexico City, online (Google Meet)	The National Seed Inspection and Certification Service	To provide researchers, breeders and application drafters of the National Forestry, Agricultural and Livestock Research Institute with the basic technical and administrative skills needed to file applications regarding plant varieties.	Mexico (96 participants)	Participants were asked to provide feedback on the workshop with a view to making improvements. Of the 75 assessments received, 65 indicated satisfaction with the workshop. In the remaining 10, the view was expressed that there was room for improvement, although no specific aspects were singled out.
4. Course and workshop on registering plant varieties: distinctness, uniformity and stability (DUS) and varietal description	May 16, 2022	Mexico City, online (Google Meet)		To equip students of plant science from the Guerrero State Higher Agricultural College to perform DUS testing of plant varieties.	38 students of plant science from the Guerrero State Higher Agricultural College	This workshop was conducted in line with action 2, of strategy 2 and objective 3, of the National Seed Program for the period 2020-2024, which states: Promote the registration of basic crop varieties generated by public research institutions.

[Annex XI follows]

NEW ZEALAND

I. 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 Plant variety Rights Bill was introduced to Parliament in May 2021 and is currently at the Committee Stage in the Parliament.

A discussion document regarding new Regulations was released in August 2021, and further public consultation was carried out in April 2022. Drafting of the new Regulations are now at the final stages.

More 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 continued with the 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. Based on the consultation in 2021, fees options were released for wider public consultation in April 2022. Submissions from these consultations are under consideration and advice is being prepared for the Minister.

It is anticipated that the new regulations will come into effect, along with the majority of the provisions of the Bill later in 2022. Changes to PVR fees are not expected until 2023.

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.

For 2021, twenty-nine (29) varieties utilized foreign test reports for the NZ grant decision and New Zealand test reports for eleven (11) varieties were supplied to other authorities.

3. Situation in the administrative field

During the financial year 1 July 2021 to 30 June 2022, 93 applications for plant variety rights were accepted (24% decrease on the previous year), 79 grants were issued (11% decrease on the previous year) and 77 grants were terminated (18% decrease on the previous year). At 30 June 2022 there were 1281 valid grants, a slight decrease in comparison with the previous year.

The steady decline in recent years of the number of applications for varieties belonging to species used as ornamentals had reversed in 2020/21 however in the 2021/22 period the declining trend has resumed. In contrast there has been an over 100% increase in the number of applications for varieties of pasture plant species.

Preparation has begun for the necessary operational changes resulting from the implementation of the anticipated new law in late 2022. The changes will be phased in with essential elements completed when the new law comes into force and with less essential elements completed in early to mid-2023. Changes to process and practice will be the result of new elements in legislation and the enhancement of existing practices.

A study to determine the Economic, Innovation and Public Good Value of plant variety protection in New Zealand is in the planning stages. The study is likely to be completed by mid-2023. The findings of the study will guide future decisions regarding operational elements and longer-term policy directions.

#### 4. Situation in the technical field

There are several new technical elements in the new law which are not present in the existing law and breeders and variety importers will need to learn about how these new elements may impact their breeding activities and their businesses. To assist with this, a national workshop was held in July 2022 to provide information and a forum for discussion. A second workshop is planned for later in 2022.

The New Zealand agricultural system is based on an all-year, outdoor grazing system providing a steady number of applications for varieties of Brassica (*Brassica rapa* L., *Brassica napus* L., and *Brassica oleracea* L.) and radish (*Raphanus sativus* L.) as forage crops. The drive to reduce greenhouse gas emissions from livestock seems to be increasing the interest in other species such as plantain (*Plantago lanceolata* L.) and chicory (*Cichorium*), which are claimed to provide reduced greenhouse gas production in animals. The species range is increasing for forage varieties tested and examined in New Zealand, including several varieties of *Plantago lanceolata* L. tested using the national test guideline and granted Rights.

UPOV Test Guidelines remain important for forage species however adaptation is required for national use because the test guidelines are not primarily drafted for testing forage varieties. Examples are the revision of the kale (*Brassica oleracea* L.) test guideline, underway in the TWV, and revision of the oil seed rape (*Brassica napus* L.) test guideline in the TWA. Several leaf characteristics have been proposed to be removed from the oil seed rape test guideline, however the characteristics will continue to be included in the national oil seed rape test guideline because of usefulness for testing varieties for forage.

The availability of plant material for DUS testing continues to provide a range of difficulties and challenges. For certain species it is now increasingly difficult to source older varieties of common knowledge and for varieties which are commercialised under marketing models with no retail access to plant material. There appears to be an increasing unwillingness to make plant material available even for official purposes. This situation requires on going management by the Plant variety Rights Office and the maintenance of communication between all parties concerned.

#### 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
RCEP forum on Intellectual Property (IP) Protection in the Seed Industry	2 June 2022	Hainan, China and virtual	Asia Pacific Seed Alliance (APSA), Association of South East Asian Nations (ASEAN) and China National Seed Trade Association	Scope of Intellectual Property under RCEP. Exchange of experiences, current practices and increasing cooperation.	APSA and China National Seed Trade Association members. ASEAN states plus China, Japan, Australia, New Zealand UPOV Private Patent Attorneys	The forum was both in person and virtual
Korea Seed and variety Service (KSVS) seminar on the use of image analysis in DUS Testing	2 December 2021	Seoul, Republic of Korea and virtual	Korea Seed and variety Service (KSVS)	Workshop on use of image analysis for DUS testing	Republic of Korea, UPOV and East Asia Plant variety Protection forum	New Zealand provided an expert for the panel discussion In person and virtual format

[Annex XII follows]

POLAND

Period: September 1, 2021 – August 29, 2022

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 2021 item 213) 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. 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, Latvia, Lithuania, Romania, Slovenia and Ukraine are in force.

In the reporting period, Poland carried out DUS tests for the authorities from the following countries: Austria (4 varieties), Belgium (1 variety), Czech Republic (17 varieties), Estonia (17 varieties), Finland (5 varieties), France (2 varieties), Germany (2 varieties), Hungary (16 varieties), Latvia (9 varieties), Lithuania (59 varieties), Slovenia (6 varieties), Sweden (1 variety), Switzerland (20 varieties), as well as for the CPVO (116 varieties).

These tests were done for the different species of agricultural (119 varieties), vegetable (20 varieties), ornamental (92 varieties) and fruit (44 varieties) plants.

Altogether, 275 varieties were tested as a commissioned work for the above-mentioned authorities.

As in previous years, some authorities, namely: Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, CPVO, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Ireland, Latvia, Lithuania, Netherlands, Norway, Serbia, Sweden, Switzerland 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.

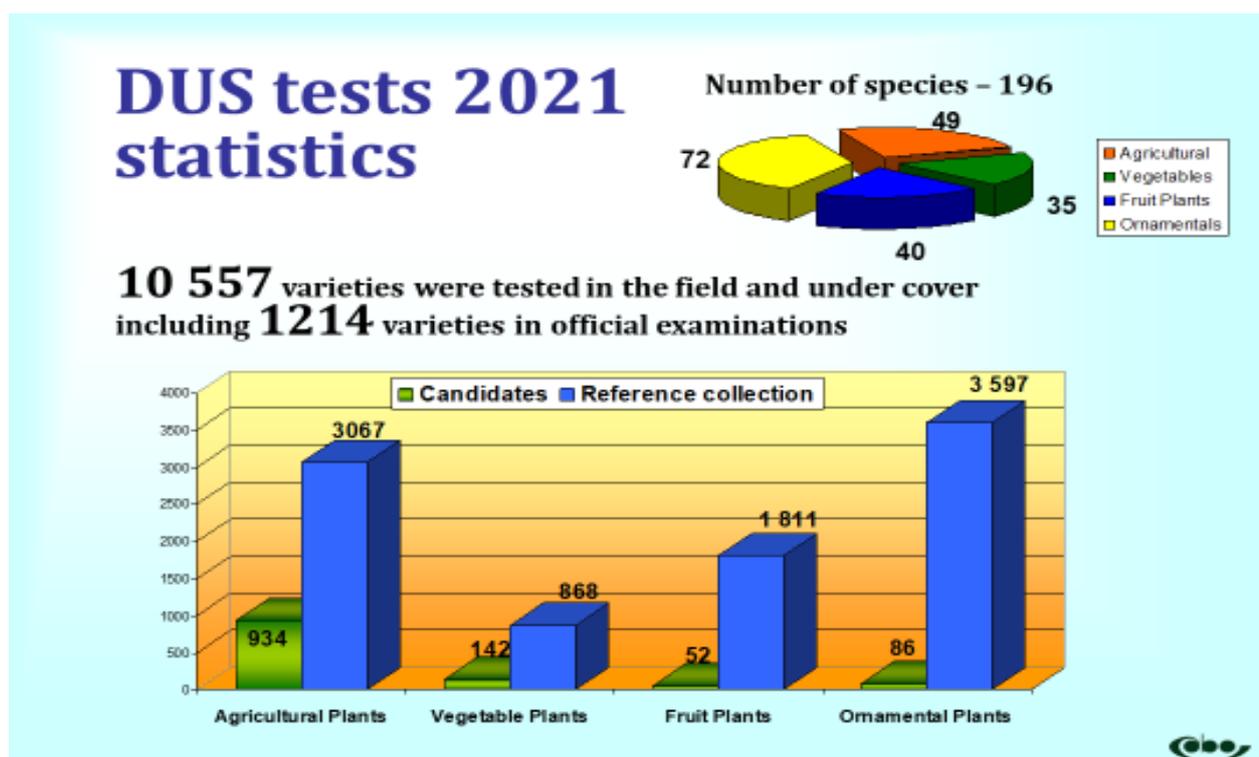
3. and 4. Situation in the administrative and technical fields

COBORU variety testing activity in the field of DUS is done in 12 different Experimental Stations for variety Testing located all over the country.

In 2021, 10 557 varieties within 196 plant species were tested (which included 9343 varieties in living reference collection and 1214 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 2021



In 2021, COBORU received 123 applications for national PBR protection in total, which constitutes a decrease by 25 applications in comparison with the previous year.

From January 1 to August 29, 2022, 78 new applications, including 55 domestic and 23 foreign, have been submitted for national PBR. This number is lower by 16 applications than that observed in the previous reporting period (94).

In 2021, COBORU granted 88 titles of national protection (13 titles less than in 2020). At the end of 2021, there were 1313 national PBR titles in force, which comparing to the previous year represents an increase by 21 varieties.

In the period from January 1 to August 29, 2022, 65 titles of national PBR protection have been granted. In total, 1326 varieties are protected in Poland (as on August 29, 2022).

Details on the statistics are given in the table below.

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

Plant Species	Applications for PBR 1.01. – 29.08.2022			Grants of PBR 1.01. – 29.08.2022			Titles having ceased	Titles in force as on 29.08.2022
	domestic	foreign	together	domestic	foreign	together		
Agricultural	32	0	32	27	2	29	28	735
Vegetable	2	0	2	6	0	6	6	207
Ornamental	18	22	40	16	3	19	12	260
Fruit	3	1	4	10	1	11	6	124
<b>Total</b>	<b>55</b>	<b>23</b>	<b>78</b>	<b>59</b>	<b>6</b>	<b>65</b>	<b>52</b>	<b>1326</b>

## 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 two COBORU experts and one DUS examiner.

### *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, 2022, has been published in the third number of the *Polish Gazette for Plant Breeders' Rights and National List*, i.e. No 3(170)2022.

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](http://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. Twining Project Meetings: UA 19 ENI HE 01 20 for Ukraine	23.12.2021 01.03.2022	On-line On-line	European Commission, SPPS - Latvia, UIBOR - Ukraine, Ministry of Foreign Affairs of the Republic of Poland	Working meeting Steering Committee: Quarterly report	PL: 2 Total: 17
2. IMMODUS working meeting	04-05.05.2022	Brussels	CPVO	Update on the revision of the PRM regulation Reporting	PL: 1 Total: 20
3. EU Twining Project Meetings: BA 18 IPA AG 03 19 for Bosnia and Herzegovina	23-25.05.2022	Poland, Słupia Wielka, Zybyszów	COBORU/ PIORIN	Project action: PVP and national listing systems in Poland as well as phytosanitary system training	B&H: 8 PL: 9
4. Visit of the Polish delegation in NEBIH (HU)	04-07.07.2022	Hungary	COBORU/ NEBIH	Discussion on the most important issues concerning mutual provision of experimental services in the range of the official DUS testing	PL: 8 HU: 23
5. Twelve Working Seminar on Statistical Methods in variety Testing	04-07.07.2022	Poland, Słupia Wielka	COBORU	Statistical Methods in variety Testing	PL: 10 Total: 26

## 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 2022. These Official Lists as well as updated lists of varieties are also available at: [www.coboru.gov.pl](http://www.coboru.gov.pl)

[Annex XIII follows]

## REPUBLIC OF KOREA

## I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

No changes.

2. Cooperation in examination

Korea Seed & Variety Service (KSVS) offered DUS reports to:

- PBR office, IP Australia
- Intellectual Property Office of Singapore
- Kenya Plant Health Inspectorate Service (KEPHIS)

3. Situation in the administrative field

In the first half of 2022, KSVS received 272 applications and granted 284 PBRs resulting in 12,436 applications and 9,083 grants in total since the introduction of PVP system in 1998.

4. Situation in the technical field

No changes.

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)
Training course for capacity building for seed industry development in Asian region	25.09.2022-08.10.2022	Gimchoen-si, Gyeongsangbuk-do	Korea Seed & Variety Service	Promotion of development of advanced seed system and technology in Asian region; In the field of PVP, seed production, seed testing	15 persons from 15 Asian countries.

## II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

No remarks

[Annex XIV 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:

- CPVO
- GEVES, FR
- Bundessortenamt, DE

3. Situation in the administrative field

- Changes in the administrative structure - No changes.
- Changes in office procedures and systems- No changes.

*Changes in the Procedural and Protection System*

Five national test guidelines were developed for:

- Oregano (*Origanum vulgare* L.) – MTG/21/1
- Elecampane (*Inula helenium* L.) – MTG/22/1
- Knifofie (*Kniphofia* Moench) – MTG/23/1
- Astragal (*Astragalus galegiformis* L.) – MTG/24/1
- Topinambur (*Helianthus tuberosus* L.) – MTG/25/1

*Statistics*

In the period from January 1, 2021 to December 31, 2021:

- 15 applications have been received (10 for national applicants and 5 for foreign applicants), as follows:

- Apple (*Malus domestica* Borkh) – 2
- Sunflower (*Helianthus annuus*) – 1
- Barley (*Hordeum vulgare* L.) – 1
- Wheat (*Triticum aestivum* L.) – 2
- Lavender (*Lavandula angustifolia* Mill.) – 2
- Immortelle (*Helichrysum italicum* Rhot Guss.) – 1
- Prunus rootstock (*Prunus* L.) – 3
- Indian chrysanthemum (*Chrysanthemum indicum* L.) – 1
- Lemon Day-lily (*Heemerocallis x hybrida hort.*) – 1
- Pear (*Pyrus communis* L.) - 1

- 28 patents for plant varieties have been issued (26 for national applicants and 2 for foreign applicants), as follows:

Barley (*Hordeum vulgare* L.) – 2  
Beans (*Phaseolus vulgaris* L.) - 1  
Blackberry (*Rubus fruticosus* L.) - 1  
Chickpeas (*Cicer arietinum* L.) - 1  
Chrysanthemum (*Chrysanthemum indicum* L.) – 1  
Garlic (*Allium sativum* L.) - 2  
Hazelnut (*Corylus avellana* L.) - 1  
Maize (*Zea mays* L.) - 4  
Onion (*Allium cepa*) – 1  
Peony (*Paeonia lactiflora* Pall.) - 1  
Plums (*Prunus domestica* L.) - 2  
Soybean (*Glicine max.* L. Merrill) - 1  
Sunflower (*Helianthus annuus*) – 2  
Tomato (*Solanum lycopersicum* L.)- 2  
Grapevine (*Vitis vinifera* L.) - 4  
Wheat (*Triticum aestivum* L.) – 1  
Lemon Day-lily (*Hemerocallis x hybrida hort.*) – 1

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](http://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 XV 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, Netherlands, Poland, Romania, Slovakia, Slovenia, and CPVO continue unchanged.

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

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

Experts of the Ministry in Agriculture and ÚKZÚZ take the opportunity to try promoting the importance of the system of Plant Breeders Rights and its impact on the EU economy and the environment in some events organized within the framework of the Czech Presidency of the Council of the EU.

II. OTHER DEVELOPMENTS OF RELEVANCE TO UPOV

Nothing to report.

[Annex XVI follows]

SERBIA  
(September 2021 - September 2022)

I. PLANT VARIETY PROTECTION

1. Situation in the legislative field

1.1 Amendments of the law and the implementing regulations

There were no changes.

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

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

Nothing to report.

3. Situation in the administrative field

- Changes in the administrative structure

There were no changes in the administrative structure.

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 participates in the UPOV PRISMA PBR Application Tool.

Since September 2021 to September 2022, plant breeders' rights have been granted for 75 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](https://www.uzb.minpolj.gov.rs/index.php?option=com_content&view=article&id=61&Itemid=14&lang=en)

5. Activities for the promotion of plant variety protection

Title of activity	Date	Location	Organizer(s)	Purpose of activity
Plant Breeders Rights System in Serbia	October 6, 2021	Belgrade Republic of Serbia	United States Agency for International Development (USAID) Ministry of Agriculture, Forestry and Water Management of the Republic of Serbia <i>Embassy of the Netherlands</i> in Belgrade, Serbia AGRO Belgrade	Berry Business Forum A specialized conference organized for the producers and exporters of fresh berries and berry industry members in Serbia

[Annex XVII follows]

1. Situation in the legislative field

1.1 Amendments of the law and the implementing regulations

- Amendment of the Singapore Plant Varieties Protection (PVP) Act with the commencement of the Intellectual Property (Amendment) Act 2022 and Intellectual Property (Dispute Resolution) Act 2019 on 26 May 2022 and 10 June 2022.
- Amendment of the Singapore PVP Rules with the commencement of the Plant Varieties Protection (Amendment) and (Amendment No. 2) Rules 2022 on 1 April 2022 and 26 May 2022.

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

Changes in office procedures and systems

- a. Submissions via electronic means as a default: Unless otherwise specified by the Registrar, for any transaction under the Plant Varieties Protection Act 2004 and Rules, the default mode through which parties give or send to, file with or serve on the Registrar documents will be electronically via FormSG.
- b. Extending period to furnish information, documents or propagating material for examination: This change will provide applicants with the flexibility to (i) furnish propagating material and to (ii) extend time to submit relevant information during the course of examination. It will no longer be mandatory to submit propagating material of the candidate variety via Form PVP 9. Submission of propagating material will only be required when requested by the Registrar or Examiner. The change also provides the Registrar or Examiner the discretion to extend the period for submission of requested information, document or propagating material for examination.
- c. Introducing late payment of annual fee to maintain grant of protection: This change is to streamline the process for maintenance of IP rights when proprietors need more time or miss the deadline to pay the renewal fee. Proprietors will be able to make late payment of annual fee, six months from that anniversary of the date of the grant of protection. This will replace the current option to request extension of time for annual fee payment.

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.

UKRAINE

I. PROTECTION OF PLANT VARIETIES

1. The situation in the legal sphere.

No longer in force:

- Order of the Ministry of Agrarian Policy of Ukraine dated December 13, 2002 No. 390 “On Approval of the Regulation on the State Register of Intellectual Property Rights for Plant varieties and Issuance of Ukrainian Patents for Plant varieties” (title in the edition of the Order of the Ministry of Agrarian Policy of Ukraine dated August 15, 2008 No. 515), registered in the Ministry of Justice of Ukraine on January 31, 2003 No. 80/7401);
- Order of the Ministry of Agrarian Policy of Ukraine dated February 26, 2003 No. 42 “On Approval of the Regulation on the State Register of Applications for Plant varieties”, registered in the Ministry of Justice of Ukraine on March 19, 2003 No. 220/7541;
- Order No. 515 of the Ministry of Agrarian Policy of Ukraine dated August 15, 2008 “On Amendments to the Order No. 390 of the Ministry of Agrarian Policy of Ukraine dated December 13, 2002”, registered in the Ministry of Justice of Ukraine on December 2, 2008 No. 1149/15840;
- Order of the Ministry of Agrarian Policy and Food of Ukraine dated June 21, 2016 No. 212 “On Approval of the List of Genera and Species, which varieties are tested for Suitability for the Distribution of varieties.”

Amendments were made to the Order of the Ministry of Agrarian Policy of Ukraine dated May 28, 2003 No. 151 “On Approval of the Regulation on the Certificate of Authorship to Plant variety”.

2. Cooperation in expertise.

During 2021, Ukraine carried out an exchange of 104 reports on the results of field research on DUS. Ukraine used DUS expert reports of the following countries: Austria, Belgium, Bulgaria, France, Germany, Hungary, Italy, Netherlands, Portugal, Romania, Slovakia, Spain and United Kingdom. In addition, Ukraine provided reports to Serbia and Turkey.

3. The situation in the administrative sphere.

The Ministry of Agrarian Policy and Food of Ukraine is the competent authority for the registration of rights to plant varieties in Ukraine since 2020.

4. The situation in the technical sphere.

The Order of the Ministry of Agrarian Policy and Food of Ukraine dated November, 25 2021 No. 387 “On Approval of the List of Genera and Species, which varieties are tested for Suitability for the Distribution of varieties and for Distinctness, Uniformity and Stability” introduced a number of changes:

lettuce (*Latuca saliva* L.), dill fragrant (*Anethum graveolens* L.), garden parsley (*Petroselinum crispum* (Mill.) Nyman ex A.W.Hill), garden spinach (*Spinacea oleracea* L.), strawberry (*Fragaria* L.) were added and clover (all species) (*Trifolium* L.), alfalfa (all species) (*Medicago* L.) were removed from the list valid in 2020.

In 2021, the following methods for the examination of plant varieties were developed:

- method of examination of pistachio varieties (*Pistacia vera* L.) for Distinctness, Uniformity and Stability of the group of fruits, berries, nuts, and grapes for Distinctness, Uniformity and Stability (UPOV document TG/PISTA (proj.4), 2020. New was used);

- method of examination of rhubarb varieties (*Rheum* L.) for Distinctness, Uniformity and Stability of the group of vegetables, potatoes and mushrooms for Distinctness, Uniformity and Stability (UPOV document TG/62/6, 1999 was used, changes and additions were made);
- method of examination of varieties of common fennel (*Foeniculum vulgare* Miller) for Distinctness, Uniformity and Stability of the group of vegetables, potatoes and mushrooms for Distinctness, Uniformity and Stability (UPOV documents TG/183/3, 2001, TG/183/4, 2019 were used, changes and additions were made);
- method of examination of varieties of seed rye (*Secale cereale* L.) for Distinctness, Uniformity and Stability of the group of cereals for Distinctness, Uniformity and Stability (UPOV document TG/58/6, 1999, TG/58/7, 2020 was used, changes and additions were made);
- method of examination of triticale varieties (*Triticosecale* Witt.) for Distinctness, Uniformity and Stability of the cereal group for Distinctness, Uniformity and Stability (UPOV document TG/121/3, 1989, TG/121/4, 2020 was used, changes and additions were made);
- method of examination of varieties of durum wheat subspecies (*Triticum turgidum* L. subsp. *durum* (Desf) Husn.), Kartli wheat (*Triticum turgidum* L. subs. *carthlicum* (Nevski) Å. Löve & D. Löve), Polish wheat (*Triticum turgidum* (*Triticum dicoccum* Schrank ex Schübl)), Turanian wheat (*Triticum turgidum* L. subsp. *turanicum* (Jakubz.) Å. Löve & D. Löve) for Distinctness, Uniformity and Stability of the cereal group Distinctness, Uniformity and Stability (UPOV documents TG/120/3, 1988 and TG/120/4, 2012 were used, changes and additions were made);
- method for determining the type of starch in the seed material of grain and cereal crops (qualitative method) (New national methodology);
- method of conducting the examination of nightshade (*Solanum glaucophyllum* Desf.) varieties for Distinctness, Uniformity and Stability of the ornamental group for Distinctness, Uniformity and Stability (New national method, UPOV document TG/326/1, 2018 was used).

5. Activities to promote the protection of rights to plant varieties

Title of activity	Date	Location	Organizer(s)	Purpose of activity	Participating countries/ organizations (number of participants from each)	Comments
<p>"Plant varieties Studying and Protection" Print ISSN 2518-1017 Online ISSN 2518-7457 № 1, 2, 3, 4, volume 17, 2021 <a href="http://journal.sops.gov.ua/issue/archive">http://journal.sops.gov.ua/issue/archive</a></p>	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, Albania, Nigeria, South Africa	
<p>Bulletin "Plant varieties Protection", № 1, № 2, № 3, № 4, № 5, № 6 2021. <a href="https://sops.gov.ua/publication/buleten-3">https://sops.gov.ua/publication/buleten-3</a></p>	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	
<p>IX International Applied Research Conference of Young Scientists and Specialists "Breeding, Genetics and Technologies for Growing Crops" <a href="http://confer.uiesr.sops.gov.ua/genetika-2021/schedConf/presentations">http://confer.uiesr.sops.gov.ua/genetika-2021/schedConf/presentations</a></p>	23.04.2021	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 (171 participants)	published a collection of conference materials
<p>II International Applied Science conference "The Newest Agrotechnologies" <a href="https://conference.ukragroexpert.com.ua/">https://conference.ukragroexpert.com.ua/</a> <a href="https://conference.ukragroexpert.com.ua/wp-content/uploads/2021/06/Book-of-proceedings-2021.pdf">https://conference.ukragroexpert.com.ua/wp-content/uploads/2021/06/Book-of-proceedings-2021.pdf</a></p>	03.06.2021	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, Albania, Egypt, Hungary, Lithuania, North Macedonia, Turkey (44 participants)	published a collection of conference materials

II. OTHER CHANGES RELEVANT TO UPOV

Statistical information on the protection of plant varieties in Ukraine in 2021 was transmitted to e-mail [upov.mail@upov.int](mailto:upov.mail@upov.int) in due time.

[Annex XIX follows]

EUROPEAN UNION  
Period: July 2021 - July 2022

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

## PLANT VARIETY PROTECTION

### 1) Legislation

#### General:

A European study, co-authored by the European Union Intellectual Property Office (EUIPO) through the European Observatory on Infringements on Intellectual Property Rights and the Community Plant Variety Office (CPVO), investigated the impacts of the Community Plant Variety Rights system (CPVR) on the EU economy and the environment. The study was published in April 2022.

Key findings of the study are:

- The CPVR system contributes to lower annual greenhouse gas (GHG) emissions from agriculture and horticulture by 62 million tons per year. Furthermore, water use in agriculture and horticulture is reduced by more than 14 billion m<sup>3</sup>.
- In absence of the CPVR system, the production of arable crops in the EU would be 6.4% lower, production of fruit would be 2.6% lower, production of vegetables 4.7% lower, and finally, the output of ornamentals would be 15.1% lower.
- Without the added production attributable to CPVR-protected crops, the EU's trade position with the rest of the world would worsen and EU consumers would face higher food prices. The additional contribution to GDP generated by CPVR-protected crops amounts to 13 billion EUR.
- CPVR-protected crops generate higher employment in the EU agriculture. The arable crops sector employs 25 000 additional workers as a result, the horticulture sector 19 500, and the ornamentals sector 45 000 additional workers, for a total direct employment gain of almost 90 000 jobs.
- Many of the companies protecting their innovations with CPVRs are small and medium-sized enterprises (SMEs). These small companies (including physical persons who hold CPVRs) account for more than 90% of the registrants of CPVRs and hold 60% of all CPVRs currently in force.

The study was released during a policy conference organised by the CPVO in Angers in April 2022 and attended by about 150 participants. The conference recordings are accessible online on the CPVO website.

The full study is available in English on the CPVO website and the executive summary is available in all 24 official EU languages.

#### 1.1 Amendment of the law and the implementing Regulations:

The Regulation (EU) 2021/1873 of the European Parliament and of the Council on the extension of the term of the Community plant variety rights for varieties of the species *Asparagus officinalis* L. and of the species groups flower bulbs, woody small fruits and woody ornamentals was published.

#### 1.2 Case law:

*Decision of the CPVO Board of Appeal of 3 November 2021 in Case No A013/2020 'Red Queen'*

By decision of 3 November 2021, the Board of Appeal upheld the appeal in question and ordered the CPVO to amend the application date of the CPVR applied for in relation to the *Actinidia chinensis* Planch. variety 'Red Queen'.

The appellant put forward an application of a CPVR on 23 February 2019. Nonetheless, the CPVO initially did not grant an application date, due to the lack of technical information (i.e. grouping characteristics) linked to the use of the incorrect technical questionnaire and invoking Article 50(1)(f) of Regulation (EC) 2100/1994

("BR"). An application date was granted only once the said technical information was provided to the Office, on 11 March 2019.

The Board of Appeal highlighted that, according to Article 51 BR, the date of application for a CPVR shall be the date on which a valid application was received by the Office, provided it complies with Article 50(1) BR and subject to payment of the application fee.

Pursuant to Article 50(2) BR, details of the conditions referred to Article 50(1) BR, including the provision of further information, are provided by Article 19 Regulation (EC) No 874/2009 ("PR"), which refers, in particular, to "the characteristics of the variety, including the state of expression for certain characteristics based on the technical questionnaire" (Article 19(2)(f) PR).

The Board of Appeal explained that non-compliance with paragraph 1 of Article 50 BR prevented the grant of an application date. This is the case of an absent or incomplete technical description, lacking fundamental or mandatory information, pursuant to the already cited 50(1)(f) BR. On the other hand, not providing the information mentioned in paragraph 2 of Article 50 BR, even of technical nature, does not hinder such application date.

As the information provided in the case at hand were considered sufficient since they allowed the identification of the variety, the Board of Appeal established that paragraph 2 of Article 50 BR should have been applied. Therefore, the appellant should have been allowed to maintain an earlier application date.

*Decision of the CPVO Board of Appeal of 11 January 2022 in Case A002/2021 'Cripps Pink'.*

By decision of 11 January 2022, the Board of Appeal rejected the appeal as inadmissible and allocated the costs to the appellant. On 14 September 2020, the appellant put forward two requests in relation to its CPVR for the *Malus domestica* Borkh. variety 'Cripps Pink', namely : 1) to change the date of first commercialisation from 1 January 1994 to 1 July 1992 and 2) to change the expiry date from 1 August 2022 to 16 June 2023. These requests were based on the view that both dates constituted patent mistakes as referred to in Article 53(4) of Regulation (EC) 874/2009 on the proceedings before CPVO ("PR"). The CPVO amended the date of first commercialisation that was mistakenly transcribed but kept the expiry date of the right unchanged.

The appellant claimed that he brought new elements concerning the date of first commercialisation only in November 2020, justifying the re-examination of the decision of the CPVO not to amend the date of expiry of the CPVR, under Article 53(4) PR. Moreover, it argued that Article 67(1) Regulation (EC) 2100/1994 ("BR") should have been interpreted as encompassing among appealable decisions not only the original entry into the Register, but also the decision of the CPVO refusing an amendment to an entry in the Register.

The Board of Appeal established that no new material facts were put forward by the appellant, as the date of first commercialization was known since 1996. Moreover, the amendment of such date did not affect the expiry date of the CPVR. Such claim did not concern an obvious formal mistake which can be corrected under Article 53(4) PR, and it could be taken as an argument to circumvent the time limit to appeal decisions of the CPVO (in the present case, the grant decision). The Board of Appeal also recalled that the rejection of a request to amend the entry in the Register is not a decision subject to appeal as referred to in Article 67(1) BR.

*Decision of the CPVO Board of Appeal of 1 July 2022 in Case No A018/2021 'SK20'.*

By decision of 1 July 2022, the Board of Appeal rejected the appeal as inadmissible and allocated the costs to the appellant. The appellant was granted a right concerning the *Allium Cepa* variety 'SK20' on the basis of several morphological characteristics. The appellant requested to include an additional characteristic to the description of the variety. The Office rejected such request since the variety was already found distinct from the common knowledge.

The Board of Appeal established that, since the right in question was granted, the appellant could not qualify as a losing party, whose interest was damaged by the decision of the CPVO not to include the additional characteristic as requested. Therefore, the appeal was considered inadmissible pursuant to Article 49(1) of Regulation (EC) No 874/2009 in conjunction with Article 81 Regulation (EC) 2100/1994.

On the merits, the Board of Appeal confirmed that additional characteristics may be added, to the discretion of the CPVO President, in cases where it is not possible to establish distinctness on the basis of the characteristics included in the applicable technical protocol, as argued by the CPVO. In this case, an additional characteristic was not needed to assess the variety's distinctness.

2) Cooperation in examination

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. Relations with Examination Offices

In December 2021 the CPVO held its 25th annual meeting with its examination offices (Eos), which was also attended by representatives from the European Commission, the UPOV office and the breeders' organisations (CIOFORA, Euroseeds, Plantum and ECO-PB), as well as by representatives from Switzerland and Norway as non-EU PVR Offices. The meeting was held as a video conference. The main subjects of discussion were the following:

- Submission of plant material for DUS trials;
- Additional characteristics and related decision process;
- Content and layout of examination reports;
- Notifying grouping characteristics not included in technical protocols
- Taking over reports from national DUS procedures;
- Prolongation of the period of protection for certain species;
- Revised Entrustment requirements.

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 2021, 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 2022. Experts' meetings were held to discuss the technical protocols of:

- Agricultural crops: lucerne, hemp, triticale, red clover, rice, timothy and rye.
- Vegetable crops: lettuce, wild rocket, garden rocket, tomato rootstock and spinach.
- Ornamental crops: *Alstroemeria* L., *Phalaenopsis* Blume and *Anigozanthos* Labill. and *Macropidia fuliginosa* (Hook.) Druce *Chrysanthemum*
- Fruit crops: *Hippophae rhamnoides* L..

c. Further development of the CPVO Variety Finder

The CPVO Variety Finder is a web application which contains information on registers of more than 70 countries with a general search tool. In 2021, CPVO released a new redesigned version of the CPVO Variety Finder application and improved significantly the user friendliness of the tool.

The CPVO centralizes data from various registers such as Plant Breeder's Rights offices (including the CPVO register), National plant variety listings, Plant patent registers, the EUIPO trademark register (trademarks registered in class 31) and commercial registers. The objective is to offer a centralized search service to breeders, National Authorities and the public in general.

An efficient similarity search tool is made available to test the suitability of variety denominations.

The various contributors update the database as soon as data are officially published, and a memorandum of understanding has been signed with the UPOV Office 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 1.2 million records originating from EU and non-EU countries have been included in the Variety Finder so far. The use of the Variety Finder has constantly increased over recent years. CPVO applicants and titleholders represent the biggest group of users with more than 50 % of the tests of similarity launched.

The CPVO and the Directorate General for Health and Food Safety (DG SANTE) have worked intensively in 2021 on the joint project named "EU Plant Variety Portal (EUPVP)". It aims at one unique submission for Member States that will cover information to contribute to the various databases (CPVO Variety Finder and Commission's Databases).

#### d. Cooperation in denomination testing with EU Member States

With around 7000 opinions delivered to EU Member states each year, the cooperation service in denomination testing continues to demonstrate great vitality and is an essential tool for ensuring compliance with the rules on variety denominations and for contributing to the consistency of decisions. However, the centralisation of the analysis could also have the disadvantage of limiting the diversity of opinions. It must be said that in the framework of the cooperation service, the exchanges between the Office and national authorities remain ad hoc exchanges, that mostly concern specific cases. The Office rarely receives remarks or objections from breeders concerning denominations that they consider to be in conflict with their own denominations.

The close monitoring of the observations on denominations made by the Office, the identification of their nature and their evolution over time allows to identify the points which raise questions and may require further discussion on the practical implementation of the rules.

In 2021, a working group on variety denominations was held to discuss the explanatory notes on the guidelines on variety denominations, which had been put on hold after their approval by the Administrative Council in 2018 and during the revision of the Commission Regulation 637/2009 on the suitability of denominations of agricultural plant species and vegetable species.

This working group was an opportunity to reassess some of the changes that had been made to the explanatory notes in 2018 in order to make them more precise and even more pragmatic, taking into account, as far as possible, the specificities of the markets and the growing sectors, before their entry into force on 1 January 2022 together with the new Commission Implementing regulation 2021/384 on the suitability of the denominations of varieties of agricultural plant species and vegetable species.

#### 4.2 Crop experts meeting

A meeting of agricultural experts was held in October 2021 to discuss:

- hybrid wheat testing and observation of the characteristics: Coleoptile: anthocyanin coloration and Ear: length of scurs
- observing in multi-annual tests certain characteristics only once
- characteristic 'Ploidy' – revision of the number of plants
- replacing the FAO numbers by flowering time in maize
- true potato seed varieties
- methods for cyclic planting in grass testing
- DUS assessment of oilseed rape hybrid varieties
- additional information linked to the UPOV code to group varieties
- Revisions to several technical protocols and new technical protocols

A meeting of vegetable experts was held on 9-10 December 2021 to discuss:

- final reports with distinctness based on identical notes
- characteristics with a single year of observation
- characteristic ploidy in vegetable and agricultural species
- protected parental lines and variety collections
- reporting the absence of reference varieties
- Revisions of several vegetable technical protocols

A meeting of fruit experts was held in October 2021 to discuss among others:

- testing of apple mutation group
- submission of samples
- confirming applicants the receipt of plant material
- blueberry testing
- botanical taxon for disease resistant grapevine varieties
- measures to protect trials from adverse conditions
- terms: growing period, growing cycle, duration of test, establishment period
- plant material requirements for pear,
- strawberry – current situation and developments in breeding and cultivation
- plant health issues and R & D project.

A meeting of ornamental experts was held on 14-15 October 2021 to discuss or to provide information on a number of topics, among others:

- the change in duration of DUS examinations following the transfer of examinations from the National Institute of Agricultural Botany (NIAB) (UK) to other examination office in the EU the modification of the technical questionnaire for trees and shrubs
- Adoption and publication of national protocols – procedure under discussion
- the prolongation of the period of protections for varieties of woody ornamentals and bulb species
- additional information linked to the UPOV code to group varieties

#### 4.3 Quality Audit Service (QAS)

The activities of the Quality Audit Service (QAS) returned to normal in the period covered by this report after having had to undertake all of its assessment exercises in a virtual manner in the first half of 2021. A total of eight on-site assessment exercises were carried out by QAS to entrusted examination offices in the EU in the twelve months to July 2022 to ensure that the CPVO's Entrustment requirements were being correctly applied.

During the second half of 2021 and the beginning of 2022, the revision process of the CPVO's Entrustment requirements for examination offices continued. These regulate the way which examination offices are organised and the procedure under which DUS tests are carried out. This revision process was undertaken in consultation with CPVO stakeholders: entrusted examination offices, breeders' organisations and QAS technical experts, to take into account developments and improvements in DUS testing. The greatest number of proposals for improvements were made during the CPVO's annual examination office's meeting in December 2021, when most of the aforementioned stakeholders could contribute to the discussions. The main improvements to the Entrustment requirements were in relation to training, maintaining of records, advancements in DUS testing processes, updating of variety collections and measures to take in DUS trials to mitigate the impact of climate change. The new (revised) Entrustment requirements were approved by the CPVO's Administrative Council in April 2022 and will enter into force on 1 January 2023, coinciding with the new QAS assessment cycle for 2023-2025.

Ongoing evaluation activities were undertaken by QAS in the first half of 2022 in relation to the OAPI project via teleconferencing means to its designated examination offices in Cameroon, and Burkina Faso, as well as on-site visits to the examination offices in Senegal and Côte d'Ivoire. During this period QAS also provided training through a webinar in February 2022, as well as on-site visits via the EU's TAIEX programme to the PVR authorities of the Dominican Republic, to provide training on the organisation of DUS testing in optimal conditions and to ensure the independence and impartiality of the technical examinations.

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

##### 5.1 International cooperation

In 2021 the CPVO revised its international relations strategy. The span of the cooperation of the Office considerably extended in the past few years, to keep the pace with the continually evolving policies that embrace the breeding sector.

The CPVO continues providing its expertise through bilateral and multilateral cooperation with strategic partners, such as the EUIPO, the EPO and UPOV, PVP and Examination Offices, sectorial organisations,

notwithstanding ongoing bilateral relations with key target countries and regional organizations, such as the long-standing dialogues with China, Japan, OAPI and ARIPO.

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 EUIPO implements on behalf of the European Commission one project in the Caribbean (CarlPI), one in Africa (AfrlPI) and one in Mercosur countries (AL-INVEST PI). 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.

Learning from the most difficult moments of the Covid-19 pandemic, many projects were implemented online or as hybrid activities, but some presential ones were also organized.

#### *IPKey China:*

Awareness raising seminar 8 november 2021: Representatives of the International Union for the Protection of New Varieties of Plants (UPOV) shared with the 130+ participants from the European Union and China the latest developments in Plant Variety Protection. After that, stakeholders of the plant and breeding industry, such as enforcement agents, producers and academics, exchanged their experience and views on the importance of plant variety protection and on the mechanisms available to enforce their plant variety rights. Plant Variety Protection is key for the promotion of innovation and has a direct impact on the economy, society and the environment (source and more information: <https://ipkey.eu/en/china/activities/plant-variety-protection-awareness-raising-seminar>).

Technical training 3-5 November 2021: The CPVO and the entrusted examination offices from France, Germany, the Netherlands and Spain conducted sessions on topics related to the distinctness, uniformity and stability (DUS) testing process, focusing either on the introduction of a more horizontal approach or on the EU's experience with testing specific crops, such as melon, tomato, rhododendron and chrysanthemum (source and more information: <https://ipkey.eu/en/china/activities/2021-plant-variety-rights-online-technical-training>).

Legislation Seminar: Plant Variety Rights Amendments 6 may 2022: focused on recent amendment to the Chinese Seed Law. (more information: <https://ipkey.eu/en/china/activities/legislation-seminar-plant-variety-rights-amendments>).

#### *IPKey South-East Asia:*

Awareness raising webinar on UPOV 1991 17 January 2022: follow-up to prior activities on plant variety protection aimed at promoting effective plant variety protection systems in SEA in order to support the UPOV 1991 Act accession of countries in the region. The activity highlighted the benefits that PVP brings to socio-economic development and its contribution to agricultural sustainability. The webinar also addressed the issues raised concerning PVP and UPOV 1991 accession. (source and more information: <https://ipkey.eu/en/south-east-asia/activities/webinar-plant-variety-protection-and-upov-1991>).

Support to the Accession of SEA Countries to the UPOV 1991 Convention 18 January 2022: closed session and participation was limited to PVP Officials from the SEA countries. (more information here: <https://ipkey.eu/en/south-east-asia/activities/support-accession-sea-countries-upov-1991-convention>)

#### *IPKey Latin America:*

In 2021 the project conducted a study on PVP protection in Ecuador. The study was presented in April 2022 during a closed event among Ecuadorian authorities, EUIPO and the European Commission (Delegation).

#### *CarlPI:*

Participation to the Caribbean Week of Agriculture October 2021

Regional cooperation on Plant variety rights and study visit 19-20 May 2022. One of the few presential activities, it was organized an in-person seminar on Regional Cooperation in PVR in the Dominican Republic, combined with visits to some breeders' companies that benefit from the PVR system. The event targeted decision makers from agricultural ministries, IP offices and/or EPA coordinators. (source and more information: <https://internationalipcooperation.eu/en/caripi/activities/regional-cooperation-plant-variety-rights-study-visit>).

#### *AfriPI:*

Under the AfriPI project the CPVO together with UPOV and the project's team organized an event on 9 November 2021 focused on the potentials and benefits of the Arusha Protocol.

The CPVO continued as well to provide technical assistance in the PPOV Project to OAPI, and further implemented activities in the Caribbean under the TAIEX instrument to support the implementation of the Dominican Republic Plant Variety Protection system. Here the activities organized:

- Study visit in Santo Domingo in March 2022.
- Study visit of a delegation from the Dominican Republic to Spain for capacity building activities of technical experts, specifically on DUS Test for rice (in cooperation with the OEVV) in July 2022.
- Study visit of Director of OREVADO to CPVO July 2022.
- As a follow up and partially supported activity, a short term internship was granted to the Responsible of Legal Affairs of OREVADO at the CPVO in July/August 2022, to exchange best practices in managing the reception process and legal proceedings.

#### *UPOV meetings*

The Commission and CPVO representatives being part of the EU delegation attended the meetings of the UPOV Council, the Consultative Committee, the Legal and Administrative Committee, the Technical Committee. CPVO attended all TWPs. Working groups on the electronic application form, on harvested material and unauthorized use of propagating material (WG-HRV), on guidance concerning smallholder farmers in relation to private and non-commercial use (WG-SHF), as well as on Essentially Derived Varieties (WG-EDV) were attended.

#### *EAPVP*

Participation to the 14<sup>th</sup> and 15<sup>th</sup> annual forum (August – September 2021 and July 2022). 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 Organisation*

On 31 March 2022, the CPVO renewed its cooperation agreement for a duration of five years with the European Patent Office (EPO) by means of the "Administrative Arrangement No 2022/01373 on bilateral cooperation between the EPO and the CPVO", which includes two implementation plants. The renewed cooperation agreement thus follows up on the previous (and first) Administrative Arrangement, which was signed in February 2016 and enabled greater transparency and exchange of knowledge between the two organisations in the area of plant-related patents and plant variety rights, respectively. The cooperation plans reflected in the new cooperation agreement are focused on data exchange and sharing work practices regarding the use of databases and other work tools. The exchange of data allows the examiners to search plant varieties protected by certificate, thus further increasing the validity of the European patents. The relevant databases have also been made available to the member states of the European Patent Organisation. In essence, the EPO and the CPVO are in constant dialogue. So far, this dialogue has proven essential in the protection of plant-related innovations and will play a key role in facing the challenges of the 21st century.

#### *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 at least until the second quarter of 2022. A further prolongation until the end of 2022 has been requested to the EU Commission. OAPI nevertheless conducted seminars dedicated to breeders and seed producers in Brazzaville, in Libreville, in Niamey, in Ndjamena, in Bissau and in Conakry to which the CPVO contributed by electronic means. In June 2022, some 20 national

crop experts received practical training in DUS testing for one week at GEVES (France) and for another week Naktuinbouw (The Netherlands). In the second quarter of 2022, QAS made virtual follow-up evaluations to OAPI's DUS examination authorities in Burkina Faso and Cameroon, as well as on-site follow-up evaluations to its DUS examination authorities in Senegal and Côte d'Ivoire.

## 5.2 Training

During the year 2021-2022, the CPVO was involved in the preparation of several trainings, mainly carried out online, due to the outbreak of the Covid-19 pandemic including:

- Roundtable organized by ESSCA – 22 September 2021
- International seminar on PVR, Garrigues (Latin America) – 28 September 2022
- Webinars organized together with the IP Helpdesks (European and international/regional ones)
  - IP in the Agrifood Sector II - interface among trademark, PVD and GIs – 28 September 2021
  - The essential role of Quality Auditing examination offices for EU Plant Variety Rights – 17 February 2022
  - International IP Helpdesks webinar - IP in the agrifood (China, SEA, Africa and LA SMEs helpdesks) – 16 March 2022
  - Constraints and opportunities for edited varieties – 12 April 2022
  - Introduction to Plant Variety Protection in the European Union – 21 June 2022
- Intellectual Property Protection for Plant Innovation 2021 – ISF / Forum – 2 December 2021
- Presentation of the CPVR system within the LLM in Intellectual Property of the University of Maastricht on 11 January 2022
- Presentation of the CPVR system to the Master in Food Law, LUISS University, Rome – 18 March 2022
- Presentation on the CPVR system and the CPVO to ICEA (Institut Catalan d'Estudis Agraris – Catalan Institute of Agrarian Studies)
- Seminar on the study on the socio-economic impact of CPVR, jointly with the EUIPO -28 April 2022
- Presentation of the CPVR system within the Magister Lvcentinvs (IP LLM) of the University of Alicante - 6 May 2022
- Internal training for DG TRADE and DG GROW on CPVR matters and trade-sensitive topics (misconceptions on UPOV) – 24 June 2022
- IP Caselaw Conference at the EUIPO on 7-8 July 2022
- Training for the chamber of commerce of Milan on NGTs – 19 July 2022.

## 5.3 Meetings with Stakeholder organisations

The Commission and the CPVO attended the Euroseeds Annual meeting on 18-20 October 2021. CPVO attended the annual meeting of CIOPORA International on 25-26 April 2022 as well as the ISF Congress on 16-17-18 May 2022. The CPVO also met the breeders organisations on a bilateral basis: Euroseeds & Plantum 07/04/2022, Assosementi 23/03/2022 and CIOPORA 31/05/2022.

The CPVO also organized a formal annual bilateral (virtual) meeting with AIPH on the 2. February 2022.

In addition, study visits in EU Member States by the CPVO President were initiated in 2021, with visits to Italy (March 2022), The Netherlands (May 2022), Germany (May-June 2022) and Spain (June 2022). These study visits are an opportunity to meet plant breeding stakeholders from both the private and public sectors. Finally, the CPVO met with the EU co-legislators such as the European Parliament Agriculture and Rural Development Committee (30/11/2022 & 28/04/2022), as well as with representatives of the Council of the European Union – i.e. meeting with French minister for EU affairs (03/02/2022) and with Czech EU permanent representation (24/06/2022).

#### 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 CPVR 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 IPM Essen (DE) was cancelled. The “Salon Sival” in Angers (FR) was maintained and the CPVO presented the CPVR system in the forum area. The CPVO also visited the Fruitlogistica in April in Berlin-Germany as well as the Floriade Expo in The Netherlands in May 2022.

#### 5.5 IT developments

CPVO’s application management platforms (in particular Online Application) have undergone a major overhaul to improve maintainability, ease the development of new features, make it better suited for cloud environments and more resilient to cyber threats. Further integration of additional EU Member States remains possible as technical questionnaires for the harmonisation within the EU continuously progresses. The CPVO has strengthened its cooperation with UPOV PRISMA, and has already delivered two of the four original projects that addressed several limitations from the initial cooperation. Data exchange improvements with CPVO’s Denomination management platform have been identified and recently approved. The goal is transition from manual uploads to UPOV of PBR catalogue and National contributions updates to a machine-to-machine integration insuring near real time updates and more efficient processing.

### 6. R & D

#### 6.1 IMODDUS ad hoc working group

As part of the R&D strategy of the CPVO, the AC has set up in 2016, and confirmed in 2021, the 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 follow and discuss the development of biomolecular techniques and to assess R&D projects for the application of these techniques in DUS tests of all the crop sectors where they could contribute to improve efficiency and quality.

The group is composed of BMT experts from interested examination offices and breeders organisations. The participation is limited to experts that can actively contribute in terms of preparing documents and presentations. Experts from laboratories, universities, the industry, etc. can also be invited by the Chairman of the group.

In May 2022, a physical meeting was organized in Brussels with the support of DG SANTE. The agenda covered presentations and discussions on the following items:

- Role of the biomolecular techniques in the EU seed regulation, potential role of IMODDUS
- Update on the new OECD BMT Work Group, potential interactions with IMODDUS
- Update on the US PVP system and use of molecular techniques in decision making procedures
- Ongoing IMODDUS R&D projects
- Molecular tasks of INVITE (focus on perennial ryegrass) and INNOVAR
- Molecular markers to support the assessment of Distinctness: feedback from breeders on the concept of value molecular Distinctness

In 2022, IMODDUS did not have to evaluate any new R&D project proposal.

Three R&D projects previously evaluated positively by IMODDUS and granted co-financing were finalized:

##### *Apple*

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

##### *Oilseed rape (second part)*

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

##### *Hemp*

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

Two other R&D projects validated by IMODDUS made steady progress during the period:

*Tomato*

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

*DurdusTools*

“Integration of molecular data into DUS testing in Durum wheat - development of a common online molecular database and a genetic distance calculation tool”.

Two new R&D projects validated by IMODDUS in 2021 have been launched at the start of 2022:

*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’

## 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”. INVITE is one of the two laureate projects of the call SFS-29-2018 “Innovations in plant variety testing” of the Horizon 2020 program. 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 (7 “model” crops: maize, wheat, rye grass, sunflower, potato, tomato, apple and 3 “application crops”: lucerne, soybean, rapeseed). It addresses Value for Cultivation and Use (VCU) and DUS testing in a balanced way and intends to maximize synergies between them through related activities based on phenotyping, genotyping, modelling and database management.

The total amount awarded to the 29 partners is about 8 million euros to be spent in a period of 5 years starting from July 2019. CPVO will not receive any funding.

CPVO is in charge of managing all issues related to the access to historical data and reference materials held by the examination offices (EOs). It participates to technical meetings, co-leads the workpackage 5 dedicated to the testing and the validation of the new tools developed by all workpackages and is a member of the executive committee of the project. In 2022, the technical work continued steadily for all crops. The 3<sup>rd</sup> annual meeting, hosted by AGES, was organized in Vienna in April 2022. At this occasion, a technoshow was organized to present the first phenotyping tools developed by INVITE workpackage 2, as well as other tools and services proposed by a selected panel of private companies.

The collaboration with INNOVAR (second laureate consortium of the SFS-29-2018 call, focused on optimizing variety testing in wheat) continued. Data were collected in the common wheat trials. Representatives were invited to participate to the IMODDUS meeting in 2022.

## 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.

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<sup>i</sup> This report uses the terminology of the United Nations.