



CPVO

Community Plant Variety Office

STRATEGIC PLAN 2010-2015

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INTRODUCTION

The Community Plant Variety Office (CPVO) is responsible for the management of the Community Plant Variety Rights System. This system provides protection with an intellectual property right for new plant varieties on European Community level. The system, based on the 1991 act of the UPOV Convention, became operational in 1995 and has till the end of 2008 seen a steady growth of the number of applications. The system is in 2009 confronted with a drop of the number of applications. The main cause of this phenomenon is most likely the worldwide financial crisis. Other intellectual property systems, such as the Community Trade Mark system, are experiencing a similar setback. It cannot be excluded that other reasons, such as costs, lack of effective enforcement tools or attractiveness of other IPR systems, have a negative impact as well. But even taking into account this decrease in applications, the Community system is by far the biggest of its kind in the world and the CPVO is financially in good shape.

In managing the system, the CPVO fulfils the mandate of Council Regulation (EC) N°2100/94 of 27 July 1994. The core task of the CPVO is processing of and taking decisions on applications for Community plant variety rights. Furthermore, the CPVO either directly or by its Administrative Council, advises the Community institutions, Council and/or Commission, and the EU Member States on Plant Variety Rights legislation and related policy areas. The CPVO furthers effective plant variety protection through awareness raising activities designed to foster respect for plant variety rights and encourage the development of enforcement tools. In UPOV, the International Union for the Protection of Varieties of Plants, the CPVO plays a prominent role. It also supports research and development activities aimed at improvement of DUS testing methods.

In executing its core task, the CPVO follows mainly a demand driven approach. It reacts on the applications it receives by performing the necessary administrative and technical procedures resulting in the final decision on these applications. The CPVO cannot directly influence the number and character of the applications it has to process. It can however to a large degree determine the administrative and technical environment in which the processing of applications takes place.

Also in respect of the implementation of its other tasks the CPVO has, under the control of its Administrative Council, to a large extent, discretionary powers.

All tasks of the CPVO should be exercised in a transparent and accountable way. This Strategic Plan is intended to serve that purpose by defining the mission, the stakeholders, the guiding principles and the strategic and management goals of the CPVO. The plan is intended to cover the period 2010-2015. At the end of 2011, 2013 and 2015 the Office will present a report to the Administrative Council about the achievement of the objectives identified in this plan.

MISSION

To foster innovation in plant varieties by high quality processing of applications for Community plant variety rights at affordable costs while providing policy guidance and assistance in the exercise of these rights for the benefit of stakeholders.

THE STAKEHOLDERS OF THE CPVO

The most obvious stakeholders are the “clients” of the CPVO, breeders, in their role of applicants and holders of rights respectively:

- Breeders are organised at Community level in CIOFORA, as far as breeders of asexually reproduced varieties are concerned, and ESA, organising breeders of varieties reproduced by seed. These organisations have regular contacts with the CPVO on general policy issues. They are invited to participate in technical discussions organized by the CPVO. The CPVO has also contacts, where it is considered opportune, with organizations unifying specific groups of breeders or representing breeders on national level.
- Persons and organizations working for the CPVO either directly or indirectly. This group includes the staff of the Office and the entrusted examination offices for some of which the CPVO is a major client.
- The Administrative Council has to oversee the management of the Office; issues test guidelines and is its budgetary authority. The EU Institutions, Council and Commission, are responsible for the creation of the Community PVP system. They have an interest in the proper functioning of this system as well as of the CPVO, the organization responsible for its implementation. Regular modifications of the relevant legislation, mostly initiated by the CPVO Administrative Council, are adopted and or initiated by Council and Commission in order to update the system.
- There are also stakeholders who have hardly any direct contact with the Office but who are nevertheless closely linked to the *raison d'être* of the system. Among those one can mention farmers and plant producers, and the general public. Producers are the primary recipients of the output of the breeding industry and the general public is the final recipient.

GUIDING PRINCIPLES

- Quality
- Cost-Effectiveness
- Timeliness
- Accountability

STRATEGIC GOALS

- Maintain and, where possible, enhance the attractiveness of the Community plant variety protection system in comparison to other relevant IP rights.
- Be a benchmark organisation in the management of a plant variety protection system.

POLICY/MANAGEMENT OBJECTIVES

In order to achieve the strategic goals of the CPVO, four objectives have been identified; the first three could be considered as policy goals, the fourth as a management goal.:

OBJECTIVE 1 OPTIMIZE Community Plant Variety Rights System, Quality and Costs.

OBJECTIVE 2 IMPROVE International Cooperation in Plant Variety Protection.

OBJECTIVE 3 CONTRIBUTE to the enforcement of Community variety rights.

OBJECTIVE 4 ACHIEVE Organizational Excellence.

Objective 1: Optimize Community Plant Variety Rights

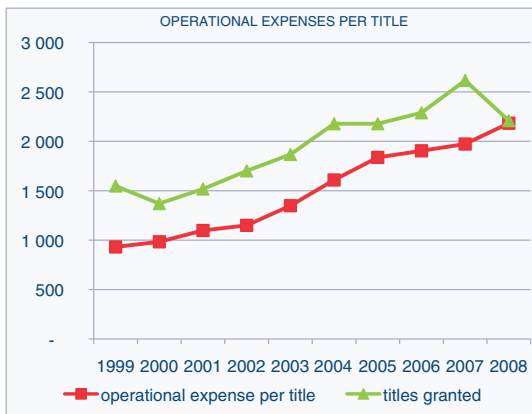
Challenges/Opportunities

The benefits of the Community plant variety protection system have been obvious since its creation. In order to reap the rewards of their innovations, breeders often rely on Community plant variety rights. The Community system has proven to be an important catalyst for the horticultural and agricultural sectors. Through the prompt granting of plant variety rights, the CPVO contributes to the economic vitality of business, paving the way for investment, research, scientific development, and the commercialization of new plant varieties.

One of the main characteristics of plant variety protection based on the UPOV convention is the possibility for breeders to use material of protected varieties for further breeding purposes, the so called breeders' exemption. Such an exemption does not exist in respect of plant material covered by a patent. On different levels discussions take place whether a form of breeders' exemption or an extensive research exemption should be introduced in patent law.

Especially in respect of agricultural and vegetables species a growing "competition" can be expected from the patent system. As long as patents are granted with respect of the

conditions for patentability, especially as regards the non obviousness requirement, results of classical breeding methods will only in a limited number of cases qualify for patent protection.

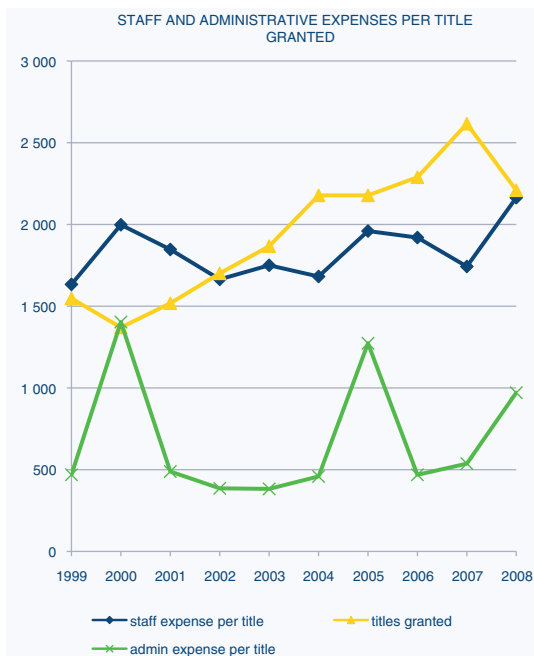


The accession of 10 new Member States to the European Union in 2004 followed by another 2 Member States in 2007 triggered a strategic discussion on DUS testing in the enlarged European Union in order to address the questions related with the integration of additional technical examination capacity with the existing system. The main conclusion was that the principle regulating the access to the DUS testing market should be quality. Regular audits should make sure that only providers meeting agreed quality standards remain service providers to the CPVO

A customers' satisfaction survey conducted at the end of 2004 and ongoing customers' feedback are not considered excessive.

The CPVO maintains a strong focus on its core task, the implementation and application of the Community PVP system. It does not exclude though that this task will be extended by the Community legislator to neighbouring areas.

Since the beginning of its operations the CPVO has experienced a rather steady growth. Inevitably it can be expected that at a moment in the future there will be reached a balance between the numbers of newly granted titles and those reaching the end of their protection either by a surrender of the right or by reaching the end of



the duration of their protection, which for most species is limited to 25 years. This situation lies probably beyond the planning period ending 2014.

The operational costs - related to DUS testing of candidate varieties- per title granted have increased over the years. The underlying causes have in the first place to be found in the fact that initially, the remuneration for DUS testing was based on – too- low estimates of examination costs by the examination offices. In the meantime examination offices have equipped themselves with improved accounting systems capable of reporting the full costs of their services. Another reason is that with the growth of the system many applications have been received for ornamentals of species relatively unknown by the examination offices. The cost of examination of these varieties is relatively high.

Despite the significant increase of services rendered by the CPVO, staff and administrative costs per title granted do not show any upward trend over the years but have been oscillating within a narrow or a wider band for staff and administrative costs, respectively. The administrative expenditure peaks in the years 2000, 2005 and 2008 are incidental since they are due to the acquisition and refurbishment of CPVO office buildings. The structural administrative costs per title granted are in a range of 500 to 600€ over the last 10 years without considering inflation.

The CPVO response

The CPVO will be attentive in respect of developments in the patent system that could have an impact on the PVP system.

The CPVO will define adequate quality requirements while being conscious of costs. Especially in sectors where relative few applications are made, such as the vegetables and fruit sectors, the costs of testing might be a hurdle for breeders to apply for Community rights. Possibilities to reduce costs have to be studied.

An audit system will be put in place making sure that only examination offices meeting the quality requirements are entrusted with technical examinations to be used for CPVO decisions. In order to avoid further increases or even a reduction of costs a study has been launched to investigate possibilities to reduce DUS costs in the fruit sector. This pilot project could have a follow up for other cost groups.

Operating in today's digital world requires having full electronic processing that is safe, secure, and continually available to employees, applicants, and stakeholders. The use of IT must be extended to all phases of plant variety rights processing. Ultimately, IT shall also contribute to substantial productivity gains allowing an almost constant number of staff to cope with increasing numbers of files maintained in the registers of the Office. A longer-term endeavour, critical to addressing quality and costs, is working with our stakeholders and our international partners to determine if there is some combination of examination alternatives that will better meet applicants' needs while providing a more efficient use of examination resources.

This response leads to the following initiatives.

Initiatives I

- Design and implement a comprehensive quality system for examination offices that includes:
 - Improvement of the transparency of DUS tests
 - Definition of auditable quality standards while maintaining costs at an acceptable level
 - Setting up a quality audit methodology
 - Setting up an independent quality audit team
 - Putting in place a framework with adequate governance for guaranteeing that audit results are independent of the CPVO
 - Sharing of audit costs with examination offices
- Launching a project to reduce DUS examination costs in the fruit and vegetables sectors.
- Design and implement a research and development strategy that can optimise quality and costs of Community Plant Variety Right decisions and improve protection and enforcement.
- Examine possibilities to improve the level of protection e.g. by extension of the right to the processed material and extend the duration of protection.
- Review critically the wording of the applicable legislation and propose where opportune amendments

Performance Indicators

- Number of applications in comparison with similar preceding period
- Percentage of examination offices audited, species covered
- Percentage of supplementary growing periods
- Average time between reception of test report and final decision
- Average cost per title granted
- Number of approved R&D projects
- The number of appeals and objections
- Percentage of Board of Appeal cases lost by the CPVO
- Percentage of court cases lost by the CPVO
- Number of proposed legislative amendments

Initiatives II

- Introduce e-filing, e-communication facilities with applicants (including client extranet, e-gazette, e-certificates, e-services) as well as electronic ordering and invoicing
- Introduce a comprehensive electronic document management system enabling additional services for clients like e-access to the registers or variety descriptions.
- Electronic exchange of information with examination offices.

Performance Indicators

- Time necessary to make electronic systems operational.
- Once operational: percentage of applications, orders and invoices processed electronically
- Satisfaction of clients.
- Decrease of costs to process applications

Objective 2: Improve International Cooperation in Plant Variety Protection

Challenges / Opportunities

Many varieties protected under the Community system, especially ornamentals, have also a market outside the European Union. It is in the interest of breeders that varieties protected under the umbrella of the Community system have easy access to these outside markets. Repetition of the technical assessment of those varieties should be avoided.

The cooperation under the UPOV umbrella has as objective to harmonise the processing of PVP applications as well as the technical assessment of candidate varieties on a world wide scale. Harmonisation of administrative procedures is of great interest for breeders who want to protect their varieties also outside the EU. Harmonisation of testing methods opens the possibility to exchange test reports.

Such international cooperation gives an added value to intellectual property rights UPOV type, such as granted under the Community system. This advantage is, apart from the intrinsic merits of these rights, of great relevance in the “competition” of the plant variety protection system under the UPOV convention with other intellectual property systems, such as the trademark and the patent systems.

Cooperation in the areas mentioned takes also place on a European level.

The CPVO response

The CPVO participates actively in all relevant gremia of the UPOV organisation. It contributes to the development of technical UPOV test guidelines. It advocates harmonisation of administrative procedures and denominations checking. It furthermore stimulates the takeover of CPVO test reports by countries not belonging to the EU. The CPVO is further open for takeover of test reports from non EU countries if the tests are performed on an adequate technical level.

This response leads to the following initiatives.

Initiatives

- Host UPOV working group meetings.
- Organise expert meetings on Community level.

- Participate in and contribute to relevant international seminars and fora
- Coordinate and stimulate European input in technical UPOV meetings.
- Inform EU member states and non European members of UPOV about software developed by the CPVO for the processing of applications and the testing of denominations.
- Coordinate denominations testing on Community level.
- Receive delegations of non EU states
- Continue efforts to achieve more harmonization in DUS testing on UPOV level continue working on the harmonization of the application forms within the UPOV members and the electronic filing of applications
- continue working on the harmonization of the application forms and electronic filing in the UPOV member states
- Facilitate the takeover of CPVO test reports by concluding memoranda of understanding or lighter forms of agreements with non EU Member States.

Performance indicators

- Number of UPOV meetings attended.
- Number of UPOV meetings hosted or to be hosted.
- Number of preparatory expert meetings organized.
- Number of denominations tested
- Number of national decisions on proposed denominations that conflict with CPVO rules
- Number of agreements on the exchange of reports with third countries.
- Number of reports taken over from and by CPVO.
- Number of visits from third countries.
- Number of presentations made outside the EU.

Objective 3: Contribute to the enforcement of Community rights

Challenges/opportunities

In the enforcement of their rights breeders encounter various problems, such as lack of knowledge of competent courts, lack of cooperation of competent authorities and high costs of court procedures in relation to commercial value of the infringed right.

The fact that legal procedures are not fully harmonised on EU level add to the difficulties encountered by breeders who want to act against infringements of their rights. Furthermore, in practice it is sometimes difficult to prove that infringing plant material belongs to a protected variety, since the variety description annexed to the granting decision is not in all cases a sufficiently accurate tool for identification purposes, for instance due to environmental reasons.

Court cases also show that the establishment of essential derivation is not always simple, to say the least.

A specific problem for breeders of agricultural varieties is the difficulty to collect remuneration for the use of farm saved seed of protected varieties.

The CPVO response

Although the enforcement of plant variety rights is, as in respect of all other intellectual property rights, in the first place the responsibility of the right holder, the enforceability of Community plant variety rights is, as indicated before, of direct interest for the CPVO. If breeders are not able to effectively enforce their rights, the Community system would lose much of its attractiveness. For this reason the CPVO has the ambition within the limits of its competence and financial means, to actively support, breeders in their efforts to have their rights respected by the users of their intellectual property.

This response leads to the following initiatives.

Initiatives

- Promote concentration of competent courts.
- Propose that a future Community patent court would also be competent in Community PVP matters.
- Raise awareness in interested circles, and enforcement authorities, such as customs services, of implications of plant variety protection in general and the Community system in particular through the organisation of seminars and by means of other communication tools, such as articles and interviews in specialised publications, accessible information on the CPVO website.
- Organise open days to explain the system to breeders, plant producers and farmers.
- Open the possibility for breeders to add for identification purposes a DNA sample, produced on the basis of harmonised method, to the classic variety description.
- Propose revisions of farm saved seed rules.
- Inform farmers about the rationale of these rules.

Performance measures

- Response on proposals to concentrate courts and in respect of competence of Community patent court.
- Response on initiatives and proposals to improve the farm saved seed legislation and practice.
- Number of seminars organised,
- Number of articles and interviews.
- Response of breeders in respect of DNA sample attachment to variety description.
- Number of visitors
- Number of open days

Objective 4: Achieve Organizational Excellence

Challenges / Opportunities

Fulfilment of the CPVO's mission and accomplishment of its goals and initiatives require strong leadership and collaborative management of the CPVO. This management goal focuses on the organizational excellence that is a prerequisite for achieving those objectives. Organizational excellence is a shared responsibility and is focused on sound resource management, solid workforce planning, and effective use of IT.

The CPVO response

The CPVO aims to stay an employer of choice with a culture of high performance and to ensure responsible management of resources.

It wants to provide the IT expertise and systems to ensure that electronic processing is safe, secure, accurate, and continually available to employees, applicants, and other stakeholders.

To quickly respond to changing workloads and deliver the services applicants and others demand, the CPVO must use the most effective personnel practices, technologies, flexibilities, and management techniques to continually maintain and develop an appropriately sized, skilled, and diverse staff.

It is important to accurately project the evolution of expenditures and income for timely adjustment of the fees regulation by the European Commission in order to maintain a balanced budget and to implement a staff policy plan for meeting forthcoming needs.

Organizational health is directly related to effective internal and external communication. Our challenge is to enhance communications at every level of the organization.

Initiatives I

Function within the organisation with a service minded approach in order to achieve high quality performance and a positive feedback from all stakeholders.

- Design and implement the CPVO Staff Policy Plan by:
 - Closing competency gaps (capacity and capability) in mission-critical occupations to meet current and future needs
 - Ensuring that managers effectively (1) manage people, (2) maintain continuity of leadership, (3) sustain a learning environment, and (4) provide a means to share critical knowledge
- Implement the CPVO internal communication policy by:
 - Following the internal communication strategy and work programme
 - Regularly monitor organisational health

Initiatives II

- Ensure operational excellence in agency-wide management processes
- Enhance the capabilities of financial systems and processes by:
 - Establishing an agency-wide approach for financial management

- Establishing methods for more accurate and timely predictions of application filings, workloads, and revenues
- Providing an automated operating environment for conducting financial management business with the CPVO
- Improve human resource processes and services
- Improve the quality, cost-effectiveness, and timeliness of IT solutions by:
 - Simplifying IT systems and support infrastructure
 - Improving existing business area tools and capabilities

Initiatives III

Improve accessibility to CPVO information by :

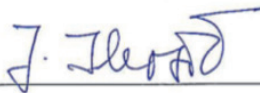
- Expanding searchable information
- Providing streamlined access to information
- Increasing system capabilities for access to information
- Implementing secure PLANT VARIETY RIGHT office information exchange

Performance measures

- Positive feedback from stakeholders
- Evolution of organisational health (scores of staff questionnaire)
- Percentage availability of critical systems
- IT expense as a percentage of revenue
- Maximize and/or obtain new funding flexibilities
- Process cost as a percent of revenue (efficiency)
- Revenue actual versus plan and percent error in revenue forecasts (effectiveness)

Date: 3 November 2009


Signature:



Jože ILERŠIČ
Chairman Administrative Council

Date:

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