

Sweden

Contribution on policy issues relevant for essentially derived varieties (EDVs)
(UPOV Circular E-19/232, of December 23, 2019)

Item	Excerpt from UPOV EXN	The Swedish position
Essentially Derived Varieties	<p>SECTION 1: PROVISIONS OF ESSENTIALLY DERIVED VARIETIES</p> <p>a) Relevant provisions of the 1991 Act of the UPOV Convention</p> <p>b) Defining an essentially derived variety</p> <p style="padding-left: 20px;">i. Predominantly derived from the initial variety (Article 14(5)(b)(i))</p> <p style="padding-left: 20px;">ii. Clearly distinguishable from the initial variety (Article 14(5)(b)(ii))</p> <p style="padding-left: 20px;">iii. Conformity with the initial variety in the expression of the essential characteristics (Article 14(5)(b)(iii))</p> <p style="padding-left: 20px;">iv. Examples on ways in which an essentially derived variety may be obtained (Article 14(5)(c))</p> <p style="padding-left: 20px;">v. Method of breeding</p> <p style="padding-left: 20px;">vi. Direct and indirect derivation</p> <p>c) Scope of the breeder's right with respect to initial varieties and essentially derived varieties</p> <p>d) Territoriality of protection of initial varieties and essentially derived varieties</p> <p>e) Transition from an earlier Act to the 1991 Act of the UPOV Convention</p>	<p>i. In agreement with current wording.</p> <p>ii. 'Clearly distinguishable' may indeed be based on a phenotypic expression based on a single-gene difference, e.g. mlo-based resistance in barley or a colour mutant.</p> <p>iii. In agreement with current wording.</p> <p>iv. Considers current wording satisfactory, but term 'induced mutant' may need an amendment such as 'e.g. through techniques of genome editing'.</p> <p>v. Suggests to consider amending para 15 as follows: "While the genetic change may result in a mutant that no longer retains the expression of the essential characteristics that result from the genotype of the initial variety, this is rarely the effect of point mutations."</p> <p>vi. While the scheme in Figure 2 is theoretically, and legally, correct, it may be inferred that subsequent derivation lowers the likelihood that EDVs 'further away' from the initial variety A will retain the expression of essential characteristics of "A" and / or conform to "A" in essential characteristics.</p> <p>c) In agreement with current wording.</p> <p>d) In agreement with current wording.</p> <p>e) In agreement with current wording.</p>

Item	Excerpt from UPOV EXN	The Swedish position
	SECTION II: ASSESSMENT OF ESSENTIALLY DERIVED VARIETIES	in agreement with current wording.

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