Propagating material and harvested material are two core concepts of the UPOV Convention

No definitions on propagating material and harvested material in the UPOV Convention

UPOV members have implemented the notions of propagating material and harvested material in their own context

One complicating factor is that the same plant material can be propagating material and harvested material

Harmonisation or consistency helps all stakeholders to understand the scope of the breeders’ rights

It is important to communicate with farmers, producers and other stakeholders involved in the value chain about the benefits of new plant varieties and therefore plant breeders’ rights

All types of farmers are necessary and complementary and the UPOV Convention has particular exceptions to cover activities of, for example, subsistence farmers

Judges have given judgments in relation to propagating and harvested material in some UPOV members

Judgments have taken into account consideration
  - Intention
  - Cascade principle for propagating and harvested material
  - Safeguarding of the interests of the breeders and producers/farmers

Relevant cases seem to provide satisfactory interpretations in the seed sector and the ornamental sector

It would be helpful for breeders to report on concrete issues they face

Messages for UPOV

To work on achieving a common understanding on propagating material and harvested material

A non-exhaustive list of possible factors in the Draft Explanatory Notes is useful, even if UPOV members have their own definitions

Better understanding of “reasonable opportunity” would be beneficial

The Proceedings of this Seminar can serve as a valuable source of information for UPOV members

Cases reported to UPOV will be published on the UPOV website

Messages for breeders

Breeders may want to use the legal systems to clarify the situation

Breeders may want to cooperate on bringing cases before courts (examples AIB/Breeders Trust)

Depending on the outcome of cases legislator may decide whether to react

Breeders should ensure that effective contracts are used to be able to exercise their breeders’ rights in relation to harvested material