

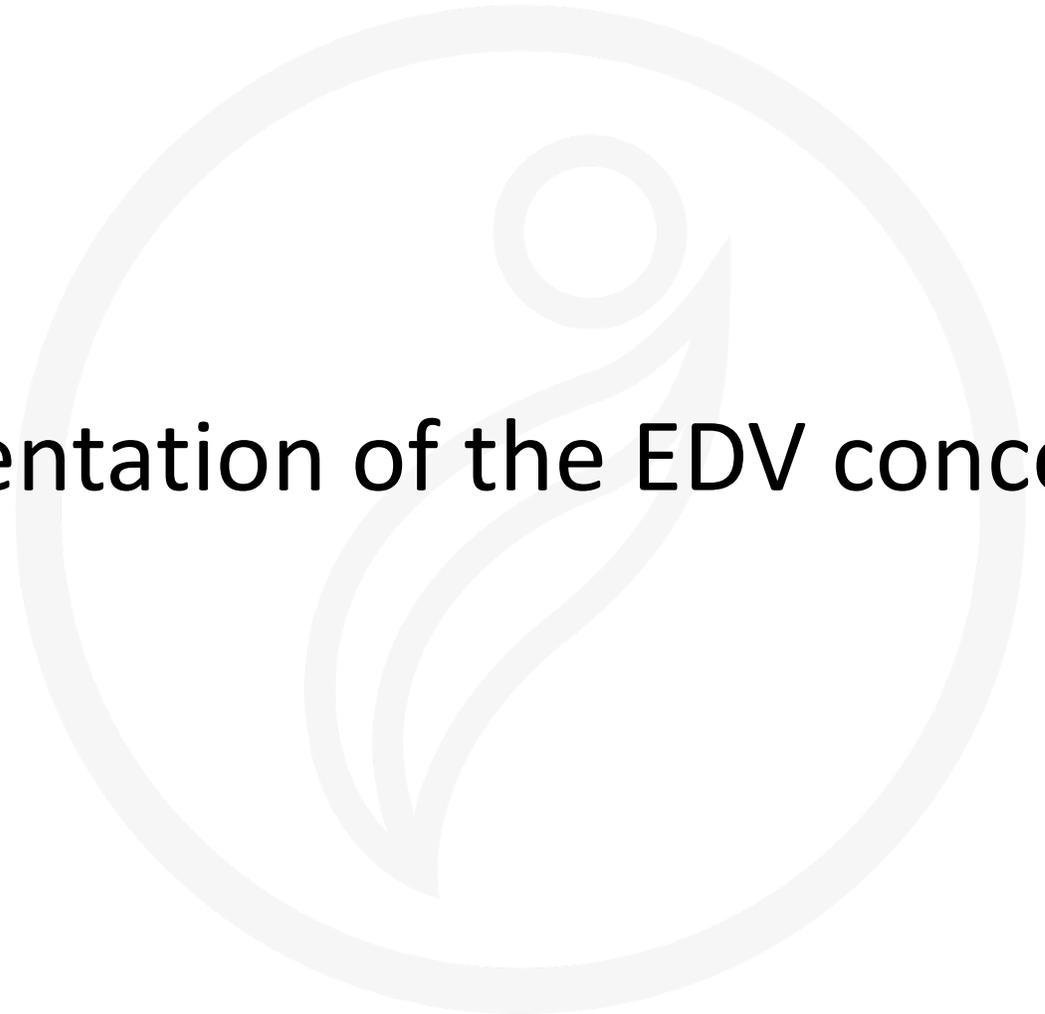


Update from ISF on implementation of the EDV concept

UPOV CAJ meeting

Geneva, October 23, 2024

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Topics for today's update

New EXN adopted in 2023 after many years of discussions

UPOV

International Union for the Protection of New Varieties of Plants

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UPOV/EXN/EDV/3

Original: English

Date: October 27, 2023

EXPLANATORY NOTES ON ESSENTIALLY DERIVED VARIETIES UNDER THE 1991 ACT OF THE UPOV CONVENTION

Document adopted by the Council
at its fifty-seventh ordinary session
on October 27, 2023

Updates from ISF:

1. Arbitration rules in EDV cases
2. Work on examples
3. **Impact in practice**

ISF Arbitration for EDV cases



International Seed Federation

**Procedure Rules for Dispute Settlement for
the Trade in Seeds for Sowing Purposes and
for the Management of Intellectual Property**

Mediation, Conciliation, Arbitration

- ISF has an Arbitration system since the early years of its existence
- 3 elements:
 - Trade Rules
 - General Arbitration Rules
 - Specific Rules for IP disputes
- System revised & amended by ISF General Assembly – May 29, 2024
- One novelty: incorporation of RED

ISF Arbitration for EDV cases

REGULATIONS ON ESSENTIAL DERIVATION

ARTICLE 16

Main elements:

- Definitions
- Application process & necessary information to be provided
- The arbitration process & arbitral award

ISF & all breeders' organizations emphasized during the renegotiation of the EXN that EDV is a matter between breeders.

Key for ISF members to have these rules in place to facilitate dealing with EDV disputes

ISF work on examples

- New EXN differentiates between mono-parental derivation and multi-parental derivation in the context of predominant derivation
- This differentiation has some consequence for the assessment of predominant derivation
- ISF CG IP started some work on examples to discuss how the EDV assessment could look like in specific mono-parental cases with different types of reproduction systems

Impact in practice

- New EXN may have a practical impact in contract negotiations
- New EXN may be taken into account by companies in their internal policies regarding breeding strategies – avoid risking to have EDVs
- New EXN may have a practical impact in resolving EDV matters between breeders – avoiding the need to go for any type of dispute settlement

What about concrete cases?

- No cases reported since the new EXN that are in the dispute resolution phase
- At least one case reported which is currently in the phase of discussions between the breeder of the IV and the breeder of the alleged EDV –case fits in to one of the aspects of the new EXN, so new EXN may be highly relevant



Seed is Life