



Community Plant Variety Office

Annual report 2014





Annual report 2014

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1.

MESSAGE OF WELCOME FROM MARTIN EKVAD, PRESIDENT OF THE COMMUNITY PLANT VARIETY OFFICE



Martin Ekvad

I am delighted to announce that 2014 was the second consecutive record-breaking year in terms of number of applications received. The Community Plant Variety Office (CPVO) received more than 3 600 applications which represents an increase of 10 %.

The objective to reduce the free reserve of the CPVO to less than 50 % of annual turnover was achieved in 2014. A planned negative outturn was reached following reductions of fees in 2013 and 2014. I am convinced that a reasonable level of the free reserve coupled with reasonable fees for applicants are important indicators to show stakeholders and the general public that the CPVO is managed in an appropriate manner.

In 2014 a new Commissioner for Health and Food Safety, Commissioner Andriukaitis, was nominated, who I had the privilege to meet soon after his appointment. Later in the year it was announced that the proposed plant reproductive material (PRM) regulation had fallen into the list of Commission priorities in 2015. The PRM failed, in the European Parliament, to obtain the necessary political support; however, there were no objections to the proposed enhanced role of the CPVO. For this reason I look forward to working with the Commissioner and the Member States to expand the CPVO role and share its expertise in plant varieties with a wider audience either through a revision of the Basic Regulation (Council Regulation (EC) No 2100/94) or through a new PRM proposal.

Looking forward, in 2015 the fees for technical examinations will increase. This is the result of increased costs of examination offices (EOs) coupled with the adopted medium-/long-term policy of transparency, i.e. to move to a system whereby fees for technical examinations paid by breeders are the same as the remuneration that the CPVO pays to the examination offices. In order to offset the increased technical examination fees, the CPVO will propose a reduction of application fees from 2016, possibly only for online applications; this is further evidence of the CPVO's commitment to providing a service at a cost as low as possible and not to accumulate a financial reserve.

In the coming year the CPVO will celebrate its 20th anniversary. In this context I would like to recall that the CPVO now provides breeders with a plant variety right (PVR) which is enforceable across the 28 Member States of the EU, covering over 500 million people. The CPVO continues to work to deliver a high-quality service to its clients and to enhance PVR awareness among citizens. I would like to emphasise that the CPVO can only deliver such a service thanks to the first-rate work of the examination offices.

For up-to-date information on the CPVO's activities, please visit the CPVO's website, read its newsletter and follow and engage with the CPVO on  @CPVOTweets. Finally, I would like to thank all those who contributed to and supported the work of the CPVO throughout 2014 and a special thanks for the excellent work of the CPVO staff.

2.

FOREWORD BY BRONISLAVA BÁTOROVÁ, CHAIRPERSON OF THE ADMINISTRATIVE COUNCIL



Bronislava Bátarová

It is very positive to note that 2014 was yet another record-breaking year for CPVO applications. The processing of over 51 000 applications underlines the stability and sustainability of the system.

In the course of 2014, the Administrative Council (AC) adopted a number of important decisions. During the March session in Nitra, Slovakia, in the context of the proposal to amend the fees regulation, a majority of AC members were in favour of a move towards 85 % recovery of the costs of DUS testing, as from 1 January 2015, with alignment of cost groups and fee groups. Furthermore, the AC members agreed, in principle, to move at a later stage to 100 %, but no decision has been taken. The AC members were also in favour of removing the limit of EUR 3 000 for the testing of hybrids and the reduction of the fees for 'not filed' to EUR 200. During the year, the Commission decided to change the fees as proposed by the Administrative Council.

The AC members decided against the introduction of a direct financial relationship between applicants and examination offices which means that applicants will continue to pay their fees for technical examinations to the CPVO.

The AC members decided that examination offices shall pay a fee for the quality audit service (QAS) audits based on 50 % of the costs incurred. Accordingly, it was agreed to share the audit fee between the CPVO and EOs. The implementation of this decision will take effect following the next cost calculation exercise in order for EOs to take into account their costs for such audit fees.

The AC adopted the revised policy on status of material used for distinctness, uniformity and stability (DUS) testing purposes.

At the October meeting in Brussels, the AC members adopted the CPVO international relations strategy, the draft budget for 2015 and the code of good administrative behaviour of the European Ombudsman to apply to CPVO staff.

The AC members unanimously adopted the revised quality audit service procedure manual.

Concerning the ad hoc legal working group, the AC members took note of the report. A final report will be submitted to the AC in March 2015.

The AC members generally supported the proposal for the CPVO research and development (R & D) strategy 2015–20. An updated strategy and terms of reference for a CPVO biochemical and molecular techniques (BMT) group, including its composition, will be presented in March 2015.

They also decided to follow a number of entrustment recommendations made by the quality audit service and thus continue or extend entrustments for the particular offices.

In conclusion, I would like to thank the members of the Administrative Council for their valuable input during the year and for the contributions they made to the activities of the CPVO.

Last but not least I would like to express my gratitude to the staff of the Office for their excellent work and cooperation.

3. TWENTY YEARS OF THE CPVR SYSTEM — 1995–2015



The Community Plant Variety Office is celebrating 20 years of existence in 2015. Reaching this milestone should not pass unnoticed as the Community plant variety protection (CPVR) system has been a success story from the start. Operational since June 1995, the Office has processed more than 51 000 applications for Community plant variety protection and has granted close to 40 000 titles, offering intellectual property protection to companies and individuals not only from the EU but also from all over the world.

Within 20 years, the scope of the CPVR system was extended from 15 to 28 Member States as the European Union (EU) has grown. The fact that protection, guaranteeing exclusive exploitation rights for a plant variety, now covers 28 countries and a market of more than 520 million consumers through a single application to the CPVO has made the Community system for protecting new varieties even more attractive.

Consequently, the Administrative Council of the CPVO has also grown to 29 members representing the 28 Member States and the Commission. In addition to that, the International Union for the Protection of New Varieties of Plants (UPOV) is invited as an observer and three breeders' organisations, the European Seed Association (ESA), the International Community of Breeders of Asexually Reproduced Ornamental and Fruit Varieties (Ciopora) and the Dutch association for the plant reproduction material sector (Plantum) representing the stakeholders, became observers to the AC in 2010.

Within 20 years, the CPVO has grown from six staff members in 1995 to 45 in 2015, first under the Presidency of Bart Kiewiet (1996–2011) and José Elena as Vice-President (1997–2007), and presently by Martin Ekvad and Carlos Godinho respectively.

The year 2015 will be the opportunity for the CPVO to reflect on past accomplishments and to thank all those who contributed to the success of the Community plant variety protection system for their constant cooperation and support, namely the Member States represented by the members of the Administrative Council, the European institutions, the CPVO staff members, the examinations offices, the UPOV and, last but not least, the breeders and the breeders' organisations.

The year 2015 will also be the opportunity to look into the future and to embrace the challenges of the next decade and beyond. The CPVO will take this anniversary year as an opportunity to deepen its links with its partners and stakeholders, and to build on its network to continue to provide high-quality processing of applications for the CPVR at affordable costs and to play an important role to support innovation which is at the heart of the EU's strategy to create Europe's economic growth and global competitiveness. The CPVO looks forward to many more years of fruitful cooperation with its partners and stakeholders, working together to further develop a global regulatory environment for PVR.

4. THE COMMUNITY PLANT VARIETY RIGHTS SYSTEM



The introduction of a Community plant variety rights system in 1995 has proved to be a successful initiative that has been welcomed by the business community seeking intellectual property protection for new plant varieties.

The fact that protection, guaranteeing exclusive exploitation rights for a plant variety, is acquired in 28 Member States of the European Union through a single application to the CPVO makes the Community system for protecting new varieties very attractive.

The Community plant variety system is not intended to replace or even to harmonise national systems, but rather to exist alongside them as an alternative; indeed, it is not possible for the owner of a variety to exploit simultaneously a CPVR and a national right or a patent granted in relation to that variety. Where a CPVR is granted in relation to a variety for which a national right or patent has already been granted, the national right or patent is rendered ineffective for the duration of the CPVR.

The legal basis for the Community plant variety system is found in Council Regulation (EC) No 2100/94. On receipt of an application for a CPVR, the Office must establish that the variety is novel and that it satisfies the criteria of distinctness, uniformity and stability. The Office may arrange for a technical examination to determine DUS to be carried out by the competent offices in Member States or by other appropriate agencies outside the EU. In order to avoid unnecessary duplication of work where such a technical examination is being — or has already been — carried out in relation to a variety for official purposes, the Office may, subject to certain conditions, accept the results of that examination by taking over the report concerned.

Anyone may lodge an objection to the granting of a CPVR with the Office in writing and within specified time limits. The grounds for objection are restricted to allegations either that the conditions laid down in Articles 7 to 11 of the Basic Regulation (BR) are not met (distinctness, uniformity, stability, novelty or entitlement) or that the proposed variety denomination is unsuitable due to one of the impediments listed in Article 63 of the BR. Objectors become parties to the application proceedings and are entitled to access relevant documents.

Except in two specific instances where a direct action against a decision of the Office may be brought before the Court of Justice, a right of appeal against such a decision lies with a Board of Appeal consisting of a chairperson appointed by the Council of the European Union and two other members selected by the chairperson from a list adopted by the Administrative Council. The addressee of a decision, or another person who is directly and individually concerned by the decision, may appeal against it. After examining the appeal, the Board may exercise any power within the competence of the Office or refer the case back to the Office, which is bound by the Board's decision. Actions against decisions of the Board may be brought before the Court of Justice, based in Luxembourg. Decisions of the Board of Appeal and of the Court of Justice are published in the CPVO case-law database on the Office's website.

The table in Chapter 17 shows the number of notices of appeal lodged with the CPVO and the decisions reached by the Board of Appeal.

Once granted, the duration of a CPVR is 25 years, or 30 years in the case of potato, vine and tree varieties. These periods may be extended by legislation for a further 5 years in relation to specific *genera* or species. The effect of a CPVR is that certain specified activities in relation to variety constituents or the harvested material of the newly protected variety require the prior authorisation of the right-holder; such authorisation may be made subject to conditions and limitations. Infringement of a CPVR entitles the right-holder to commence civil proceedings against the perpetrator of the infringement.

Registers, which are open to public inspection, contain details of all applications received and all CPVRs granted by the Office. Every 2 months, the Office publishes its *Official Gazette of the Community Plant Variety Office*, which contains the information entered in the registers. Information on applications and titles in force is also found in a database accessible via the Office's website.

5. THE ADMINISTRATIVE COUNCIL

The CPVO is supervised by an Administrative Council comprising representatives of the Member States and the European Commission and their alternates. The Administrative Council monitors the activities of the Office. In particular, it is responsible for examining the management report of the President, adopting the Office's budget and granting discharge to the President in respect of its implementation. In addition, it can provide advice, establish rules on working methods within the Office and issue guidelines on technical examinations, committees of the Office and general matters.

The Administrative Council met twice in 2014, on 18 and 19 March in Nitra, Slovakia and on 9 October in Brussels, Belgium.

At the meeting on **18 and 19 March in Nitra**, the members of the Administrative Council adopted the following:

- the analysis and assessment of the authorising officer's report — this report was included in the annual report 2013 and sent to the Court of Auditors;
- the discharge of the President of the CPVO for implementation of the 2012 budget;
- the proposal to amend the fees regulation to move towards 85 % of recovery of the costs of DUS testing as from 1 January 2015;
- the modified decision of the remuneration of the members of the Board of Appeal of the CPVO;
- the entrustment of the following examination offices:
 - (a) Food and Environment Research Agency (FERA) — United Kingdom;
 - (b) Naktuinbouw — the Netherlands;
 - (c) Oficina Española de Variedades Vegetales (OEW) — Spain;
- the quality audit service review report for 2013;



Administrative Council meeting, March 2014, Nitra, Slovakia

- eight new technical protocols for *Citrus* L. — Group 4 (grapefruit) (CPVO-TP/204/1), *Agapanthus* L'Hér (CPVO-TP/266/1), *Bougainvillea* Comm. ex Juss (CPVO-TP/267/1), *Punica granatum* L. (CPVO-TP/284/1), *Hebe* Comm. ex Juss (CPVO-TP/286/1), *Dianella* Lam. ex Juss (CPVO-TP/288/1), *Lobelia alsinoides* Lam.; *Lobelia erinus* L.; *Lobelia valida* L. *Bolus*, Hybrids between *Lobelia erinus* and *Lobelia alsinoides* (CPVO-TP/293/1), and *Solanum lycopersicum* L. x *Solanum habrochaites* S. Knapp. & D.M. Spooner; *Solanum lycopersicum* L. x *Solanum peruvianum* (L.) Mill.; *Solanum lycopersicum* L. x *Solanum cheesmaniae* (L.) Ridley Fosberg (CPVO-TP/294/1);
- eight revisions of technical protocols for *Rubus ideaus* L. (CPVO-TP/043/2), *Linum usitatissimum* L. (CPVO-TP/057/2), *Cichorium endivia* L. (CPVO-TP/118/3), *Cucurbita pepo* L. (CPVO-TP/119/1), *Triticum turgidum* L. subsp. *durum* (Desf.) Husn. (CPVO-TP/120/3), *Citrullus lanatus* (Thunb.) Matsum. et Nakai L. (CPVO-TP/142/2), *Osteospermum* L.; hybrids with *Dimorphotheca* Vaill. ex Moench (CPVO-TP/176/3), and *Phalaenopsis* Blume and *x Doritaenopsis* hort. (CPVO-TP/213/2);
- the entrustment of the examination offices proposed by the CPVO for the testing of 27 new species;
- the revised policy on the status of material used for DUS testing purposes;
- an update of the list of species available to CPVO postponement rules.

The members of the Administrative Council also took note of:

- the report of the President of the CPVO with its statistics;
- the CPVO social report for 2013;
- the implementing report of the strategic plan 2012–13;
- the draft international strategy of the CPVO outside the EU;
- the provisional accounts for 2013;
- the evaluation of the CPVO research and development projects 2002–14;
- the report on the state of affairs regarding the CPVO Board of Appeal and the Court of Justice;
- the multiannual staff policy plan (MSPP) for 2014–16.

They furthermore:

- agreed that a seminar on the interface between patents and plant variety rights shall be organised after the two pertinent European patent offices' decisions are made available;
- took note of the state of affairs of the International Treaty on Plant Genetic Resources for Food and Agriculture and the Nagoya Protocol;
- were informed that, as a result of the 2014 reform of the staff regulations, the Administrative Council was the instance which shall adopt — instead of the CPVO President — the implementing rules to the new staff regulations;
- rejected the introduction of a direct financial relationship between applicants and examination offices.

Finally, the members of the Administrative Council were invited to send their comments in writing as regards two subjects which could not be discussed due to time constraints:

- centralisation of DUS testing for small species in the ornamental sector;
- report from the 2013 vegetable expert meeting on disease resistance characteristics in vegetable DUS examination.

At the meeting on **9 October 2014 in Brussels**, the members of the Administrative Council adopted the following:

- the CPVO international relations strategy;
- the draft budget for 2015;
- the code of good administrative behaviour of the Ombudsman to apply to CPVO staff;
- the entrustment of the following examination offices:
 - (a) Central Institute for Supervising and Testing in Agriculture (ÚKZÚZ) — Czech Republic
 - (b) Oficina Española de Variedades Vegetales (OEW) — Spain
 - (c) Direção Geral de Alimentação e Veterinária — Portugal
 - (d) The Danish Agrifish Agency — Denmark
 - (e) Viljandi Variety Testing Centre — Estonia
 - (f) Instituut voor Landbouw- en Visserijonderzoek (ILVO) — Belgium
 - (g) Bundessortenamt — Germany
 - (h) Central Controlling and Testing Institute in Agriculture (UKSUP) — Slovakia
 - (i) scope extension for *Cynara cardunculus* — Consiglio per la Ricerca in Agricoltura e l'analisi dell'economia agraria (CRA)-Centro di Sperimentazione e Certificazione delle Sementi (SCS) — Italy;
 - (j) scope extension for *Prunus cerasifera* — GEVES — France;
- the revised QAS procedure manual;
- the standard operating procedure for the calculation of audit fees;
- the entrustment of the examination offices proposed by the CPVO for the testing of 25 new species;
- the entrustment of the OEW (Spain) for the testing of pineapple;
- the amendments to Articles 3.3 and 4 of the administrative procedure to be followed in relation to requests for access to documents of the CPVO.

The members of the Administrative Council also took note of the following:

- the report of the President of the CPVO with its statistics;
- the celebration of the 20th anniversary of the CPVO on 1 October 2015 in Angers, France;
- the 2015 annual work programme of the CPVO;
- the state of affairs of the ad hoc legislative working group;
- the ongoing IT projects;
- a call for tender for the appointment of QAS technical experts for 2015–18 had been launched in September 2014;
- the intention to launch a market prospection for CPVO buildings in Angers.

The members of the Administrative Council were also informed of the organisation of a CPVO seminar on the interface between patents and plant variety rights in 2015, possibly in June in Brussels.

Furthermore, some technical discussions were held during this meeting as regards the following.

- The ‘one key, several doors’ principle. The members of the Administrative Council were reminded that this principle was introduced to make the DUS system more efficient, to avoid unnecessary costs and to stimulate collaboration between examination offices. It was created in parallel with a QAS system with quality requirements and was strictly linked to the quality system.
- The revision of the rules in respect of technical liaison officers (TLOs). It was concluded that the CPVO would take the comments of the Administrative Council members up in a revised document to be discussed in December 2014 in the annual meeting with the examination offices.
- The CPVO R & D strategy 2015–20. This strategy would help to implement the following three objectives for the coming years:
 - the set-up of shared online databases of reference collections;
 - improvement and harmonisation of methodologies and procedures;
 - promotion of use of BMT in DUS testing and variety identification.

Finally, an oral presentation from representatives of the European Commission gave the state of affairs regarding the proposal for a PRM regulation.



Administrative Council meeting, Angers, France

Chairperson of the Administrative Council

Ms B. Bátorová

Vice-Chairperson of the Administrative Council

Mr A. Mitchell

Members of the Administrative Council

Belgium	Ms F. De Schutter Ms M. Petit (alternate)
Bulgaria	Ms B. Pavlovska Mr T. Gadev (alternate)
Czech Republic	Mr D. Jurecka (since 12 May 2014) Member vacant (until 12 May 2014) Ms R. Safarikova (alternate since 12 May 2014) Mr D. Jurecka (alternate until 12 May 2014)
Denmark	Mr G. Deneken Mr E. Lawaetz (alternate)
Germany	Mr U. von Kröcher Mr H. Freudenstein (alternate)
Estonia	Ms L. Puur Alternate vacant
Ireland	Mr D. Coleman Mr J. Claffey (alternate)
Greece	Mr E. Pilatos (since 14 April 2014) Member vacant (until 14 April 2014) Ms A. Georgoula (alternate since 14 April 2014) Mr K. Michos (alternate until 14 April 2014)
Spain	Ms E. Esteban Rodrigo (since 30 October 2014) Mr A. de León Llamazares (until 30 October 2014) Mr L. Salaises Sanchez (alternate)
France	Mr A. Tridon (since 12 September 2014) Mr R. Tessier (until 12 September 2014) Ms A. Chan-Hon-Tong (alternate since 12 September) Alternate vacant (until 12 September 2014)
Croatia	Mr I. Delic Alternate vacant
Italy	Ms I. Pugliese Alternate vacant
Cyprus	Mr C. Christou Mr C. Nicolaou (alternate)
Latvia	Ms S. Kalinina Ms D. Bajale (alternate)
Lithuania	Ms S. Juciuviene Ms I. Kemeziene (alternate)

Luxembourg	Mr M. Weyland Mr F. Kraus (alternate)
Hungary	Mr Z. Csürös (since 1 October 2014) Ms A. Szenci (until 8 May 2014) Mr S. Farkas (alternate since 1 October 2014) Alternate vacant (until 1 October 2014)
Malta	Ms M. Delia Mr C. Leone Ganado (alternate)
Netherlands	Mr M. Valstar Mr K. van Ettekoven (alternate)
Austria	Mr P. Zach Mr H. Luftenstein (alternate since 10 February 2014) Mr L. Girsch (alternate until 10 February 2014)
Poland	Mr E. Gacek Mr M. Behnke (alternate)
Portugal	Ms P. Cruz de Carvalho Ms C. Sà (alternate since 16 July 2014) Ms T. Pais Coelho (alternate until 16 July 2014)
Romania	Mr M. Popescu (since 9 January 2014) Ms M. Cindea (until 9 January 2014) Ms M. Ciora (alternate)
Slovenia	Ms J. Cvelbar Ms H. Rakovec (alternate)
Slovakia	Ms B. Bátorová Ms L. Gasparova (alternate since 24 April 2014) Ms D. Vongrejová (alternate until 24 April 2014)
Finland	Ms T. Hietaranta Mr M. Puolimatka (alternate)
Sweden	Mr J. Weibull Ms C. Knorpp (alternate since 28 May 2014) Alternate vacant (until 28 May 2014)
United Kingdom	Mr A. Mitchell Ms E. Nicol (alternate)
European Commission	Mr L. Miko Ms D. Simion (alternate)

6. ORGANISATION OF THE CPVO

In December 2014, the Office employed 45 persons, 10 officials and 35 temporary agents. Twelve nationalities from the EU's Member States were represented.

Under the general direction of its President, assisted by the Vice-President, the Office is organised internally into three units and support services. There is also a service responsible for the quality auditing of examination offices. This service is under the administrative responsibility of the President while being independent with regard to its audit operations.

The Technical Unit has as its principal tasks: general coordination of the various technical sectors of the CPVR system; reception and checking of applications for protection; organisation of technical examinations or takeover reports; organisation of variety denomination examinations; preparation for granting of rights; maintenance of the Office's registers; production of official technical publications; relations with applicants, national offices, stakeholders and international organisations; active participation in international committees of technical experts; and cooperation in the development of technical analysis and studies intended to improve the system (namely CPVO R & D projects). Moreover, advices are given to the Member States in relation to variety denomination proposals received in the frame of the national listing and national plant breeders' rights.

The Administration Unit is active in three areas.

- Administrative section: public procurement; organisation of the Office's publications; administration, management and monitoring of the Office's inventory of movable property and buildings; administration of logistical and operational resources with a view to ensuring the smooth functioning of the Office.
- Financial section: management of financial transactions, treasury management, maintenance of the budgetary and general accounts and preparation of budgets and financial documents; management of the fees system.
- IT section: ensures that the Office runs smoothly in computing terms. Its tasks include: analysis of the Office's hardware and software requirements; design, development and installation of new programmes specific to the Office; development and maintenance of the websites of the Office; installation of standard programmes; maintenance of the computer installation and its administration; security of the computer system; helpdesk and interinstitutional cooperation in computing.

The Legal Unit provides legal advice to the President and other members of staff of the Office, in principle on matters related to the CPVR system, but also on questions of an administrative nature; provides legal interpretations and opinions and also draws up draft legislation; participates in various CPVO committees, thus ensuring that EU procedures and legislation are respected; manages the administration of objections to applicants for CPVRs and provides the secretariat of the Office's Board of Appeal.

The Human Resources Service deals with the administration and management of the Office's human resources in compliance with the staff regulations of the European Commission.

The Public Relations Service is responsible for external communication and manifestations (CPVO newsletter, annual report, fairs, etc.).

The Quality Audit Service is responsible for verifying that examination offices meet the quality standards required for providing services to the CPVO in the area of testing the compliance of candidate varieties with the DUS criteria in addition to novelty.

In 2014, the CPVO set up a traineeship procedure to allow young university graduates to integrate the CPVO for a period of 6 months. Cooperation agreements were also signed with the University of Alicante (Magister *Lvcentinvs*) and the University of Strasbourg (Centre d'Études Internationales de la Propriété Intellectuelle — CEIPI) to offer the same traineeship possibilities of 6 months. Four students integrated the Office under these arrangements.

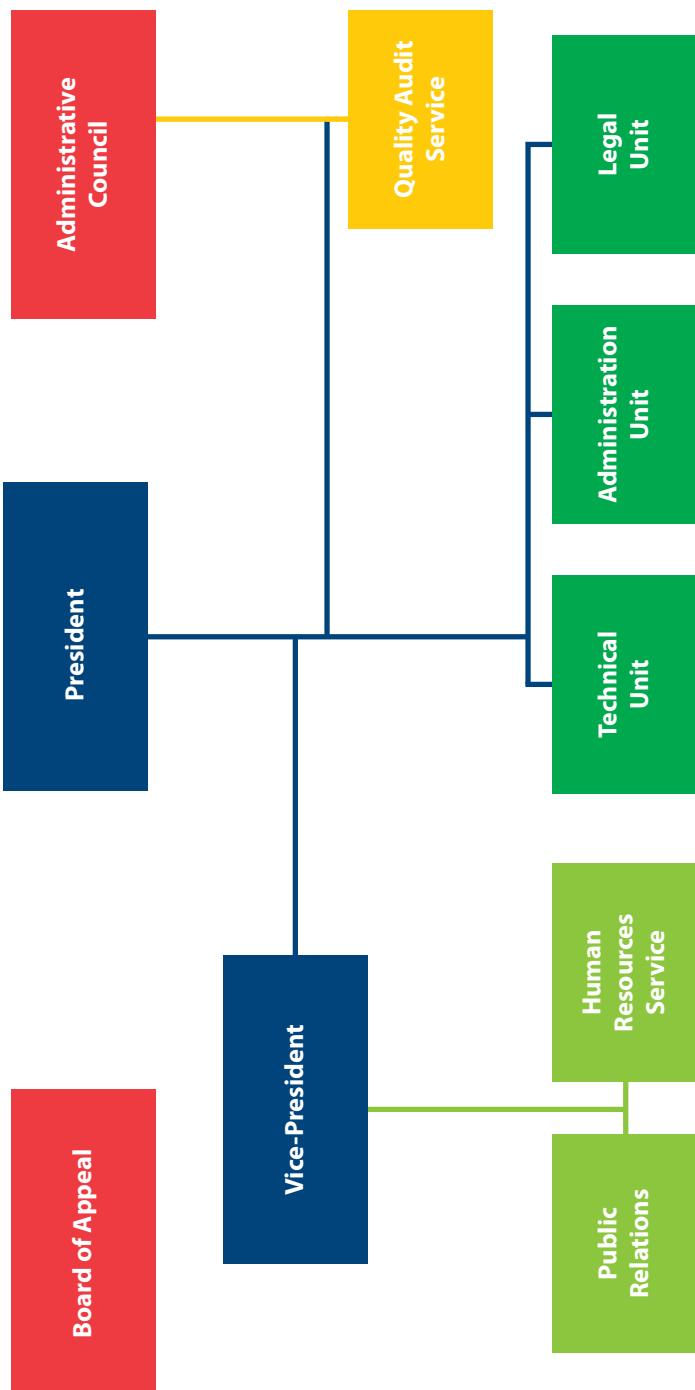
In 2014, the CPVO prepared a social report with information concerning the turnover, work environment and social aspects of the CPVO. The different headings covered in the report were employment (staff members, recruitment procedure, staff joining or leaving the CPVO, promotions, absenteeism, gender balance), working conditions (hours worked, part-time work, parental leave, teleworking), training (language training, IT training, other training) and professional relations (staff committee). The CPVO social reports from 2006 to 2014 can be consulted on the CPVO website under the heading 'Annual reports'.

From 2015 onwards, the social report will be included in the Consolidated Annual Activity Report (CAAR) (Chapter 2.4), to be in line with the recommendations of the Commission and the new rules stated in the CPVO financial regulation. For the 2014 CAAR, the social report on the year 2013 will be included as an annex (Annex 4).



CPVO headquarters, Angers, France

ORGANISATION CHART OF THE CPVO



PRESIDENCY



President
Martin Ekvad



Vice-President
Carlos Godinho



**Assistant
to the Presidency**
Aoife Kearney



**Assistant
to the Presidency**
Cyrille Antoine



Vice-President
Carlos Godinho



**Human Resources
Service**
Deirdre Killen



President
Martin Ekvad

QUALITY AUDIT SERVICE



**Quality Audit Team Leader/
Data Protection Officer**
Gerhard Schuon



Legal Advisor
Muriel Lightbourne



**Assistant to the
Legal Unit**
Marleen Van de
Meulebroeke



**Head of the
Legal Unit**
Francesco Martina



Legal Unit
Francesco Martina

QUALITY AUDIT SERVICE



**Board of Appeal/
Quality Audit**
Véronique Doreau

**Administration and
Logistics**
Isabelle Lantieri



IT Service
Marc Rouillard



IT Service
Laura Naie



**Administration and
Logistics**
Thierry Cluzeau

IT Service
Patrick Lecoq



Accounting
Anne-Marie Fernandez

IT Service
Sébastien Beugnier



Accounting
Laurence Dumont

Finances
Ekaterina Mantzianis



Accounting
Valérie De Caestecker

**Evaluation/Internal
Audit and Control**
Roseline Fagel



**Assistant to the
Head of the AU**
Béatrice Hodet

**Administration and
Logistics**
Manuel Soares Teixeira

PRESIDENCY

SUPPORT SERVICES

ADMINISTRATION UNIT (AU)

	Denominations Bénédicte Legrand
	Denominations Rudi Caes
	Agricultural species Carole Bonneau
	Assistant to the Head of the TU Anne Weitz
	Head of the TU Aline Noguès
	Ornamental species Jens Wegner
	Register Pierre-Emmanuel Fouillé
	Register Nadège Grantham
	Head of the TU Dirk Theobald
	Ornamental species Laetitia Denécheau
	Fruit and vegetable species Sergio Semon
	Fruit and ornamental species Urszula Braun-Miodecka
	Technical Unit Assistant Ghislaine Guibert
	Register Francesco Saidi
	Technical Unit Assistant Laurence Théodore

TECHNICAL UNIT (TU)

NB: The above organisation chart comprises the members of the CPVO employed as officials and temporary agents on 31 December 2014.

7. QUALITY AUDIT SYSTEM

The quality audit service (QAS) implements the CPVO quality audit programme. It carries out regular assessments at examination offices in order to verify whether these fulfil the entrustment requirements when testing candidate varieties against the DUS criteria. The assessments relate to any work in relation to DUS activities for the species within the examination offices' scope of entrustment.

7.1. Assessment of examination offices

The total of 12 assessments carried out included regular audit visits following the triennial cycle and assessments carried out in order to come to a conclusion on a scope extension request by an examination office. The entrustment recommendations to the members of the Administrative Council were all positive. However, there had been a range of scope reductions, partly resulting directly from assessment visits, partly in anticipation of audit findings that would necessitate substantial investments to address them or because no testing activities were carried out any longer for the species concerned.

7.2. Second cycle of assessments

In 2014, the audit programme completed the second year in the second cycle (2013–15). The sequence of visits followed closely the first cycle, however with a shift ensuring that testing work at every entrusted office was assessed at a different time of the year compared to the initial audit. In the same perspective, the assessment team and the assessment sample were different to ensure a comprehensive view of the examination offices' work.



QAS technical experts' training session, September 2013, Paris, France

While the overall number of technical experts participating in the assessments further decreased, there were no major difficulties in securing adequate technical expertise for the different audits. To prevent this from becoming an issue before the end of the current triennial cycle, a new call for expression of interest was launched. Technical experts identified through this call for expression of interest would be appointed for the remainder of the current cycle and for the next cycle i.e. until the end of 2018.

A proposal prepared by the audit fee working group was discussed by the members of the Administrative Council in spring 2014. An amended QAS procedure manual with provisions for an audit fee system was approved in October. The actual launch of the audit fees would coincide with a new cycle after having been taken into account in a cost calculation exercise.

List of technical experts for QAS assessment programme 2013–15 (status on 31/12/2014)

First Name	Last Name	Nationality
John	Austin	United Kingdom
Richard	Brand	France
David	Calvache	Spain
Andreja	Čerenak	Slovenia
Pedro Miguel	Chome Fuster	Spain
Henk	de Greef	Netherlands
Zsuzsanna	Füstös	Hungary
Trevor	Gilliland	United Kingdom
Joël	Guiard	France
Andrea	Menne	Germany
Jesus	Merida	Spain
Daniel	Palmero	Spain
Hilary	Papworth	United Kingdom
Erik	Schulte	Germany
Elizabeth Margret	Scott	United Kingdom
Swenja	Tams	Germany
Amanda	van Dijk	Netherlands
Nico	van Marrewijk	Netherlands
Arnold JP	van Wijk	Netherlands
Brian George	Waters	United Kingdom
Jennifer	Wyatt	United Kingdom

8. RESEARCH AND DEVELOPMENT PROJECTS

Following the rules established by the Administrative Council in 2002 and reviewed in 2009 for financial support for projects of interest to the CPVR system, the Office received, in 2014, several applications for (co-)financing R & D projects. In this chapter, the Office also provides updated information about projects underway and follow-up measures taken in 2014 on projects already concluded.

8.1. Projects approved

'Creation of a common maize database for DUS studies through a partnership between the Czech Republic, Hungary, Slovakia and the Community Plant Variety Office'

This project was formally approved by the CPVO in March 2014. It is coordinated by the Central Institute for Supervising and testing in Agriculture (ÚKZÚZ) (Czech Republic) and has partnerships with the National Food Chain Safety Office (NÉBIH) (Hungary) and the Central Controlling and Testing Institute in Agriculture (UKSUP) (Slovakia). The aim of the project is to establish a common maize database for DUS studies through a partnership between the Czech Republic, Hungary, Slovakia and the CPVO. This database should contain harmonised morphological descriptions of maize lines and hybrids according to the CPVO technical protocol from all participating countries. It will be updated regularly and will be available for electronic consultation for each partner and the CPVO. Each partner could thus be in charge of maintaining, physically at their own premises, only the seeds of varieties corresponding to their own climatic conditions which would not be conserved in the other examination offices. During the execution of the project, an exchange of information and experiences is foreseen with experts from the three EOs which are already sharing a maize database. The interim report is expected to be delivered in January 2015. The project will be finalised by the end of 2015.

'A European potato database as a centralised collection of varieties of common knowledge'

This project, approved in the beginning of 2014, is the follow-up of the already finalised project 'Construction of an integrated microsatellite and key morphological characteristic database of potato varieties in the EU Common Catalogue'. The new project was initiated by the CPVO (coordinator) and involves the nine entrusted examination offices for the potato: Naktuinbouw (Netherlands), Science and Advice for Scottish Agriculture (SASA) (United Kingdom), Bundessortenamt (BSA) (Germany), Research Centre for Cultivar Testing — Centralny Osrodek Badania Odmian Roslin Uprawnych (Coboru) (Poland), Oficina Española de Variedades Vegetales (OEV) (Spain), Irish Department of Culture and Food (DAF) (Ireland), Agentur Gesundheit Ernährungssicherheit company (AGES) (Austria), ÚKZÚZ (Czech Republic), UKSUP (Slovakia), and the European Seed Association (ESA).

The aim of the project is to set up and maintain an EU database for potato varieties, containing morphological and molecular data and lightsprout pictures plus a collection of deoxyribonucleic acid (DNA) samples from those varieties.

The complete and maintained database as a centralised collection of morphological and molecular data of varieties of common knowledge would be an important tool for examination offices to organise the DUS tests in an efficient manner by providing reliable results for a crop without a living reference collection. The use of a centralised database would improve quality and would supposedly reduce costs of the DUS test compared to maintaining several databases on a national level. Furthermore, beside its purpose for the DUS test, a part of the database (molecular profiles) could be used by titleholders in enforcement situations. An experts' meeting took place in 2014 at the premises of the Bundessortenamt in Magdeburg. Besides technical issues, questions of access rights and confidentiality of data and data results were discussed. This project is expected to be concluded in 2015.

'Effect of seed priming on vegetable DUS tests'

This project, initiated by the CPVO, was approved in January 2014 for a duration of 1 year. The project coordinator is the CPVO, with other project partners being the ESA and the selected entrusted examination offices: Naktuinbouw (Netherlands), OEVV/National Research Institute for Agricultural and Food Research and Technology (INIA) (Spain) and GEVES (France). The project investigates the implications which seed priming may have on the expression of characteristics of eggplant and tomato rootstocks varieties, in nominated examination offices entrusted for those species. Although these are not amongst the most important vegetable species applications-wise in the CPVR system, commercially they are mostly primed. The R & D project also studies the possible effect that seed priming might have in the reduction of the germination rate over time.

Naktuinbouw carried out trials for both eggplant and tomato rootstocks, whilst GEVES carried out trials for eggplant and the OEVV/INIA carried out trials for tomato rootstocks.

A meeting took place in late August 2014 in Roelofarendsveen (Netherlands) amongst the project partners. Detailed presentations were given by each project partner during the annual vegetable experts' meeting held in Valencia on 22 October 2014.

The CPVO is elaborating the final report on the project, which is expected to be concluded in February 2015. The findings from the project partners seem to illustrate that for the two species in question, the seed priming process does not alter the expression of characteristics of a variety in comparison to an unprimed sample. Thus there appears to be no danger of declaring primed and unprimed samples of the same variety, distinct from each other. Questions remain though on the longevity of the primed seed sample in long-term storage. The CPVO will analyse together with stakeholders during the course of 2015, the implications emanating from the conclusions of this project.

8.2. Projects underway in 2014

'Harmonisation of vegetable disease resistances 2'

This project, initiated in 2012, is coordinated by GEVES (France), with project partners from the ÚKZÚZ (Czech Republic), BSA (Germany), OEW (Spain), NÉBIH (Hungary), Naktuinbouw (Netherlands), SASA (United Kingdom) and the ESA. This project is a follow-up to the earlier 'Harmonisation of vegetable disease resistances', completed in 2008, although the new project deals with seven disease resistances in pepper, pea and lettuce. The aim of the project is to ensure that examination offices and breeders working in the selected disease resistance tests are able to use common methodologies and interpret the disease symptoms emanating from these tests in the same manner. A first meeting was organised by GEVES at the end of June 2012. The second meeting of the group took place in May 2013 and the Office received the first interim report in August 2013.

The third meeting of the group took place in April 2014 in Roelofarendsveen (Netherlands). The project partners reported on the progress they had made on the identified isolates and races during the previous 12 months. The partners also identified the areas in which focus was still required in order to ensure correct interpretation of results according to a laboratory. During the second half of 2014, project partners continued to exchange results in order to refine the future harmonised disease resistance test methodologies under study for the 'Harmores 2' project. In this spirit, GEVES organised in Angers, in early November, two workshops on successive days for the project partners. The interim report itself for the second year of the project was received on time in September 2014.

The final meeting of the project partners will take place in Madrid in April 2015. The project will be concluded by the end of 2015 with the presentation of the final report to the CPVO.

'Impact analysis of endophytes on the phenotype of varieties of *Lolium perenne* and *Festuca arundinacea*'

This project, initiated in January 2013, is coordinated by the CPVO and the FERA (United Kingdom), with the following project partners: Bundessortenamt (Germany), the ESA (breeding companies: DLF Trifolium and Barenbrug) and GEVES (France). The project aims at clarifying the possible impact that the presence of endophytes in varieties of *Lolium perenne* (Lp) and *Festuca arundinacea* (Fa) might have on the phenotype, and thus on the expression of the characteristics observed during the DUS tests and eventual consequences in terms of quality requirements for material to be submitted for that purpose. The project provides for the assessment of four varieties from each species, with two stages of endophyte infections (0 % and 100 % endophytes). These varieties will be integrated into regular DUS tests during two growing cycles using the relevant CPVO technical protocol. The establishment period of the plants took place in 2013. A first interim report suggests that there might be no significant impact. However, the final assessment will be made in 2015. The final report is expected at the end of 2015.

8.3. Follow-up of finalised R & D projects



R & D project on Helleborus, the Netherlands

'Modification of the cultivation scheme and the plant material requirements for *Helleborus*'

The project was initiated by the CPVO and includes another project partner, Naktuinbouw. The project was launched in March 2013 and the final report was drafted at the end of 2014.

Currently, the DUS testing of *Helleborus* varieties in the framework of an application for CPVRs is centralised at Naktuinbouw, where plants are partly cultivated outdoors in open ground. This cultivation scheme seems not to be optimal. Moreover, the commercial standard way of production seems to be more suitable for pot culture rather than ground cultivation. The aim of this project has been to investigate the suitability of an alternative to the current cultivation scheme, namely to move to cultivation in pots with delivery in April, based on an experiment with 12 reference varieties.

The results of the pilot project have shown that:

- plants from the pot cultivation were more uniform;
- the change of the treatment had only a limited effect on the expression of the characteristics.

Based on these facts, the examination office proposed to change the examination conditions and the cultivation scheme into a pot culture starting in the open in April and to transfer to a cold greenhouse at the end of November. This new scheme will be implemented for all the future candidate varieties starting the first year of DUS examination as from April 2015.

'Reducing the number of obligatory observation periods in DUS testing for candidate varieties in the fruit sector'

This project was coordinated by the CPVO, with the following project partners: Bundesortenamt (Germany), Coboru (Poland), Ciopora, CRA-FRU (Italy), OEIV (Spain), GEVES (France), NÉBIH (Hungary), ÚKZÚZ (Czech Republic) and Plantum. The project was initiated in the beginning of 2013 and finalised at the end of 2013. Costs of DUS testing for candidate fruit varieties are relatively high compared to varieties in other crop sectors. The aim of the project was (i) to determine whether there is indeed technical justification of two satisfactory crops of fruit in order to make a conclusion on DUS, and (ii) to draw up a subsequent reliable variety description. Five species have been considered in the scope of the project: peach, strawberry, apple, raspberry and grapevine. Varieties where the CPVO technical protocol has been implemented, and which had been registered (national listing, national plant variety rights, CPVR) in the past 5 years, have been considered. Results indicate that in the large majority of cases, the second year of observation confirms the result of the first year in respect of DUS in a context where variety descriptions are made on the basis of 2 years of observations. However, if the DUS test were to be limited to the first fruiting period, there are other consequences that must be taken into account. Firstly, in the first satisfactory



Fruit virus testing by indexing, France

fruiting period, trees are still young and do not express some of the characteristics under the present protocol in the same way as they would do in the second year of observation. Secondly, switching to a system where observations would be limited to the first fruiting period as a routine would have consequences when comparing variety descriptions based on observations during the second year of testing which are stored in databases. A comparison between varieties described in different ages of the plant material is less reliable and would probably have a consequence when deciding on which varieties to be included in the growing trial for a side-by-side comparison.

As a follow-up, examination offices are invited to send reports after 1 year of testing in case there is no doubt about the distinctness. The CPVO will further work on the proposal to the UPOV to change the standard wording on the test duration, opening the possibility to conclude after 1 year of observations.

'Rose project: sampling, analyses and storage of DNA samples'

In June 2011, the CPVO proposed to the Administrative Council to go ahead with a pilot project on sampling and storing DNA of roses. It was decided to keep a DNA sample from the original plant material submitted for each technical examination, on a compulsory basis. One possible use of such a sample could be, in cases where there are doubts, to verify (as far as the applicable techniques allow) the identity of the material ordered in order to be grown as a reference in a DUS test, comparing the DNA fingerprint of the material received as a reference variety with the fingerprint of the DNA stored for that same variety. This sample could also be used in relation to the enforcement of rights at the request of the breeder. In a future context, this sample could be used in the management of the reference collection.

A call for tenders to select a laboratory was launched. As a consequence, Naktuinbouw was entrusted, in 2011, for a period of 4 years ending in February 2015. The sampling started during the course of the 2011 DUS trial.

A DNA sample from the original plant material submitted for each rose's technical examination has been kept on a compulsory basis during these 4 years, following the adopted procedure. The leaves have been collected in the different entrusted examination offices (Bundessortenamt, Naktuinbouw and the NIAB) and sent to the entrusted laboratory (Naktuinbouw). DNA extractions and storage took place in this laboratory. Since the start of the project, 732 DNA samples have been stored.

The CPVO made an internal analysis of the outcome of the project and the comments received by the project partners and breeders' organisations (Ciopora and Plantum). During this period, none of these samples have been used either by the entrusted examinations offices or by the breeders. Different reasons can explain the situation. Consequently, the CPVO would be in favour of stopping systematic storage but would propose to applicants the extraction and storage of the DNA of any candidate variety, on a voluntary basis. This proposal will be sent in February 2015 to all roses applicants asking for their comments.



DUS trials on *Rosa L.*, the Netherlands

9. BUDGET

9.1. Overview — outturn

The budget outturn for 2014 showed a significant and forecast decrease on previous years, due mainly to an increase of expenses in operational expenditure in line with the increase of the number of applications. Revenue was lower than in previous years due to the decrease in annual fees.

Net outturn for the year	(million EUR)
Budgetary revenue (a)	12.72
Budgetary expenses (b)	13.25
Budgetary outturn (c) = (a) – (b)	- 0.53
Non-budgetary receipts (d)	0.07
Net outturn for the budgetary year 2014 (e) = (c) + (d)	- 0.46

The net outturn for the year was slightly under EUR 0.46 million negative, compared to EUR 0.34 million positive for the previous year. This significant fall is fully in line with the CPVO policy of reducing the accumulated free reserve.

9.2. Revenue

The Office's revenue mainly comprises various fees paid by applicants for, and holders of, CPVRs and revenue from interest on bank accounts. The total revenue collected in 2014 was EUR 12.72 million.

	Variation (%)	2014 (million EUR)	2013 (million EUR)
Fees	- 4.85	12.29	12.92
Bank interest	+ 125.57	0.29	0.13
Other revenue	-	0.14	0.01
Total revenue	- 2.55	12.72	13.06

The total fees received in 2014 amounted to EUR 12.29 million, representing a decrease of 4.85 % in comparison with the previous year. This is the result of the decrease of the annual fee from EUR 300 to EUR 250. Interest income is recorded for the budgetary accounts based on the date of actual receipt of the interest. Other revenue includes a grant received in 2014 from the European Commission of EUR 130 000 in the context of the multi-beneficiary programme.

9.3. Expenditure

In 2014, the total amount of recorded expenditure and commitments carried over was EUR 13.25 million, compared with EUR 12.76 million in 2013.

	Variation (%)	2014 (million EUR)	2013 (million EUR)
Staff expenditure	– 0.14	5.80	5.81
Administrative expenditure	18.80	1.29	1.09
Operational expenditure	5.16	6.16	5.86
Total expenditure	3.91	13.25	12.76

The staff expenditure decreased by 0.10 % with a regularisation of pension contributions and a decrease in interim staff expenses.

Administrative expenditure increases are mainly due to higher spending on IT development.

Operational expenditure, which consists mainly of remuneration for examination offices, increased as the number of applications increased by 10 % compared to 2013.

9.4. Conclusion

The net result in 2014 is significantly lower than the previous year. The reduced annual fees, which came into force at the beginning of 2014, helped bring the outturn to a lower level than in 2013, fully in line with the CPVO's medium-term policy of lowering its free reserve.

10. DEVELOPMENTS OF THE SYSTEM

10.1. Regulatory

10.1.1. Evaluation of the CPVR system

In 2010, the European Commission launched an evaluation of the CPVR *acquis* to assess how well it has met its original objectives, as well as its current strengths and weaknesses. The outcome was that 'The CPVR *acquis* functions well and has met its objectives. Stakeholders are generally content with the system.' However, some options have been proposed to resolve deficiencies identified in the system. In order to give a follow-up to those recommendations, the CPVO has decided to take some initiatives, like the reactivation of the ad hoc legal working group and the initiation of a discussion about the criteria to accept proposals for variety denominations. The ad hoc legal working group commenced its activities in 2012 with the aim of finding possible solutions regarding areas where there is common support for changes and, where possible, providing concrete answers to questions and comments of a legal nature which have been raised by various stakeholders in the framework of the evaluation of the CPVR system in the EU.

The ad hoc legal working group is chaired by the CPVO and is composed of mainly legal experts from national authorities, representatives from the European Commission and lawyers active in breeders' organisations. The final report with the conclusions of the ad hoc legislative working group will be presented to the Administrative Council of the Office in March 2015. The said report will include an analysis of each of the 20 points and proposals on new legislation the ad hoc legal working group has agreed upon.

10.1.2. EU legislation on plant reproductive material

After the rejection at first reading, in April 2014, by the European Parliament of the proposal for a regulation on plant reproductive material, the European Parliament has asked the Council of Ministers to withdraw the proposal in a letter by the European Parliament President dated 11 September 2014. In mid-December 2014, the European Commission announced the withdrawal of the regulation on plant reproductive material from the European Commission's 2015 work programme. Following this, the CPVO has been monitoring future developments that might bring new tasks to the CPVO in the framework of the revision of the Basic Regulation.

10.1.3. Fees

There have been a number of changes over the past years in the fee structure of the CPVO, with reductions in the annual fee and the application fee. In 2013, the CPVO launched a comprehensive cost calculation exercise in order to update the real costs for examination offices of conducting DUS examinations.

On the basis of the results of the cost calculation exercise, the CPVO analysed the financial impact on breeders of a potential move to 100 % cost recovery. Finally, in order to better reflect the real costs of DUS testing by the examinations offices, the Administrative Council

of the Office proposed to the European Commission to move towards 85 % recovery of the costs of DUS testing with alignment of cost groups and fee groups. The new examination fees were formally approved by the European Commission in December 2014 and are applicable as from 1 January 2015. In parallel, the CPVO will propose further changes to the annual fee and the application fee with a view to ensuring that the free reserve of the Office is reduced over the medium term.

10.1.4. Enforcement

In June 2014, in cooperation with the Croatian Ministry of Agriculture and breeders' organisations, the CPVO organised a seminar on enforcement. It aimed at providing an overview on the legislation and the practical implementation of the rules on enforcement of plant variety rights in Croatia and its neighbouring countries: Bosnia and Herzegovina, Hungary, Serbia, and Slovenia. Two workshops were organised: one on the agricultural and vegetable sectors focusing on the farmers' privileges and the collection of royalties for the use of farm-saved seeds, and one on enforcement in the ornamental and fruit sectors. The seminar highlighted the need for specialisation from national courts with a view to harmonising judicial practices among EU Member States. As regards the implementation of the customs regulation on plant variety rights, a representative of the customs authority underlined the importance for right-holders of providing information on plant variety rights to customs authorities with a view to strengthening the enforcement of plant variety rights.

Seminars on the enforcement of plant variety rights organised by the CPVO have always encountered great success and are highly appreciated by participants. Before the Zagreb seminar in 2014, the Office organised seminars on enforcement in Brussels (2005), Warsaw (2006), Madrid (2007), Sofia and Bucharest (2008), Athens (2010), Hamburg (2011) and Rome (2013).



Seminar on enforcement, June 2014, Zagreb, Croatia

10.2. Technical

10.2.1. Applications for Community plant variety protection

In 2014, the Office received 3 626 applications for Community plant variety protection, which represents another all-time record and an increase of 10 % compared to the previous year. Graph 1 shows the evolution of application numbers received by the Office (all figures are based on the date of arrival of the application documents at the Office). It may be assumed that the increase observed in 2014 is partly due to the increase of examination fees for applications filed as from 2015 onwards.

Graph 1

Evolution of the annual number of applications for Community plant variety protection (1996–2014)

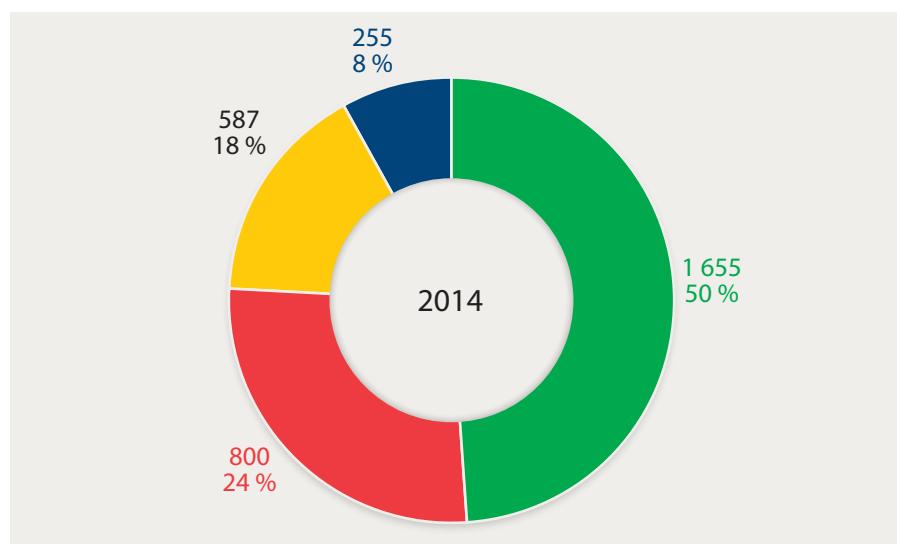


Graph 2

Shares of application numbers per crop sector in 2014

- Ornamental
- Agricultural
- Vegetable
- Fruit

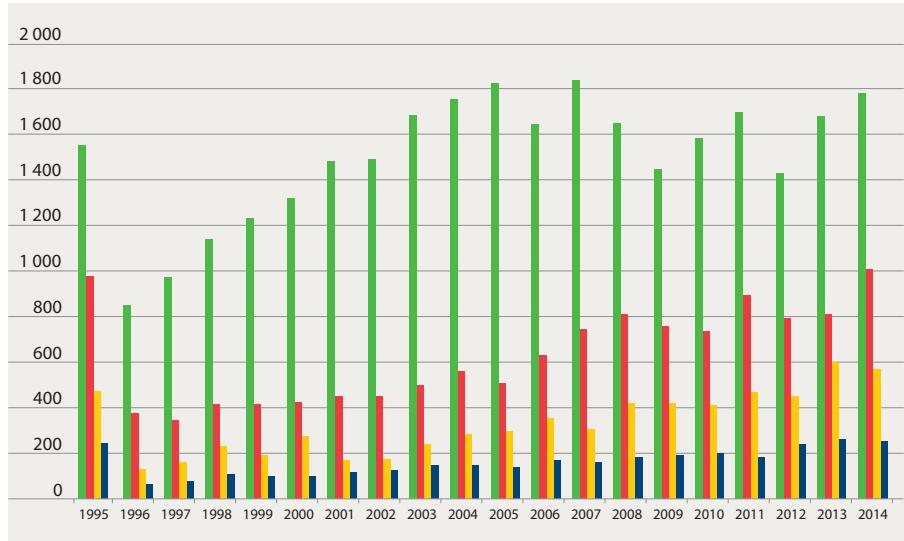
Graph 2 represents the shares of the crop sectors in the number of applications received in 2014.



Graph 3

Evolution of application numbers per crop sector (1995–2014)

- Ornamental
- Agricultural
- Vegetable
- Fruit



Graph 3 shows the evolution of the number of applications per crop sector since 1995. In 2014, the Office observed an increase in application numbers in the following crop sectors: agricultural + 227 applications (+ 28.38 %), ornamental + 131 applications (+ 7.9 %) whereas there was a light decrease in the fruit sector – 6 applications (– 2.34 %) and in the vegetable sector – 23 applications (– 3.9 %).

In 2014, 3 820 applicants filed applications for CPVRs, 336 more than in 2013. The following tables list, for each crop sector, the 15 most frequent users of the Community system and their respective number of applications filed in 2014. These top 15 applicants have a relative share of applications ranging from 92.0 % (in 2013: 96.4 %) for vegetables, to 66.3 % (in 2013: 59.6 %) for agricultural species and 54.2 % (in 2013: 52.5 %) for fruit species, and to as little as 34.9 % (in 2013: 35.9 %) for ornamentals. This range does not only reflect the degree of concentration in breeding, which is particularly advanced in the vegetable sector, but also shows that, in the case of ornamentals, a great number of ‘small’ breeders are in business and seeking protection for their varieties.

Agricultural sector

Top 15 applicants	Country	Number of applications in 2014
Pioneer Overseas Corporation	United States	159
Pioneer Hi-Bred International Inc.	United States	109
Limagrain Europe SA	France	93
KWS Saat AG	Germany	71
RAGT 2n SAS	France	58
Syngenta Participations AG	Switzerland	42
Caussade Semences SA	France	24
Adrien Momont et Fils SARL	France	22
DLF-Trifolium A/S	Denmark	15
KWS UK Limited	United Kingdom	15
Monsanto Technology LLC	United States	15
Nidera SA	Argentina	15
Secobra Recherches SAS	France	15
Euralis Semences SAS	France	14
Norddeutsche Pflanzenzucht Hans-Georg Lembke KG	Germany	14
Total		681

Vegetable sector

Top 15 applicants	Country	Number of applications in 2014
Monsanto Vegetable IP Management BV	Netherlands	115
Rijk Zwaan Zaadteelt en Zaadhandel BV	Netherlands	84
Nunhems BV	Netherlands	74
Enza Zaden Beheer BV	Netherlands	67
Syngenta Crop Protection AG	Switzerland	51
Vilmorin SA	France	35
Syngenta Participations AG	Switzerland	29
HM. Clause SA	France	12
Gautier Semences SAS	France	10
van Waveren Saaten GmbH	Germany	10
Bejo Zaden BV	Netherlands	9
Laboratoire ASL SNC	France	7
Takii & Co Ltd	Japan	6
Crookham Company Inc.	United States	5
Semillas Fitó SA	Spain	5
Total		519

Fruit sector

Top 15 applicants	Country	Number of applications in 2014
PSB Produccion Vegetal SL	Spain	28
Agro Selections Fruits SAS	France	20
Driscoll Strawberry Associates Inc.	United States	20
Plantas de Navarra SA (Planasa) — Sociedad Unipersonal	Spain	10
Institut National de la Recherche Agronomique (INRA)	France	7
Newcot SAS	France	7
Edward Vinson Ltd	United Kingdom	6
Plant Sciences Inc.	United States	6
Alma Mater Studiorum-Università di Bologna	Italy	5
Asparagus Beheer BV	Netherlands	5
The Regents of the University of California	United States	5
ABZ Aardbeien uit Zaad Holding BV	Netherlands	4
AG Thames Holdings Ltd	United Kingdom	4
Instituto Valenciano de Investigaciones Agrarias (IVIA)	Spain	4
Sun World International LLC	United States	4
Total		135

Ornamental sector

Top 15 applicants	Country	Number of applications in 2014
Anthura BV	Netherlands	132
Fides BV	Netherlands	48
Dümmen Group GmbH	Germany	47
Vletter & Den Haan Beheer BV	Netherlands	43
Nils Klemm	Germany	39
Poulsen Roser A/S	Denmark	39
Terra Nova Nurseries Inc.	United States	39
Syngenta Crop Protection AG	Switzerland	38
Testcentrum voor Siergewassen BV	Netherlands	38
Deliflor Royalties BV	Netherlands	31
Dekker Breeding BV	Netherlands	27
Piet Schreurs Holding BV	Netherlands	27
De Ruiter Intellectual Property BV	Netherlands	26
Suntory Flowers Limited	Japan	25
Van Zanten Plants BV	Netherlands	24
Total		623

Applicants from outside the EU must appoint a representative with a registered office or with a domicile inside the EU to handle their applications. Sometimes, mother companies located outside the EU appoint their daughter company in the EU; this is the case, for example, for Pioneer or Syngenta. EU applicants do not have such an obligation. However, some of them prefer to outsource the application procedure to an external agent. In 2014, 1 740 applications (47.9 %; in 2013: 42.3 %) were filed by 159 procedural representatives. The following table lists the 15 most active procedural representatives for 2014, having submitted, in total, 1 155 applications (in 2013: 801 applications).

Name of procedural representative	Country	Number of applications in 2014
Royalty Administration International CV	Netherlands	279
Pioneer Génétique SARL	France	261
Syngenta Seeds BV	Netherlands	124
Deutsche Saatgutgesellschaft mbH Berlin	Germany	85
Limagrain Europe SA	France	58
Hortis Holland BV	Netherlands	54
Hans-Gerd Seifert	Germany	42
Van Zanten Breeding BV	Netherlands	41
Plantipp. BV	Netherlands	40
Syngenta UK Ltd	United Kingdom	37
Limagrain Nederland BV	Netherlands	33
Ronald Houtman Sortimentsadvies	Netherlands	31
Syngenta Luxembourg SAS	France	25
Moerheim New Plant BV	Netherlands	24
CNB (U.A.)	Netherlands	21
Total		1 155

10.2.1.1. Ornamental species

With 49.2 % of the applications received in 2014, ornamentals continue to represent the largest group of applications filed for CPVRs. While in the early days of the Office the share of ornamentals was well above the 60 % mark, it is now lingering around the 50 % threshold. This change may be attributed to an increase in other crop sectors (especially for agricultural crops). There may, however, be a number of other reasons behind these changes in shares: merger of companies, refraining from protecting varieties or protecting only a few varieties of



DUS trials on Phalaenopsis, the Netherlands



DUS trials on Phalaenopsis, the Netherlands

a given series, or seeking protection through other systems such as patents (where possible) or trade marks. Also, as breeders of ornamental varieties are mostly small or medium-sized companies, the costs for variety protection take a higher share of the budget than for big players.

One particularity of the ornamentals is the great diversity of species. For many of them there is a rather low number of applications per species.

Table 1 shows the 10 most important ornamental crops in terms of the number of applications received over the last 5 years. Changes in the importance of most of these crops — with the exception of orchids — seem to be rather accidental. Also in 2014, roses and chrysanthemums remain by far the most important species.

Table 1: Number of applications for the 10 most important ornamental species groups from 2010 to 2014, with a total covering 1995–2014

Species	2010	2011	2012	2013	2014	Total (1995–2014)
<i>Rosa</i> L.	200	239	131	231	181	3 696
<i>Chrysanthemum</i> L.	175	153	146	120	167	3 119
<i>Pelargonium</i> L'Her. ex Aiton,	44	74	45	58	32	1 450
<i>Calibrachoa</i> Llave & Lex. and <i>Petunia</i> Juss.	77	58	54	48	88	1 204
<i>Lilium</i> L.	55	63	37	68	86	1 121
<i>Gerbera</i> L.	37	58	36	47	48	997
<i>Impatiens</i> L.	30	22	17	8	12	934
<i>Phalaenopsis</i> Blume and <i>xDoritaenopsis</i> hort.	85	84	47	110	113	882
<i>Dianthus</i> L.	61	30	54	34	40	854
<i>Anthurium andraeanum</i> Linden ex Andre	47	29	19	44	38	545
Total	811	810	586	768	805	

The Office may base its decision to grant CPVRs on a technical examination carried out within the framework of a previous application for plant breeders' rights in an EU Member State. Such a takeover of reports concerns less than 5 % of ornamentals, which is a considerably lower percentage than for the vegetable or agricultural sectors and is due to the absence of any listing requirement before commercialising ornamental varieties.

The introduction, in 2010, of the principle that any competent examination office can be entrusted for the DUS test of any species, as long as it fulfils the quality requirements, has resulted in a situation where, for a number of ornamental species, more than one examination office is available to undertake DUS examination. Whereas, in the past, a centralised testing situation existed, the CPVO has now to decide at which examination office a certain candidate variety is going to be examined. For that reason, the CPVO's Administrative Council has extended the criteria to be applied by the CPVO. Ornamental experts have, nevertheless, requested a better centralisation of certain species and the Administrative Council gave the mandate to the Office to develop a proposal. Deliberations on a new centralisation for crops with low application numbers began in 2014.

10.2.1.2. Agricultural species

The year 2014 showed an increase of 28.3 % in the number of applications in comparison with the year 2013. In 2014, agricultural varieties represented 28.3 % of all applications. The number of applications received for that year (1 027) is the highest number of applications ever received in that sector.

The following table shows the number of applications received per year over all agricultural species since 2010, as well as the total figure for the years 1995–2014.

Table 3 shows the number of applications for the 10 most important agricultural species for the last 5 years.

	2010	2011	2012	2013	2014	Total (1995–2014)
All agricultural species	719	874	781	800	1 027	12 418

Table 3: Number of applications of the 10 most important agricultural species from 2010 to 2014, with a total covering 1995–2014

Species	2010	2011	2012	2013	2014	Total (1995–2014)
<i>Zea mays</i> L.	220	264	215	147	333	3 843
<i>Triticum aestivum</i> L. emend. Fiori et Paol.	92	115	83	129	139	1 482
<i>Solanum tuberosum</i> L.	63	80	75	77	72	1 372
<i>Brassica napus</i> L. emend. Metzg.	75	71	107	82	115	1 110
<i>Hordeum vulgare</i> L. sensu lato	56	60	72	85	73	1 054
<i>Helianthus annuus</i> L.	66	73	42	67	82	810
<i>Beta vulgaris</i> L. ssp. <i>vulgaris</i> var. <i>altissima</i> Döll	7	18	17	22	18	298
<i>Lolium perenne</i> L.	19	30	20	43	18	287
<i>Triticum durum</i> Desf.	14	32	18	15	23	268
<i>Pisum sativum</i> L.	13	8	3	9	15	251
Total	625	751	652	676	888	



DUS trials on potato, Germany



DUS trials on rice, Bulgaria

As in previous years, maize is the most important species in the agricultural sector. Its number of applications decreased in 2013. However, given that the share of maize within the additional 227 applications received in 2014 is very important, it could be concluded that these are the varieties for which the applications were not sent in 2013, but only in 2014. An increase is observed for wheat applications. Oilseed rape applications increase significantly which might be due to the increased market share of hybrid varieties compared to conventional varieties. Breeders seek protection not only for the hybrid variety but also for its parental lines. Potato applications remained stable at a high level; barley applications increased compared to the previous year. Sunflower applications also increased. Here, an adaptation of conventional lines to resistances can be observed, such as to Orobanche or to certain herbicides. Pea replaced rice in the 10th position.

Although the agricultural sector has known a number of company mergers, the number of applications is steadily increasing. This shows that reducing the number of players in that sector does not necessarily mean that the breeding output is reduced. The opposite is shown here.

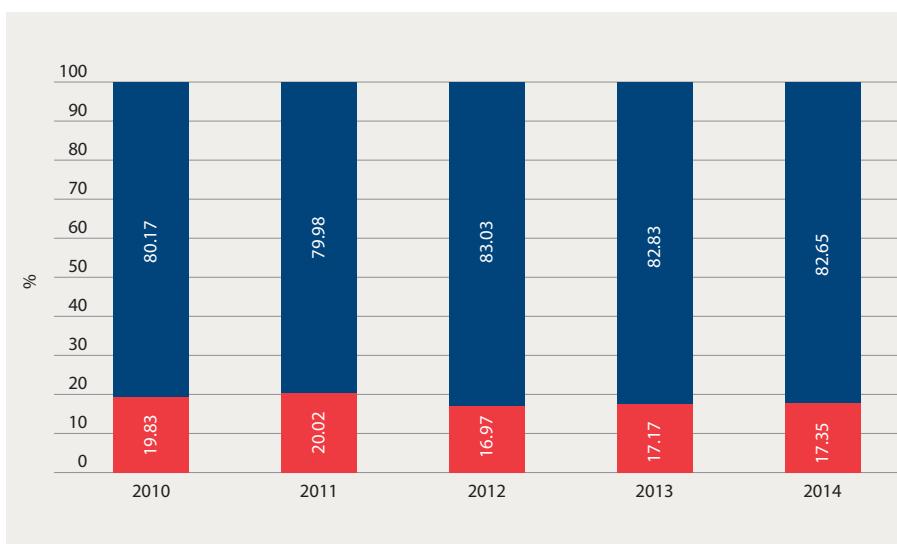
Given that the large majority of applications refer to species that are covered by the EU seed directives, about 77.4 % of all applications have already undergone a DUS test when the CPVR application is filed, or the DUS test is, at least, ongoing. This allows the Office to take over the DUS report from entrusted examination offices, in accordance with Article 27 of the regulation (Commission Regulation (EC) No 874/2009), if it constitutes a sufficient basis for a decision. If this is not the case, the Office organises a technical examination carried out by an entrusted examination office (see Graph 4).

Graph 4

Evolution in percentage of the ratio of technical examinations to takeovers of DUS reports in the agricultural sector (2010–14)

■ Technical examinations

■ Takeovers



10.2.1.3. Vegetable species

The year 2014, in the vegetable sector, came up slightly short of the record figures for new applications in 2013. Notwithstanding, since vegetable applications in 2013 leaped by 31 %, it was always going to be a hard act to follow in 2014. Encouragingly, the 564 new vegetable applications received by the CPVO in 2014 was still the second highest ever annual figure (only 23 lower than in 2013). It looks as if the CPVO can now expect to receive well over 500 annual vegetable applications on a regular basis. This would have been unimaginable at the turn of the decade, when annual vegetable applications were constantly hovering around the 400 mark. As reported earlier in this chapter, the vegetable sector is significant in having a lot of applications concentrated in only a few companies, and an illustration of this is that four out of the top 10 applicants from all crop sectors, are vegetable seed companies.

Applications for hybrid vegetable varieties hit an all-time high in 2014, which means that seed companies value the intellectual property protection which Community plant variety rights afford, in addition to the in-built biological (segregation) protection of the hybrid itself. Such protection is imperative in the fight against the propagation of hybrid varieties by sophisticated vegetative techniques.

It was expected that 2014 was going to be the year when lettuce was going to finally lose its crown as the most popular vegetable species in terms of annual applications. This certainly appeared to be the case during most of the year, since tomato had led from the front since January; but a late sprint from lettuce in the final straight meant that it managed to retain its title, albeit by just four applications. It remains to be seen whether 2015 will finally be the year when lettuce is toppled by the tomato challenger. Elsewhere, as in recent years, melon, pepper and cucumber continued to jostle over the third to fifth positions in the vegetable league table.

A substantial part of the second half of the year in the vegetable sector was taken up with the organisation of the annual vegetable experts' meeting, which for the first time was held outside the CPVO premises. The meeting was held in Valencia on 22 and 23 October and the opportunity was used to also hold on the previous day (21 October) a vegetable open day at the premises of the Spanish examination office. Both events are outlined in greater detail in

Table 4: Number of applications of the 10 most important vegetable species from 2010 to 2014, with a total covering 1995–2014

Species	2010	2011	2012	2013	2014	Total (1995–2014)
<i>Lactuca sativa</i> L.	127	118	104	135	132	1 750
<i>Solanum lycopersicum</i> L.	40	72	71	129	128	806
<i>Phaseolus vulgaris</i> L.	16	28	25	10	18	449
<i>Pisum sativum</i> L.	17	27	24	24	19	385
<i>Capsicum annuum</i> L.	37	38	33	48	36	366
<i>Cucumis melo</i> L.	29	20	20	41	48	271
<i>Cucumis sativus</i> L.	13	21	22	44	30	271
<i>Brassica oleracea</i> L. convar. <i>botrytis</i> (L.) Alef. var. <i>botrytis</i>	1	10	4	17	7	219
<i>Cichorium endivia</i> L.	6	12	16	11	11	160
<i>Brassica oleracea</i> L. convar. <i>capitata</i> (L.) Alef. var. <i>alba</i> DC.	3	3	4	5	14	149
Total	289	349	323	464	443	

sections 10.2.3.2.3. and 14.2.1 of this annual report. This was the third time the CPVO staged a vegetable open day in collaboration with one of its examination offices, and it followed similar exercises to Naktuinbouw in Roelofarendsveen, Netherlands (2008) and GEVES in Brion, France (2010).

The continuing discussions on disease resistance characteristics concluded with a proposal put forward to experts by the CPVO to establish a running-in period of 5 years for any new asterisked disease-resistance characteristics in CPVO vegetable technical protocols. The experts agreed upon this, and the proposal will now be formally presented to the CPVO Administrative Council for adoption in 2015. Continuing on this theme, experts also agreed that when carrying out any revision of a CPVO vegetable protocol, the existing asterisked disease-resistance characteristics will be analysed in detail to see if they warrant remaining obligatory; this is particularly the case for those characteristics which do not have an equivalent asterisk in the corresponding same species UPOV guideline.

A contentious issue which once again raised its head after an 8-year hiatus was that of the differentiation between onions and shallots. The CPVO was approached at the end of 2013 by the French national shallot association with claims that the CPVO technical protocol TP/46/2 for *Allium cepa* was not proving effective in the light of recently registered seed propagated shallot varieties. After consultation with the European Commission, the CPVO decided to study the matter in detail by establishing intricate field trials in collaboration with GEVES and Naktuinbouw, where the shallot trials would take place in parallel. Two separate field visits and meetings by a technical working group made up of experts from the CPVO, GEVES and Naktuinbouw took place at Brion (France) and Roelofarendsveen (Netherlands) during the course of the summer to analyse the situation. Areas for improvement of the aforesaid technical protocol TP/46/2 have already been identified by the working group, but work on the matter will need to continue in 2015 so that proposals for the implementation of solutions can be made to the pertinent EU, French and Dutch authorities.

Finally, the CPVO already started preparations in the second half of 2014 for the hosting of the 49th annual UPOV technical working party for vegetables (TWV/49) to be held at Terra Botanica in Angers on 14–19 June 2015.



DUS trials on pepper, Spain



DUS trials on carrot, the Netherlands

Table 5: Number of applications of the 10 most important fruit species from 2010 to 2014, with a total covering 1995–2014

Species	2010	2011	2012	2013	2014	Total (1995–2014)
<i>Prunus persica</i> (L.) Batsch	68	54	46	43	71	796
<i>Fragaria x ananassa</i> Duchesne ex Rozier	25	35	31	39	44	500
<i>Malus domestica</i> Borkh.	19	17	27	15	27	426
<i>Prunus armeniaca</i> L.	7	7	27	11	18	239
<i>Vitis</i> L.	15	15	10	34	9	180
<i>Rubus idaeus</i> L.	5	9	22	13	13	139
<i>Vaccinium</i> L.	4	8	23	19	20	121
<i>Prunus salicina</i> Lindl.	6	3	3	8	4	103
<i>Prunus avium</i> (L.) L.	13	1	7	4	1	97
<i>Rubus</i> subg. <i>Eubatus</i> sect. <i>Moriferi</i> & Ursini	1	2	4	6	5	71
Total	163	151	200	192	212	

10.2.1.4. Fruit species

The number of fruit CPVR applications in 2014 remained on a high level. With 249 applications, it was the second best year in the sector. Over 85 % of the applications were made for varieties of 10 species. The top three species in 2014 were peach, strawberry and apple. A significant decrease compared to previous years was noted for grapevine applications.

Discussions with the stakeholders in the fruit sector continued in 2014 with regard to ways to optimise DUS testing for this sector. The discussions focused on the international exchange of reports, exchange of information/requesting fruit samples before planting the trial, need for reference collection for small species, testing at breeder's premises and possible further harmonisation of testing via the ring test.

In the course of the year, further harmonisation among the entrusted examination offices was achieved as regards the plant material submission requirements for some crops. This work will continue in the course of 2015, especially as regards the phytosanitary requirements for the plant material to be delivered for the testing.



Blackberry



DUS trials on orange, Spain

A notable event in 2014, which took up substantial working time for the fruit sector as well as the Legal Unit of the CPVO, was the analysis and preparation of the decision in relation to application 2011/1544 for the clementine variety 'Tang Gold', itself an induced mutation of the CPVR protected variety 'Nadorcott'. Various objections to the application on technical and legal grounds were received by interested parties to the procedure. During the course of 2014, an orchestrated field visit to the DUS trial and a separate oral hearing for all the parties concerned took place. A positive decision was taken to award a CPVR to 'Tang Gold' on 24 October.

10.2.1.5. Origin of the applications

Since the creation of the CPVO, applications have been received from over 50 countries. Nearly every year, more than one third of all applications received have originated from the Netherlands, underpinning the important role of that country in the breeding sector. The Netherlands is followed, quite some distance behind, by France, the United States of America and Germany. In 2014, only minor fluctuations were observed in the origin of applications. The table below gives an overview of the number of applications received from different European countries in 2014.

Table 6: The EU Member States from which CPVR applications were filed in 2014

Country of main applicant	Number of applications received in 2014
Netherlands	1 324
France	463
Germany	376
Denmark	139
United Kingdom	122
Spain	84
Italy	81
Belgium	61
Sweden	22
Poland	21
Austria	18
Slovakia	10
Czech Republic	4
Ireland	3
Greece	2
Portugal	2
Latvia	1

Table 7 shows the application numbers for the countries outside the EU.

Table 7: The non-EU countries from which CPVR applications were filed in 2014

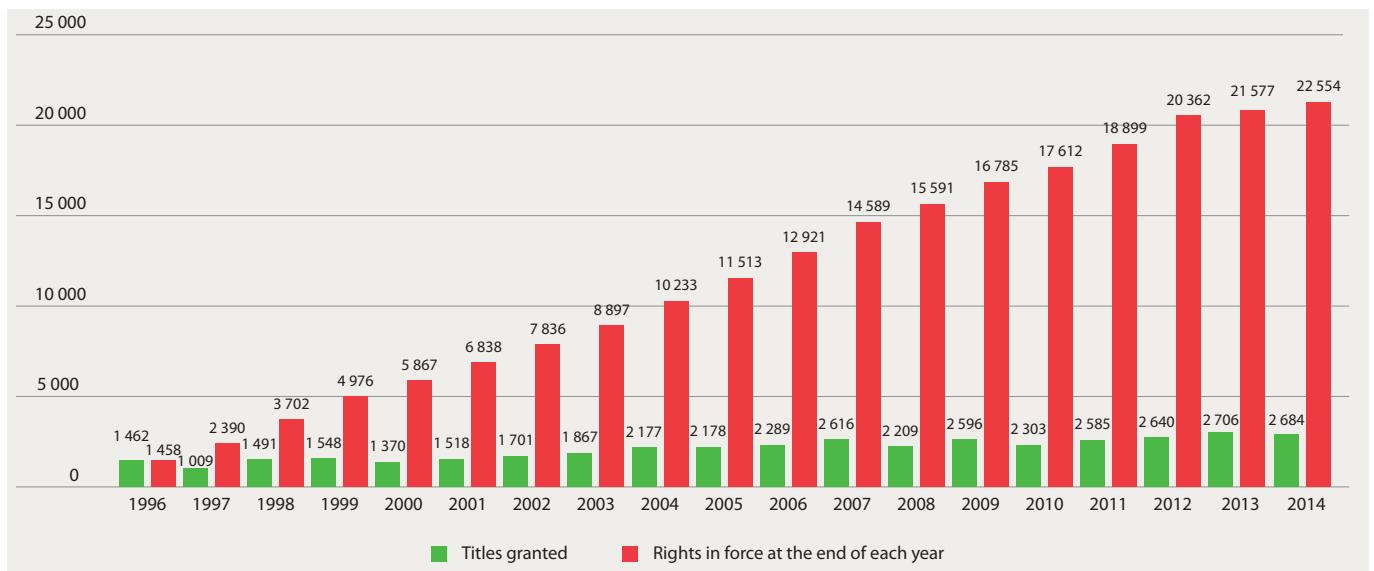
Country of main applicant	Number of applications received in 2014
United States	462
Switzerland	206
Japan	68
Israel	36
Australia	23
New Zealand	20
Argentina	16
South Africa	16
Thailand	16
Taiwan	11
Canada	5
India	3
Brazil	2
South Korea	2
Belarus	1
Chile	1
China	1
Costa Rica	1
Gibraltar	1
Jamaica	1
Turkey	1

10.2.2. Grants of protection

In 2014, the Office granted 2 684 titles for Community protection, which represents the second highest number ever granted by the CPVO within a calendar year. A detailed list of all varieties under protection (as of 31 December 2014) is published on the CPVO website in the separate annex to this annual report.

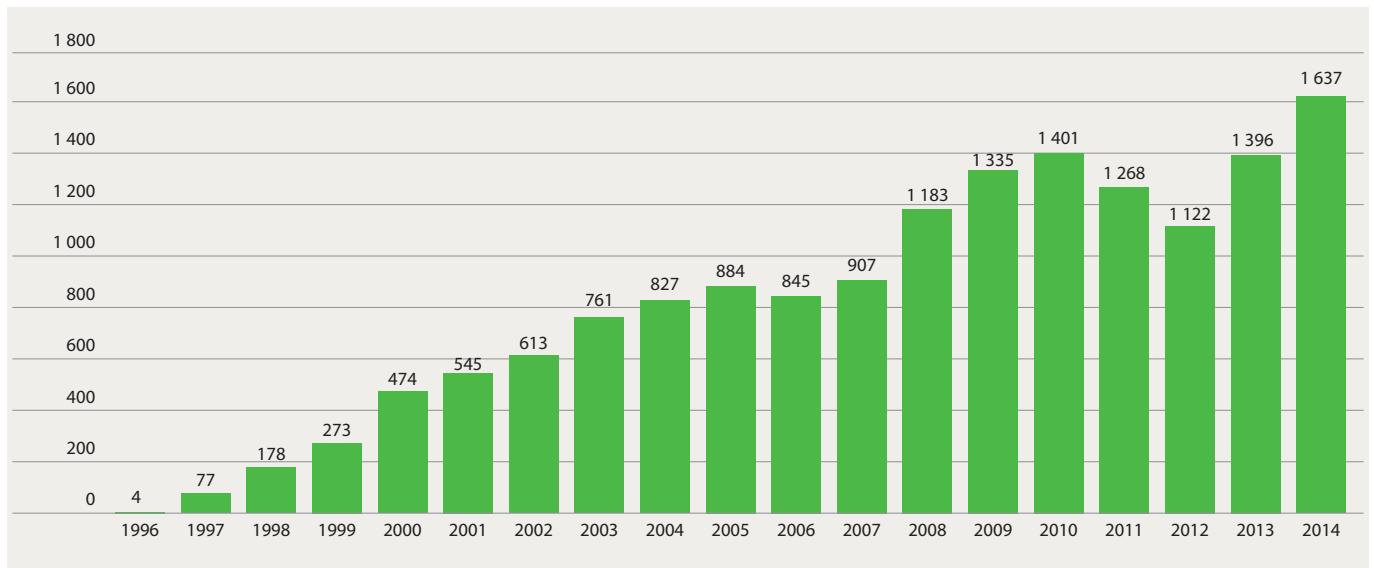
By the end of 2014, there were 22 554 CPVRs in force. Graph 5 shows the number of titles granted for each year from 1996 to 2014 and illustrates the continuous increase in the number of varieties under protection within the Community system.

Graph 5: Community plant variety rights granted and rights remaining in force at the end of each year from those granted per year (1996–2014)

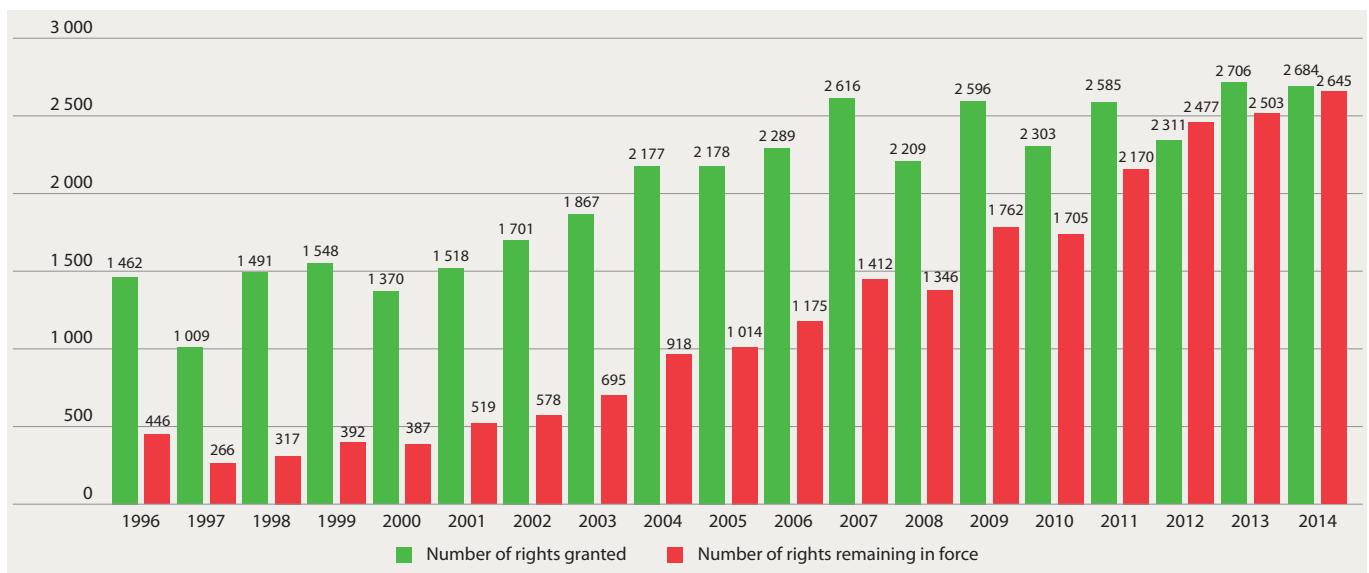


The development in the number of CPVRs in force must be seen in conjunction with the number of rights surrendered (Graph 6). The number of rights granted still greatly outweighs the number of surrenders. As older varieties are replaced by newer ones, the number of surrenders is expected to approach more closely the number of applications. The regular increase in the number of surrenders is therefore not a surprise. After having seen an important drop in surrenders in 2011 and 2012, the expected trend of increasing numbers of surrenders was observed in 2013 and 2014.

Graph 6: Number of surrenders of Community plant variety rights (1996–2014)



Graph 7: Number of rights granted each year from 1996 to 2014 and those remaining in force on 31 December 2014 from those granted per year



Graph 7 shows the number of rights granted in the years 1996 to 2014 and those still in force on 31 December 2014. A large number of rights are surrendered within a few years. The CPVR system is still too young to say how many varieties will actually enjoy their full term of protection of 25 or 30 years. However, figures suggest that it will be a relatively small percentage of all the varieties once protected. This also suggests that the current period of protection might generally be rather well adapted to the needs of breeders.

At the end of 2014, of the 38 950 rights granted in total, 22 554 (57.9 %) were still in force. Table 8 illustrates that fruit varieties are generally kept protected for a longer period and that, within each crop sector, the situation varies from species to species. There might be a number of reasons for this phenomenon, such as a change in consumer preferences, breeding trends, differences in intensity of breeding activities, the time and expense required to develop new varieties or — as may be assumed for *Phalaenopsis* — their rather recent boom in plant breeding.

Table 8: Percentage of granted rights that were still in force on 31 December 2014

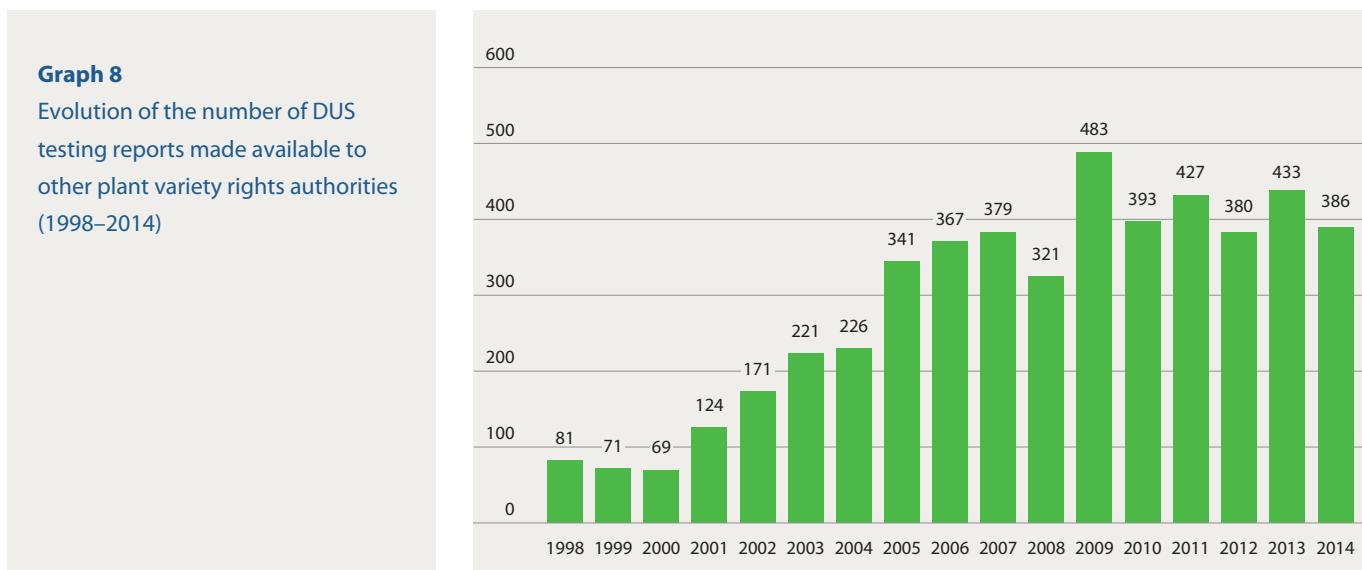
Crop sector	Species	Proportion %
Agricultural		63
	<i>Hordeum vulgare</i> L. <i>Sensu lato</i>	56
	<i>Zea mays</i> L.	57
	<i>Triticum aestivum</i> L. <i>emend.</i> Fiori et Paol.	62
	<i>Solanum tuberosum</i> L.	69
	<i>Festuca rubra</i> L.	88
Vegetable		69
	<i>Cichorium endivia</i> L.	52
	<i>Lactuca sativa</i> L.	59
	<i>Solanum Lycopersicum</i> L.	74
	<i>Capsicum annuum</i> L.	76
	<i>Daucus carota</i> L.	81
Ornamental		52
	<i>Gerbera</i> L.	24
	<i>Chrysanthemum</i> L.	46
	<i>Rosa</i> L.	51
	<i>Phalaenopsis Blume & Doritaenopsis</i> hort.	69
	<i>Clematis</i> L.	89
Fruit		79
	<i>Fragaria x ananassa</i> Duch.	67
	<i>Prunus persica</i> (L.) Batsch	76
	<i>Prunus domestica</i> L.	81
	<i>Malus domestica</i> Borkh.	80
	<i>Prunus avium</i> (L.) L.	90

10.2.3. Technical examinations

In 2014, the CPVO initiated 2 201 technical examinations, 117 more than in 2013. The increase is of course linked to an increasing number of applications. For vegetable and agricultural crops, a large number of technical examinations have already been carried out under the framework of the national listing procedure. If such a technical examination has been carried out by an entrusted examination office, the CPVO can base its decision to grant CPVRs on a technical examination which has been carried out in the framework of a national application.

10.2.3.1. Sales of reports

National authorities from all over the world regularly base their decisions on applications for plant variety rights on technical examinations carried out on behalf of the CPVO (international cooperation, takeover of reports). Graph 8 illustrates the number of reports the Office has made available to national authorities.



By the end of 2014, the Office had sold 4 874 technical reports to 52 countries. During that year, South America continued to be the region from which most requests emanated (Table 9). In general, most requests concern ornamental varieties. In 2014, the Office received 499 requests, which is much fewer compared to the year 2013, with 695 requests received.

The Office has set up a flexible approach in respect of the agreed UPOV fee for making reports available. Requesting countries can pay this fee directly to the CPVO, but they can also opt for the alternative, according to which the Office sends the invoice to the breeder. The report is always provided directly to the national authorities.

Table 9: The 10 countries that have bought the most DUS technical reports from the CPVO (1998–2014)

Country	Number of reports bought
Israel	564
Brazil	511
Colombia	483
Ecuador	438
Switzerland	362
Canada	279
Kenya	248
Norway	242
France	219
New Zealand	218

10.2.3.2. Relations with examination offices

10.2.3.2.1. Eighteenth annual meeting with the examination offices

In December 2014, the CPVO held its 18th annual meeting with its examination offices, which is also attended by representatives from the European Commission, the UPOV office and the breeders' organisations — Ciopora, ESA and Plantum. The main subjects were:

- the presentation of a new set-up of the network of technical liaison officers (see also section 10.2.4);
- discrepancies between information provided in the application documents (technical questionnaire) and the appearance of the plants in the DUS trial;
- the revision of the template for technical protocols applied for DUS testing;
- the review of the formal procedure for the acceptance of additional characteristics to establish distinctness of varieties;
- the centralisation of DUS testing of ornamental species with low application numbers (so-called small species);
- possibilities to cooperate with UPOV authorities of non-EU Member States in the exchange of technical examination reports;
- conducting the DUS technical examination on the breeders' premises in the fruit sector;
- the beginning of the technical examination for applications filed online immediately after a closing date for applications if the Office is not open for the reception of documents on that day;
- a new policy of the Office of invoicing the examination fee for the subsequent growing cycle;
- updating variety descriptions;
- the revision of the requirements to be met by an examination office before it can be entrusted with the conduct of technical examinations;
- the role of the examination office in providing information on novelty, suitability of variety denominations and entitlement to Community plant variety rights or aspects on the 'one key, several doors' principle (according to which one DUS examination would be sufficient for the official variety listing as well as for the granting of plant variety rights);
- various legal matters, such as changes in the reception procedures.

Furthermore, the participants were informed on the state of play of R & D projects and of IT projects such as the electronic exchange of documents with examination offices, the pilot project of sharing the online application system, the integration of trade marks in the CPVO variety finder database and audit fees.

10.2.3.2.2. Preparation of CPVO protocols

In 2014, experts from the Member States' examination offices were invited to participate in drawing up or revising technical protocols for DUS testing, which either were subsequently

approved by the Administrative Council or can be expected to be approved in 2015. The following meetings were held.

- Agricultural experts: in 2014, the revised technical protocols for Flax/linseed and Durum wheat were adopted. The discussion on protocols continued for the barley and oats species. Based on a decision of the Administrative Council inviting the Office to cover with a CPVO technical protocol a maximum number of those species which are also subject to the seed directives, the CPVO has started discussions on new technical protocols (TPs) for the following species: soya bean, cotton, tall and meadow fescue, field bean and common vetch.
- Fruit experts: in 2014, no technical protocols were adopted. The discussion on protocols continued for *Prunus* rootstocks and peach. The partial revision of the technical protocol for peach was discussed so that this could be adopted by the Administrative Council in March 2015.
- Vegetable experts: in 2014, the technical protocols for endive and watermelon, and partial revision of the protocol for vegetable marrow/squash were approved, and a new technical protocol for tomato rootstocks was created. In October 2014, the creation of new protocols for Swiss chard, swede, pumpkin, black salsify, the revision of the chives protocol, and the partial revision of the vegetable marrow/squash, pea, and radish protocols were discussed. These are all expected to be approved in March 2015.
- Ornamentals experts: the adoption of newly drawn up technical protocols for *Canna*, *Vriesea*, *Mandevilla* and *Hosta* is expected for March 2015.

10.2.3.2.3. Crop experts' meetings

Two meetings with agricultural experts were held in 2014. The first was held in Germany at Magdeburg in order to visit the DUS test of potatoes and continue the discussions in the framework of the R & D project 'Common potato database'. Nine examination offices participated in this meeting.

The second meeting took place in October and prepared the revisions of the technical protocols for barley and oats and discussed the first drafts of the new CPVO-TPs for soya bean, cotton, tall and meadow fescue, field bean and common vetch.



Tulip living collection, the Netherlands

Further subjects of continued discussion were the questions of new characteristics in the technical protocol for barley, an important issue especially for spring barley varieties where it is difficult to establish distinctness.

Concerning oilseed rape hybrid varieties, the discussion was continued as regards the amount of seeds to be submitted to an examination office for parent lines where the production of seeds is very costly. Breeders and examination offices were looking to elaborate a solution. A working group meeting will take place in 2015 in order to tackle this question.

Another subject matter was the question on how to apply, in practice, the so-called resubmission of seeds as laid down in the cereals TPs, in case of uniformity problems during the DUS test. The conclusion was that EOs should apply the rule that there are, at the end of the DUS test results, two independent growing cycles going in the same direction, either positive or negative, for a sound decision on a CPVR application.

A last point was the agreement to extend the UPOV code system by a third piece of information on the use of a variety, say winter or spring, fibre or oil, etc., in order to give more information or to improve the searching facilities when looking for varieties.

The experts' group got a short presentation summarising the actual state of play of all ongoing R & D projects.

A meeting of ornamental experts was held in September to discuss the ongoing project of centralisation of small species. Items linked to the submission of plant material, dates of reporting, and technical procedures (new species procedure, additional characteristics procedure) have been dealt with. Some new and revised technical protocols have been presented. The wish to keep this meeting on an annual basis has been underlined by the experts.

A meeting of fruit experts was held at the end of September/beginning of October to discuss revised TPs in the fruit sector; further harmonisation of requirements for acceptance of plant material; the feasibility of the reduction in duration/costs of fruit technical examinations; follow-up of the apple open day; and a follow-up of the R & D project 'Reduction of the number of obligatory periods'.

A meeting of vegetable experts was held in October in Valencia (Spain) to discuss the protocols mentioned in section 10.2.3.2.2; definitive working rules on DUS testing of vegetable varieties in two separate locations; the ongoing subject of disease resistance testing issues (see section 10.2.1.3 for further details); greater collaboration between entrusted examination offices for vegetables, including possible centralisation of some 'minor species'; the expansion of UPOV codes to provide information on crop types; possibilities for breeders to change information declared in the technical questionnaire in the light of discrepancies with the plant material submitted for the DUS test; detailed

updates on the ongoing R & D projects 'Effect seed priming on vegetable DUS tests', and 'Harmonisation of disease resistance tests in vegetables 2 (Harmores 2)'.

10.2.3.2.4. New species

In 2014, the Administrative Council of the CPVO entrusted examination offices for a number of botanical taxa resulting from the so-called new species inventories (53 different taxa). Table 10 states the taxa for which new examination offices were entrusted in 2014 to conduct the technical examination (50 taxa). Graph 9 shows the evolution of the number of taxa for which the Office has received applications for Community plant variety protection.

For the first time, a completely computerised procedure was launched in August 2014. This procedure was divided into two different steps: during the first step, for each new species, the technical liaison officer can consult all the application documents received by the CPVO and indicate if his or her examination office is willing to become entrusted for this species. The proposals from the other examination offices are already visible at this stage. Then, during step two, the examination offices cannot request a new entrustment which was not in his or her initial list, but can withdraw some of his or her requests for entrustment. The proposals from the other examination offices are still visible at this stage.

During the 2014 procedure, step two, which can be seen as a negotiation step, has allowed the reduction of the number of examination offices entrusted per new species, in order to avoid decentralisation for small species.

With this new tool, the whole process was more efficient and more transparent. Some IT improvements were requested and implemented after this first try.

Graph 9

Evolution of the number of botanical taxa for which the CPVO received applications (1995–2014)

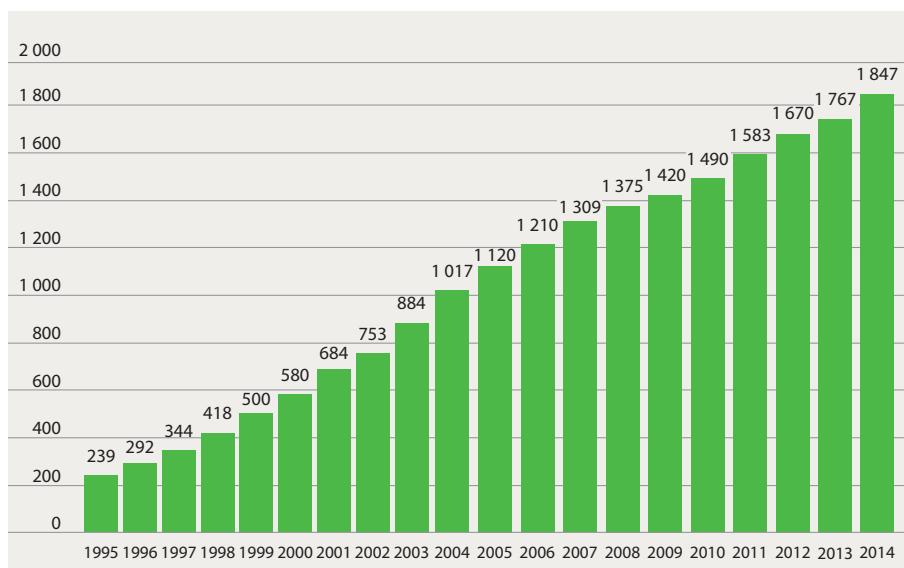


Table 10: List of new species entrusted to examination offices in 2014

Botanical taxa	CPVO proposal
<i>Acer longipes</i> Franch. Ex Rehder subsp. <i>Amplum</i> (Rehder) P.C.de Jong × <i>A. platanoides</i> L.	Germany — Bundessortenamt
<i>Alternanthera philoxeroides</i> (Mart.) Griseb.	Netherlands — Naktuinbouw
<i>Alyssum wulfenianum</i> Willd.	Germany — Bundessortenamt United Kingdom — NIAB
<i>Annona cherimola</i> Mill.	Spain — OEVV
<i>Beschchorneria yuccoides</i> K. Koch	Germany — Bundessortenamt Hungary — NÉBIH Netherlands — Naktuinbouw United Kingdom — NIAB
<i>Betula</i> × <i>plettkei</i> Junge (<i>Betula nana</i> × <i>B. pendula</i>)	United Kingdom — NIAB
<i>Carex</i> L.	Netherlands — Naktuinbouw
<i>Chaenomeles speciosa</i> (Sweet) Nakai	France — GEVES Hungary — NÉBIH Poland — Coboru United Kingdom — NIAB
<i>Cirsium rivulare</i> (Jacq.) All.	United Kingdom — NIAB
<i>Crassula mesembryanthoides</i> (Haw.) D. Dietr	Netherlands — Naktuinbouw
<i>Deutzia gracilis</i> Siebold & Zucc.	France — GEVES Hungary — NÉBIH Netherlands — Naktuinbouw United Kingdom — NIAB
<i>Dischidia nummularia</i> R. Br.	Netherlands — Naktuinbouw
<i>Fargesia murielae</i> (Gamble) T. P. Yi × <i>F. nitida</i> (Mitford) Keng f. ex T. P. Yi	Germany — Bundessortenamt
<i>Fragaria iinumae</i> Makino × <i>F. Vesca</i> L.	Germany — Bundessortenamt
<i>Grevillea juniperina</i> R. Br. × <i>G. rhyolitica</i> Makinson	Netherlands — Naktuinbouw
<i>Gypsophila muralis</i> L.	Netherlands — Naktuinbouw
<i>Heptacodium miconioides</i> Rehder	France — GEVES United Kingdom — NIAB
<i>Hylotelephium</i> L. × <i>Sedum</i> L.	Netherlands — Naktuinbouw
<i>Hylotelephium tatarinowii</i> (Maxim.) H. Ohba (syn. <i>Sedum tatarinowii</i> Maxim.)	Netherlands — Naktuinbouw
<i>Ilex mitis</i> (L.) Radlk.	United Kingdom — NIAB
<i>Ligustrum lucidum</i> W. T. Aiton	Germany — Bundessortenamt
<i>Ligustrum sinense</i> Lour.	Netherlands — Naktuinbouw
<i>Lophospermum erubescens</i> D. Don (syn. <i>Asarina erubescens</i> (D. Don) Pennell) × <i>Maurandya barclayana</i> Lindl. (syn. <i>Maurandya barclayana</i> Lindl.)	Netherlands — Naktuinbouw
<i>Mammillaria elongata</i> DC.	Netherlands — Naktuinbouw
<i>Masdevallia</i> Ruiz & Pav.	France — GEVES Hungary — NÉBIH Netherlands — Naktuinbouw United Kingdom — NIAB
<i>Nepeta</i> × <i>faassenii</i> Bergmans ex Stearn	Germany — Bundessortenamt
<i>Nepeta grandiflora</i> M. Bieb.	Netherlands — Naktuinbouw
<i>Pachyphytum bracteosum</i> Klotzsch × <i>P. Hookeri</i> (Salm-Dyck) A. Berger	Netherlands — Naktuinbouw
<i>Parrotia persica</i> (DC.) C. A. Mey.	Hungary — NÉBIH United Kingdom — NIAB
<i>Phlomis tuberosa</i> L.	Netherlands — Naktuinbouw
<i>Phlox</i> × <i>procumbens</i> Lehm.	Netherlands — Naktuinbouw
<i>Polianthes</i> L.	Netherlands — Naktuinbouw United Kingdom — NIAB
<i>Portulaca umbraticola</i> Kunth	Germany — Bundessortenamt
<i>Quercus rubra</i> L.	Germany — Bundessortenamt Hungary — NÉBIH Poland — Coboru

<i>Rehmannia angulata</i> (D.Don) Hemsl. × <i>R. Elata</i> N. E. Br.	Germany — Bundessortenamt
<i>Ribes sanguineum</i> Pursh	Germany — Bundessortenamt
<i>Sansevieria fischeri</i> (Baker) Marais	Hungary — NÉBIH
<i>Siloxerus humifusus</i> Labill.	United Kingdom — NIAB
<i>Spathiphyllum wallisii</i> Regel	Netherlands — Naktuinbouw
<i>Spiraea fritschiana</i> C. K. Schneid. × <i>S. Japonica</i> L. F.	Hungary — NÉBIH Poland — Coboru United Kingdom — NIAB
<i>Sutera polyantha</i> (Benth.) Kuntze	Germany — Bundessortenamt
<i>Tagetes lemmonii</i> A. Gray × <i>T. patula</i> L.	France — GEVES
<i>Thlaspi arvense</i> L.	United Kingdom — NIAB
<i>Ulmus davidiana</i> Planch	Germany — Bundessortenamt
<i>Veronica virginica</i> L. (synonym <i>Veronicastrum virginicum</i> (L.) Farw.)	Hungary — NÉBIH Netherlands — Naktuinbouw United Kingdom — NIAB
<i>Vitis rotundifolia</i> Michx. var. <i>rotundifolia</i> × <i>V. rupestris</i> Scheele	Hungary — NÉBIH
<i>Westringia fruticosa</i> (Willd.) Druce	United Kingdom — NIAB
× <i>Oncidopsis</i> J. M. H. Shaw	Netherlands — Naktuinbouw
× <i>Rhodoxis hybrida</i> B. Mathew	United Kingdom — NIAB

10.2.4. Technical liaison officers (TLOs)

The CPVO tries to have a close and efficient working relationship with its examination offices and the national offices of the Member States. Therefore, in 2002, the Office formalised a network of contact persons on a technical level in the Member States, the so-called TLOs. The TLOs play an important role in the relationship of the Office with its examination offices. A revision of the set-up of the TLO network is underway.

The following principles apply.

- TLOs are appointed by the relevant member of the Administrative Council.
- Currently, there is only one TLO per Member State. It is foreseen to appoint one TLO for each examination office if there is more than one examination office in a given EU Member State. It is also envisaged to appoint a TLO from each EU candidate country.
- Any modification as far as the TLO is concerned is communicated to the CPVO through the relevant member of the Administrative Council.

The role of the TLO can, in general, be defined as being the contact point for the Office on a technical level. This means the following, in particular.

- Invitations for the annual meeting with the examination offices are, in the first place, addressed to that person. If the TLO is not attending, he or she should communicate the details of the person who is attending that meeting to the CPVO.
- Invitations for expert groups on a technical level are initially addressed to the TLO who is in charge of nominating the relevant expert to the CPVO. Once an expert group has been set up, further communications or invitations are directly addressed to the relevant designated expert.
- The TLO should be the person on a national level who is in charge of distributing information of technical relevance in respect of the CPVR system within his or her own country/authority (e.g. informing colleagues who are crop experts) on conclusions drawn at the annual meeting of the examination offices, etc.
- Technical inquiries, which are sent out by the CPVO in order to collect information, should be addressed to the TLOs. Examples include:
 - new species procedures, in order to prepare the proposal for the entrustment of examination offices to the Administrative Council;
 - questionnaires in respect of closing dates, quality requirements, testing of GMOs, etc.
- For communications of a general technical nature the Office contacts the TLOs first. Specific problems, such as in respect of a certain variety, may be discussed in the first instance directly at the levels of the crop expert at the examination office and of the relevant expert at the CPVO.

The latest version of the list of appointed TLOs (as of 31 December 2014) is as follows.

John Austin	Ministry of Agriculture and Food Executive Agency for Variety Testing, Field Inspection and Seed Control Bulgaria
Bronislava Bátorová	Central Controlling and Testing Institute in Agriculture (ÚKSÚP) Variety Testing Department Slovakia
Alexandra Chatzigeorgiou	Ministry of Rural Development and Food Variety Research Institute of Cultivated Plants Greece
John Claffey	Department of Agriculture, Food and the Marine Office of the Controller of Plant Breeders' Rights Ireland
Zoltán Csurös	National Food Chain Safety Office (NÉBIH) Directorate of Plant Production and Horticulture Hungary

Françoise De Schutter	Office de la propriété intellectuelle (OPRI) Belgium
Maureen Delia	Ministry for Resources and Rural Affairs Seeds and Other Propagation Material Unit Plant Health Directorate Malta
Gerhard Deneken	Ministry of Food, Agriculture and Fisheries The Danish AgriFish Agency Department of Variety Testing Denmark
Barbara Fürnweger	Bundesamt für Ernährungssicherheit (AGES) p.A. Österreichische Agentur für Gesundheit und Ernährungssicherheit GmbH Austria
Sigita Juciuviene	Ministry of Agriculture Lithuanian State Plant Service Division of Plant Variety Lithuania
Sofija Kalinina	State Plant Protection Service Division of Seed Certification and Plant Variety Protection Latvia
Marcin Król	Research Centre for Cultivar Testing Centralny Ośrodek Badania Odmian Roślin Uprawnych (Coboru) Poland
Paivi Mannerkorpi	European Commission Directorate-General for Health and Food Safety Belgium
Clarisse Maton	Groupe d'étude et de contrôle des variétés et des semences (GEVES) France
Kyriacos Mina	Ministry of Agriculture, Natural Resources and Environment Agricultural Research Institute Cyprus
Kaarina Paavilainen	Finnish Food Safety Authority (Evira) Finland
Teresa Maria Pais Nogueira Coelho	Direção Geral de Alimentação e Veterinária (DGAV) Portugal
Laima Puur	Agricultural Board Estonia
Helena Rakovec	Ministry of Agriculture, Forestry and Food Phytosanitary Administration of the Republic of Slovenia Slovenia
Mara Ramans	Animal and Plant Health Agency (APHA) United Kingdom
Mihaela Rodica Ciora	State Institute for Variety Testing and Registration (ISTIS) Romania
Ivana Rukavina	Croatian Centre for Agriculture Food and Rural Affairs Institute for Seed and Seedlings Croatia
Beate Rücker	Bundessortenamt Germany

Radmila Safarikova	Central Institute for Supervising and Testing in Agriculture (ÚKZÚZ) Czech Republic
Luis Salaices Sánchez	Oficina Española de Variedades Vegetales (OEVV) Ministerio de Agricultura, Alimentación y Medio Ambiente Spain
Karin Sperlingsson	Swedish Board of Agriculture Seed Division Sweden
Domenico Strazzulla	Ministero delle Politiche Agricole Alimentari e Forestali Dipartimento della Politiche Competitive del Mondo Rurale e della Qualità Italy
Marc Weyland	Administration des Services Techniques de l'Agriculture Service de la Production Végétale Luxembourg
Kees van Ettekoven	Naktuinbouw Afdeling/Department Rassenonderzoek The Netherlands

11. VARIETY DENOMINATIONS

11.1. The CPVO Variety Finder: latest developments

The CPVO Variety Finder is a web-based database, developed by the Office in 2005, for the purpose of testing variety denomination proposals in the procedure of assessment of their suitability. It contains national data on varieties applied for and on varieties granted plant variety rights, national listings of agricultural and vegetable species and some commercial registers.

The database is freely available under the 'Databases' heading of the CPVO website but requires an identification. Since May 2014, Community trade marks registered with the Office for the Harmonization of the Internal Market (OHIM) have been included and updated on a daily basis in the variety finder database. These trade marks are registered in class 31 of the Nice Agreement concerning the international classification of goods and services for the purposes of the registration of marks, which contains living plants. When users test a variety denomination proposal, identical or similar trade marks appear in a different colour.

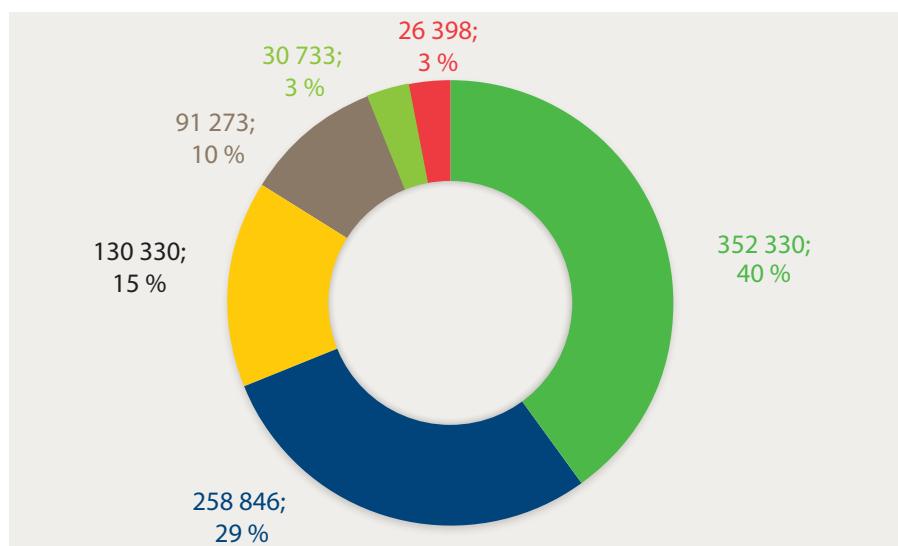
In total, more than 889 000 denominations originating from EU and UPOV Member States have been included so far. Graph 10 shows an overview of the content of the database with the number of records per type of register.

The system includes a search tool widely used by users from 62 different countries all over the world. More CPVO clients made use of the tool in 2014 (+ 11 %) compared to the previous year.

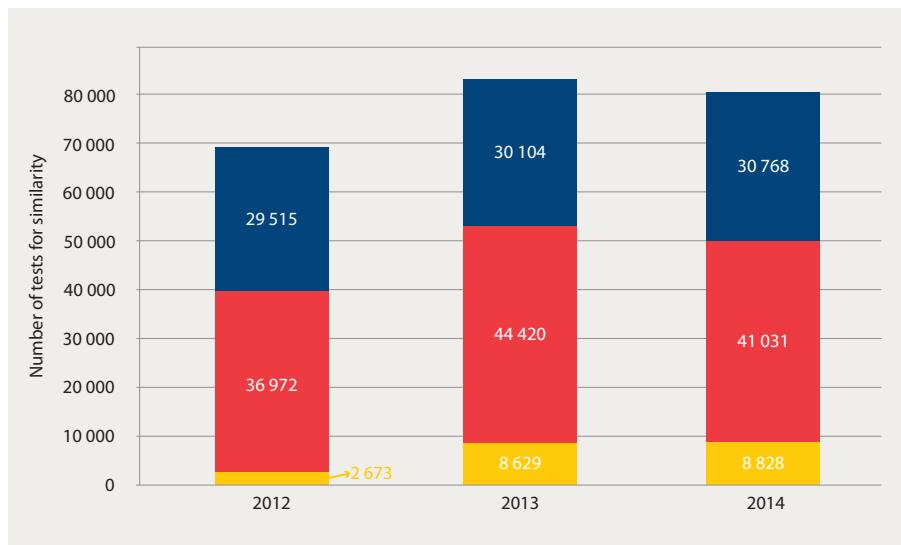
Graph 10

Number of records by type of register (on 31 December 2014)

- National listing
- Plant breeders' rights
- Commercial registers
- Other registers
- Community trade marks (CTMs)
- Plant patents

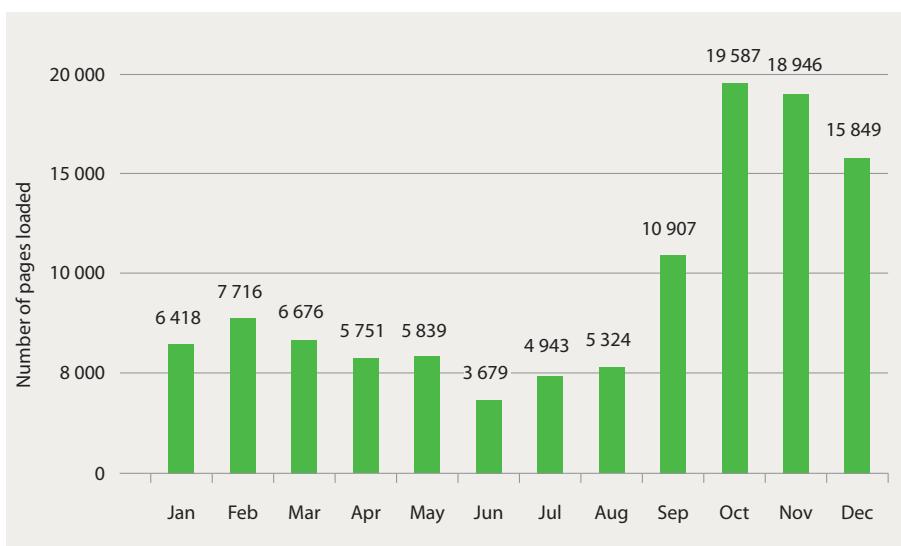


Graph 11 shows the number of tests for similarity performed in the database by national or international authorities, CPVO clients and other types of contacts over the last 3 years. More than 80 000 tests were launched in 2014.



A retrieval tool allows more general searches for details on varieties or species present in the database and the new possibility to access some statistics on the content of the database according to a range of search criteria.

This retrieval tool, named 'Search varieties', was further developed in September 2014 with more search criteria available and increased export facilities. This had a direct impact on its use over the last months in 2014 as illustrated by Graph 12.



The Office receives contributions directly from EU Member States in respect of official and commercial registers, and via the UPOV for most non-EU countries. Fifty-four organisations from 48 countries contributed to the Variety Finder, which represents 351 contributions for the year 2014.

The Office puts great efforts into keeping the database as up to date as possible: 96 % of the contributions received in 2014 were included within 5 working days.



11.2. Record year in the number of requests for advice

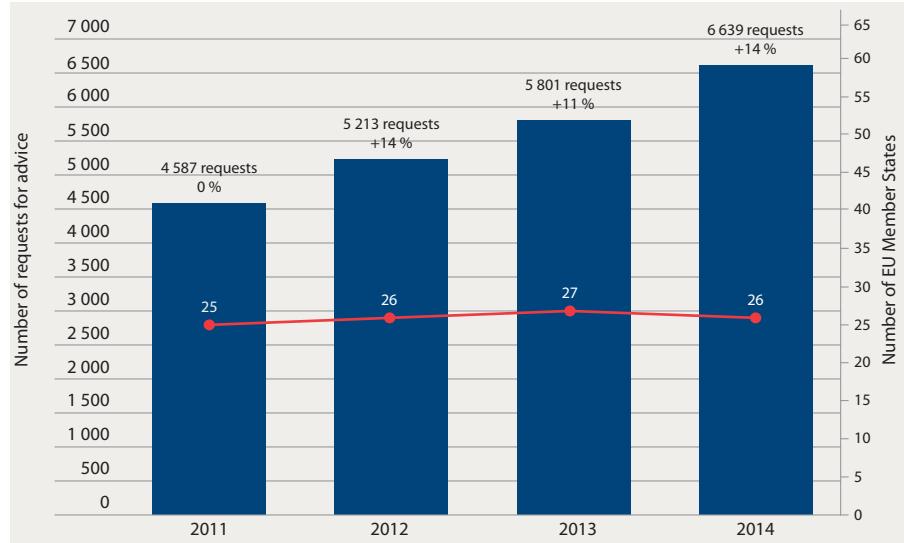
Five years after the start of cooperation in the denomination testing programme, 2014 was another record year for the service with over than 6 600 requests for advice received. This confirms the success of this project, as illustrated in Graph 14. Some of the EU Member States, who already started to contribute more regularly to the service in 2013, enhanced their commitment over the year taking initiative for discussion on the denomination rules and interpretation.

A meeting on the variety finder database and the exchange of data organised at the National Food Chain Safety Office (NÉBIH) in Hungary was the occasion to make a complete presentation of the denomination rules, to explain the interpretation of the CPVO in relation to the guidelines and to gather questions and remarks from Hungarian experts. This was also the purpose of the meeting held in Zagreb in the second half of the year and organised in the framework of the multi-beneficiary programme with the Croatian Ministry of Agriculture and the Croatian Centre for Agriculture, Food and Rural Affairs. This meeting was the occasion to have fruitful exchanges, leading to a better understanding of the rules and their interpretation.

This involvement of EU Member States is particularly appreciated by the Office, which sees it as a positive contribution to the harmonisation of the rules within the EU.

Graph 14

Number of requests for advice received and contributing EU Member States (2011–14)



11.3. Cooperation project with KAVB

During its meeting on 2 October 2013, the Administrative Council of the CPVO agreed to the principle that the Royal General Bulb Growers' Association (KAVB) joins the enhanced cooperation in denomination testing for a test period of 1 year, in order to better evaluate the benefits and the consequences of a strengthened cooperation, which started already years ago in a less formal way.

In 2014, the KAVB submitted just over 500 denomination proposals. These additional requests did not affect the overall processing time: on the contrary, nearly 89 % of the

Graph 15

Shares in processing time and number of advice delivered per year (2010–14)

- > 11 working days
- 06–10 working days
- 03–05 working days
- 01–02 working days
- within 24 hours



requests were dealt with within 24 hours, which represents a slight improvement in comparison with 2013 (87.6 %).

The cooperation with the KAVB was perceived as very positive by the Office: the KAVB regularly exchanged views in respect of the interpretation of the denomination guidelines, enabling the Office to improve its reasoning. The KAVB knowledge of the bulb market was also very valuable in order to avoid a lot of observations on variety denomination proposals submitted for advice by other authorities, or in CPVO procedures. This constructive cooperation is reflected by the lower percentage of proposals from the KAVB which were subject to observations (20.4 %) compared to 24 % for the overall EU figures.

The cooperation with the KAVB has been considered by the CPVO as an added value in term of mutual information sharing and exchanges about the interpretation of the rules. This has significantly helped breeders of flower bulb varieties, who often register their varieties with the KAVB before applying for plant variety rights: the cooperation between the CPVO and the KAVB allowed the detection, at an earlier stage, of eventual difficulties with the proposed variety denominations, making the overall registration procedures smoother and more efficient.

11.4. Insertion of Community trade marks into the Variety Finder

In May 2014, the CPVO included, in its Variety Finder database, the Community trade marks (CTMs) registered with the Office for the Harmonization of the Internal Market (OHIM) for the Nice Class 31. From then on, the CTMs were displayed in the denomination test results performed in the Variety Finder.

In the framework of the cooperation in denomination testing, the Office started to consider the CTMs in its analysis and to inform Member States about potential problems between registered CTMs and the proposed denominations.

However, after 1 month's experience, it was obvious that the insertion of the CTMs in the Variety Finder had a significant impact on the management of the requests for advice, on the processing time, as well as on the number of observations made by the Office.

The Office considered that this approach was not sustainable in the long term, as it does not have the human resources to conduct systematic detailed analysis of CTMs, without affecting the processing time. In addition, the reference to CTMs in advice turned out to be rather informative. Indeed, the CPVO does not consider the mere existence of a trade mark identical or similar to a proposal for a variety denomination as an impediment to prevent the registration of that denomination proposal and Member States seem to have adopted a similar approach.

The Office decided, therefore, that the CTMs would no longer be taken into consideration in the framework of the cooperation service in denomination testing. However, Member States still have the possibility to check all details of the CTMs which are separately displayed in the denomination test result. A direct link to the OHIM website is provided in the Variety Finder data sheets and allows users to get more information on the selected CTM that might be considered as relevant by the Member States.

12. INFORMATION TECHNOLOGY

During 2014, a series of significant projects were implemented as part of the overall vision for information technology (IT). This vision covers four overarching programmes which are considered crucial to the continuing development of the CPVO.

12.1. E-services

The e-services programme encompasses all of the various projects which will ensure that CPVO dealings with external stakeholders (clients, examination offices and partners such as OHIM and UPOV, etc.) shall be online, transparent, paperless and, to the extent possible, minimise manual intervention in the procedures.

During 2014, the 'exchange platform' project was implemented fully, allowing secure business-to-business (B2B) electronic exchange with examination offices for all business documents. In order to allow smaller examination offices to participate in such exchanges, without developments of B2B software, the 'CPVOBox' examination office portal was also created to provide a simple upload facility for documents.

As regards services for clients, the CPVO completed the first stage of its e-invoicing project to upgrade operational tools allowing direct electronic sending of invoices and credit notes. Furthermore, the first phase of the client portal project 'MyCPVO' was launched. This project aims to allow a complete online management from the application phase, right through to granting of the titles, with all communications available through the portal.

12.2. Operational improvements

Operational tools cover all the IT applications necessary for the day-to-day business of the Office. As it is the case every year, significant developments were made in 2014 in regard to internal operational tools which manage, inter alia, application processing, document management, human resources (HR) and finance.

In particular, during 2014, a new contract management module was implemented as part of the budgetary management system.

12.3. Communication tools

Strong internal and external communication channels are critical. As regards internal communication, the Office implemented a SharePoint platform to replace its intranet and shared servers. This project has allowed improved collaboration and a more coherent management of information. The improvement of the external website is an ongoing project within the Office as it is the key point of contact for many stakeholders.

During 2014, the use of an external information exchange platform, based on Sharepoint, was validated and will be rolled out in 2015. This tool allows an efficient and secured platform for collaboration with stakeholders.

12.4. Infrastructure development

During 2014, the process of virtualisation of servers continued, in line with the medium-term plan to virtualise infrastructure. Planning has begun for progressively preparing the CPVO for a move to cloud-based infrastructure.

13. COOPERATION WITH THE DIRECTORATE-GENERAL FOR HEALTH AND CONSUMERS

13.1. The President of the CPVO meets EU Health Commissioner, Vytenis Andriukaitis

Shortly after the confirmation of the new European Commission, the President of the CPVO met Health Commissioner Andriukaitis. It was an excellent opportunity to brief the Commissioner on the activities of the CPVO and the challenges faced.

The potential reform of the plant reproductive material (PRM) and the CPVO's Basic Regulation were addressed. As the PRM was formally removed from the Commission's 2015 work programme, after this meeting, the CPVO will now work to ensure that the reform of the Basic Regulation becomes a Commission priority.

Particular attention was also given to the threat that the proposed mandatory staff cuts pose to the efficiency of the CPVO and the service provided to EU citizens. The CPVO was most relieved to learn that the Commissioner was supportive to its plight as he voiced agreement that small, self-financed agencies should not be subject to blanket staff reductions.

13.2. Standing Committee on Community Plant Variety Rights

This European Commission committee had one meeting on 24 October 2014 to approve amendments proposed by the CPVO Administrative Council to the fees regulation, in order to better reflect the real costs of DUS testing by the examination offices. The new structure simplifies and reduces the number of cost groups.



CPVO President and Health Commissioner

13.3. Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry

This European Commission committee met six times during 2014 in Brussels and staff members of the CPVO attended three meetings as observers.

Of particular interest for the CPVO throughout 2014 were the following items:

- the Commission's updates and the related discussions on the review of the legislation related to seed and plant material and the discussions on the Commission's priorities for secondary acts of the PRM law;
- the discussions relating to alignment of botanical names of certain species with the international nomenclature;
- the presentation of a United Kingdom research project on populations;
- the discussions on the follow-up of a working party meeting on populations;
- discussions related to the implementing rules as to the suitability of denominations of varieties of agricultural plant species and vegetable species;
- the discussion on a draft Commission directive amending Commission Directives 2003/90/EC and 2003/91/EC setting out implementing measures for the purposes of Article 7 of Council Directives 2002/53/EC and 2002/55/EC respectively as regards the characteristics to be covered as a minimum by the examination and the minimum conditions for examining certain varieties of agricultural plant and vegetable species;
- information provided by the Commission on the common catalogues of vegetables and agricultural species;
- OECD developments in the area of barley hybrids.

The CPVO informs the members of the standing committee on a regular basis of developments of interest at the level of the CPVO and here, in particular, in respect of decisions taken by the CPVO Administrative Council on new or revised technical protocols for DUS testing.

13.4. Standing Committee on Propagating Material of Ornamental Plants

This European Commission committee did not meet in 2014.

13.5. Standing Committee on Propagating Material and Plants of Fruit Genera and Species

Council Directive 2008/90/EC on the marketing of fruit plant propagating material and fruit plants intended for fruit production was adopted on 29 September 2008 and needs to be implemented by the Commission.

One major issue in this directive is the obligation of official listing of varieties of fruit plants for their commercialisation in the EU as of 1 October 2012. The directive also establishes that fruit varieties granted CPVRs will automatically be authorised for marketing within the EU without any further need for registration. Implementing rules could, unfortunately, not be agreed upon by 1 October 2012 but were adopted in 2014 for implementation on 1 January 2017.

The CPVO participated in most of the standing committee and working group meetings organised by the European Commission on this subject. It assisted the European Commission in drafting some working group minutes and followed the development of discussions closely, especially on aspects related to DUS examination and the suitability of proposed variety denominations. The Office regularly communicated its views to the Commission in this respect.

13.6. Council working parties

Following an invitation from the Directorate-General for Health and Consumers to integrate the representation from the European Commission, the CPVO participated in the following Council working parties in 2014:

- coordination of UPOV meetings (Council, Consultative Committee, Technical Committee and Administrative and Legal Committee);
- agricultural questions, mainly dedicated to discussions on the draft regulation on PRM;
- coordination of OECD meetings on seed schemes (annual meeting).

14. EXTERNAL RELATIONS

14.1. Contacts with external organisations

14.1.1. Working with breeders' organisations

Regular interaction with the breeders' organisations is a top priority for the CPVO. The CPVO ensures it is in frequent contact with breeders' organisations — particularly those which represent the majority of users of the EU system. Ciopora, the ESA and Plantum are all key contributors to the work of the CPVO.

Representatives of these three organisations participate in the CPVO Administrative Council as observers and in all relevant meetings of technical experts organised by the Office. The organisations take an active part in and contribute to seminars and workshops organised by the CPVO to spread information on all aspects of the EU plant variety system.

The CPVO is most grateful for the very positive collaborations with these organisations, without which the CPVO could not transmit the EU's work on PVR to breeders.

14.1.2. Contacts with UPOV

The CPVO has participated in UPOV activities since 1996. In July 2005, the European Community (EC) became a member of the UPOV.

During 2014, as members of the EU delegation, CPVO officials participated in the activities of the UPOV and attended the meetings of the following bodies and committees of the international union:

- UPOV Council;
- Legal and Administrative Committee;
- Technical Committee;
- Consultative Committee;
- technical working parties (agricultural crops, vegetable crops, fruit crops, ornamental plants and forest trees, automation and computer programmes, and the working group on biochemical and molecular techniques, and DNA profiling in particular);
- Advisory Group of the Legal and Administrative Committee;
- ad hoc working group on the development of a prototype electronic application form;
- ad hoc working group on the development of a variety denominations search tool.

The CPVO collaborated in the first edition of the UPOV course 'Training the trainers' for Latin American countries, organised by the UPOV, the World Intellectual Property Organisation (WIPO) and the Spanish authorities, in Montevideo (Uruguay) in December 2014.

The CPVO also participated in the fifth international seminar on plant breeders' rights organised by the IEPI (Instituto Ecuatoriano de la Propiedad Intelectual), in cooperation with the UPOV and the INIAP (Instituto Nacional de Investigaciones Agropecuarias) in Quevedo (Ecuador) in October 2014. The CPVO made presentations on the EU plant

variety rights system and the organisation of DUS testing in the EU. On this occasion, a parallel meeting was organised with the IEPI to discuss further cooperation with the CPVO and its examination offices.

Senior officials of the UPOV office regularly attend meetings of experts or working groups organised by the CPVO dealing with technical and legal issues of common interest.

The CPVO signed a memorandum of understanding with the UPOV in October 2004 for a programme of cooperation. Within the framework of this cooperation, the CPVO exchanged information with the UPOV during the development of its CPVO Variety Finder in order to ensure compatibility with the existing UPOV plant variety databases (PLUTO database and UPOV-ROM). Both databases contain data on plant varieties for which protection has been granted or which are the subject of an application for protection, and also those which are included in national lists of varieties for marketing purposes.

The CPVO Variety Finder operates on the basis of a system of codes assigned to botanical names and developed by the UPOV. Since its release in July 2005, the Office and the UPOV have started to exchange data extensively, the UPOV collecting data from non-EU UPOV countries and the Office bringing together data from the EU.

In several regions of the world where countries are members of the UPOV, such as Asia, Africa, Latin America and the Caribbean, there is an emergent interest in knowing the details, accumulated experience and results relating to plant variety rights systems with a regional scope. The CPVO frequently provides speakers for seminars and technical workshops organised by the UPOV.

14.1.3. Contacts with the Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM)

As a follow-up to the actions started in 2012, an IT project in the field of testing variety denominations has been finalised in order to include in the Variety Finder database the Community trade marks registered in Class 31, namely plants. In this connection, the CPVO and the OHIM exchanged experiences in the field of trade mark examination, specifically dealing with the assessment of similarity and likelihood of confusion and variety denominations testing. Training has been mutually organised in this respect. Moreover, in 2014, the CPVO continued to participate in the enforcement and legal and international working groups of the European Observatory on Infringements of Intellectual Property Rights as well as in the plenary session, where it was proposed that the next version of the OHIM/EPO's intellectual property survey shall also include plant variety rights. Finally, the CPVO has participated in the preparation of the IP teaching kit and the case-law collection project of the Observatory by providing material on plant variety rights and the relevant case-law on infringement of Community plant variety rights. The project aims at collecting key national jurisprudence in relation to enforcement of IP rights in Member States.

14.1.4. Reducing bureaucracy for breeders through enhanced EU-US cooperation

In December 2014, the President of the CPVO travelled to the USA to create greater awareness of EU PVR and to foster closer working relations between the CPVO and its US counterparts.

The President of the CPVO participated in the annual meeting of the US Plant Variety Protection Board of the United States Department of Agriculture (USDA), where he presented the EU system of PVR, highlighting the advantages of the system such as the assessment of applications, the online application system and the Variety Finder database. The exchange of views showed that whilst the EU and US systems operate differently, there are common denominators.

He also gave a joint presentation with Dr Paul Zankowski, of the USDA, to the American Seed Trade Association. The key message of the presentation was that as UPOV members, it is important that the EU and the USA work together — ultimately reducing the administrative burden of breeders.

The CPVO looks forward to working with its US counterparts to continue to support and protect plant variety rights, so that breeders can continue to research and develop new plant varieties on both sides of the Atlantic.

14.1.5. Other contacts

The CPVO maintains regular external contacts by participating in meetings organised by:

- the Commission Directorate-General for Human Resources and Security — implementation matters regarding staff regulations;
- the Commission Directorate-General for the Budget — implementation of the new financial regulation.
- In addition, other fields of external activity can be mentioned, such as:
 - the relevant standing committees of the European Commission;
 - the Translation Centre Administrative Council;
 - the coordination of the EU agencies at management level;
 - the annual coordination meeting of the Publications Office with the EU agencies;
 - the meetings of the data protection officers of the EU agencies, as well as other working groups established under the umbrella of the coordination of EU agencies.

14.2. Training and promotion of the CPVR system

14.2.1. Participation in international fairs and open days

The CPVO considers its participation in international fairs and open days at examination offices to be a useful opportunity to promote the CPVR system, to have direct contact with applicants and to provide information to growers. In 2014, the Office participated in two fairs.

- At the end of January 2014, the Office attended the IPM (Internationale Pflanzenmesse) in Essen, Germany. The stand was shared with German experts from the Bundessortenamt. Even though the fair is open to the entire field of horticulture, the focus lies with ornamentals.
- The Salon du Végétal, which takes place at the end of February in Angers, France, is a fair mainly for growers of ornamental plants in which the Office regularly participates together with GEVES, the French examination office.
- On 24–27 February 2014, the CPVO expert for vegetables took part in several presentations in the training course for Spanish DUS examiners organised by the OEW near Madrid entitled 'Harmonisation in work undertaken for distinctness, uniformity and stability for new plant varieties, for entrusted centres of the CPVO. Rules of the OEW, CPVO and UPOV'. The course in Spanish was attended by 44 participants from 13 different testing/research institutes in Spain and aimed to ensure that the examiners were up to date on all the latest developments, principles and practices related to DUS testing at CPVO and UPOV levels.
- On 15 October 2014, the CPVO participated in an open day organised by the Bundessortenamt in Hanover (Germany) for breeders of *Calluna* varieties. The open day gave breeders an opportunity to familiarise themselves with the conduct of the technical examination as well as with the Bundessortenamt and the CPVO. The presentations and discussions were followed by a visit to the growing trial. The event was attended by some 30 participants; most of them were German breeders



Calluna open day, October 2014, Germany



Vegetable open day, October 2014, Spain

- On 21 October 2014, the CPVO co-hosted, together with the INIA and the OEVV, a vegetable open day in Valencia (Spain). The event was attended by nearly 80 participants from vegetable breeding/seed companies and examination offices in Spain and elsewhere in Europe. There was discussion around the eight presentations made by representatives of the three aforementioned organisations and the ESA, focusing on current issues in vegetable DUS testing and plant breeders' rights. The afternoon was spent visiting the vegetable trial facilities of the INIA where the examiners explained the intricacies of DUS testing salad crops under their local conditions. The event ended with conclusions on how improvements can be made to the vegetable sector in the future.

14.2.2. The multi-beneficiary programme on the participation of Albania, Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Serbia and Turkey in the Community plant variety rights system

Since 2006, the CPVO has been participating in the so-called multi-beneficiary programme aimed at preparing candidate countries for accession to the EU. This programme was initially set up for Croatia and Turkey. In 2008, it was extended to the former Yugoslav Republic of Macedonia, and since 2009, it has been open to all countries in the western Balkans region. Albania and Serbia expressed an interest in participating in its activities in 2009, Bosnia and Herzegovina in 2010, and Kosovo under UNSC Resolution 1244/99, in 2014. Croatia, although an EU Member State since 1 July 2013, also profited from the programme which ran till autumn 2014.

Within the framework of this programme, representatives of the national plant variety rights authorities were invited to participate in crop expert meetings held regularly at the CPVO as well as the open day held at the Spanish examination office in Valencia (Spain) on the occasion of the annual vegetable experts' meeting. Furthermore, practical DUS training sessions for DUS crop experts were given by CPVO examination offices, such as on cereal and potato varieties for experts from Albania, Kosovo and the former Yugoslav Republic of Macedonia, given by the Polish examination office Coboru; on *Dianthus* and *Gerbera* varieties given by experts from Naktuinbouw at the Turkish testing station

in Antalya; on fruit varieties for experts from Croatia, Serbia and the former Yugoslav Republic of Macedonia given by the French GEVES and the German Bundessortenamt; on nut varieties for Serbian experts at the Hungarian examination office; and on varieties of medical plants given by the Bundessortenamt. Furthermore, Serbian experts were trained by French experts from GEVES in the software for the management of reference experts (GAIA) programme and by Czech experts on the quality requirements an examination office working on behalf of the CPVO has to meet. The CPVO held a workshop on variety denominations and the related databases for Croatian experts.

In addition to the training sessions, the programme also provided funding to enable beneficiaries to participate in the CPVO's seminar on the enforcement of plant variety rights, held in June in Zagreb, and to allow experts from Albania, Bosnia and Herzegovina, Croatia, Kosovo and Turkey to participate in a 2-week training course on plant variety protection given by the University of Wageningen in the Netherlands. For experts from Kosovo, workshops explaining the need for a plant variety rights' system, cooperation between the CPVO and its examination offices when processing applications, as well as the duties and structures of an examination office, were held.

14.2.3. Draft African Regional Intellectual Property Organisation (ARIPO) 'plant variety protocol' nearing conclusion

In October 2014, the President of the CPVO travelled to Zimbabwe to share the CPVO's knowledge of regional PVR systems and to assist the African Regional Intellectual Property Organisation (ARIPO) to develop their own system of regional PVR. In the Zimbabwe-based workshop good progress was made to bring the Member States together towards a new protocol.

The ARIPO PVR proposal has now entered the final stages of drafting. It is expected that the draft protocol will be presented for adoption at a diplomatic conference in August 2015. The adoption of this protocol will allow a regional PVR system to be implemented in the ARIPO countries that will sign up to the adopted protocol. This protocol will mark an important step in the ARIPO's journey towards UPOV membership.

The ARIPO members are listed below: Gambia, Ghana, Kenya, Lesotho, Liberia, Malawi, Mozambique, Namibia, Rwanda, São Tomé and Príncipe, Sierra Leone, Somalia, Sudan, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe.

14.2.4. African Intellectual Property Organisation (OAPI) — the second intergovernmental organisation to join the UPOV

The African Intellectual Property Organisation (OAPI) became the second intergovernmental organisation and the 72nd member to join the UPOV in 2014.

The OAPI operates a PVR system which covers the territory of its 17 Member States: Benin, Burkina Faso, Cameroon, Central African Republic, Chad, Comoros, Congo, Equatorial Guinea, Gabon, Guinea, Guinea Bissau, the Ivory Coast, Mali, Mauritania, Niger, Senegal and Togo.

The CPVO offers its congratulations to the OAPI and looks forward to working together to broaden international cooperation in the field of PVR.

14.2.5. Making PVR an educational centrepiece

In November 2014, the CPVO teamed up with the University of Alicante to introduce a module on PVR to their IP masters' programme. This follows similar agreements with the CEIPI University in Strasbourg and the University of Wageningen in the Netherlands. Ensuring that PVR will be included in the IP curriculums of these universities will allow the CPVO to have direct dialogue with aspiring IP experts.

PVR is often neglected in classical IP academic programmes. Now it will be an integral element of their IP curriculums. This cooperation will invite institutional and academic specialists to focus, exclusively, on PVR issues. This unique series of lectures will also enhance awareness of potential EU careers for talented young minds.

In December 2014, the CPVO and Queen Mary University of London joined forces to improve the CPVO case-law database. Together, they are working to compile and format all plant variety case-law across the EU. Such an improved database will allow the CPVO to develop a greater understanding of the national implementation of PVR, while also fostering a culture of PVR excellence.

The above partnerships highlight the importance the CPVO attaches to the creation of PVR experts and its commitment to continue to attract the best minds to the field of PVR.

The CPVO is eager to attract the brightest aspiring IP experts to the field of PVR and engaging with universities is the right way to do so.



Agreement with the CEIPI, October 2014, Strasbourg, France

15. PUBLIC ACCESS TO DOCUMENTS



DUS trials on tulips, the Netherlands

In 2001, specific rules on public access to documents held by the European Parliament, the Council and the Commission were introduced by the adoption of Regulation (EC) No 1049/2001⁽¹⁾. In order for these rules to apply also to documents held by the Office, a new article, Article 33a, was introduced into the Basic Regulation in 2003 by the adoption of Council Regulation (EC) No 1650/2003⁽²⁾.

Article 33a contains the following elements.

- Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents shall also apply to documents held by the Office. This provision entered into force on 1 October 2003.
- The Administrative Council shall adopt practical arrangements for implementing Regulation (EC) No 1049/2001. The Administrative Council adopted such practical arrangements on 25 March 2004. These rules entered into force on 1 April 2004.
- Decisions taken by the Office on public access to documents may form the subject of a complaint to the Ombudsman or of an action before the Court of Justice.

Regulation (EC) No 1049/2001 and the rules adopted by the Administrative Council (modified during the October 2014 meeting of the Administrative Council in order to reflect the new work organisation within the Legal Unit of the CPVO) are available on the website of the Office. Information on these rules and forms to use when requesting access to a document are also published on the website of the Office.

The Office follows up the implementation and application of the rules on public access to documents by reporting annually on information such as the number of cases in which the Office refused to grant access to documents and the reasons for such refusals.

⁽¹⁾ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145 of 31.5.2001, p. 43).

⁽²⁾ Council Regulation (EC) No 1650/2003 of 18 June 2003 amending Regulation (EC) No 2100/94 on Community plant variety rights (OJ L 245 of 29.9.2003, p. 28).

Year of receipt	Number of requests for access received	Number of refusals	Reasons for such refusals	Confirmatory applications
2004	30	6 (partial)	Confidential technical questionnaire not sent	
2005	55	2 (partial)	Confidential technical questionnaire not sent	
2006	58	6 (partial)	Confidential technical questionnaire not sent	
2007	55	17 (partial)	Confidential technical questionnaire not sent/information of commercial interest not sent	2 (successful)
2008	57	19 (partial)	Confidential technical questionnaire/photo/assignment not sent	1 (unsuccessful)
2009	54	28 (partial)	Confidential technical questionnaire not sent/information of commercial interest not sent/photos not available	2 (successful)
2010	63	29 (partial)	Confidential technical questionnaire not sent/information of commercial interest not sent	1 (unsuccessful)
2011	71	27 (partial)	Confidential technical questionnaire not sent/information of commercial interest not sent	2 (1 unsuccessful and 1 successful)
2012	88	57 (partial)	Confidential technical questionnaire not sent/information of commercial interest not sent	8 (3 unsuccessful and 5 successful)
2013	63	18 (partial)	Confidential technical questionnaire not sent/information of commercial interest not sent	1 (unsuccessful)
2014	81	27 (partial)	Confidential technical questionnaire not sent/information of commercial interest not sent	4 (1 unsuccessful and 3 successful)

16.

REPORT OF THE DATA PROTECTION OFFICER (DPO)

16.1. Legal background

Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data was adopted for the purpose of complying with Article 16 of the Treaty on the Functioning of the European Union. Article 16 requires the application to the EU institutions and bodies of the Union acts on the protection of individuals with regard to the processing of personal data and the free movement of such data.

'Processing of data' has quite a broad meaning, and means not only transferring data to third parties but also collecting, recording and storing data, whether or not by electronic means.

16.2. Role and tasks of the DPO

Regulation (EC) No 45/2001 requires the nomination of at least one DPO in the EU institutions and bodies. The DPO should ensure, in an independent manner, the internal application of the provisions in the regulation.

The DPO keeps a register of all the processing operations carried out by the CPVO and involving personal data. This register, which must contain information explaining the purpose and conditions of the processing operations, is accessible to any interested person in the DPO intranet webpages.

By decision of the CPVO President of 2 April 2014 a part-time DPO was appointed for a term of two and a half years.

16.3. Report of the DPO for 2014

16.3.1. Register of data processing operations

The DPO maintains a register of data protection operations in the form of a database, available from the CPVO intranet, under the DPO section. This register contains notifications (Article 25) received from the controllers, as well as prior checking operations (Article 27) sent to the European data protection supervisor (EDPS) for an opinion.

By the end of 2014, the register contained 60 entries composed of 41 notifications and 19 prior-checking operations with an opinion from the EDPS.

16.3.2. Inventory of data processing operations

An inventory of new or amended processing operations within the CPVO is regularly updated. Notably the recent changes in the staff regulations and the new implementing

rules adopted at Commission level have created the need to adapt the Office's set of notifications. This inventory contained, at the end of 2014, 27 processing operations that were in the process of being implemented. Eight processing operations were related to Commission decisions and would follow the notification procedure initiated by the Commission DPO. The EDPS had pointed out previously that no additional notifications by institutions and agencies were required for any implementing rule already notified by the Commission DPO.

16.3.3. Thematic guidelines of the EDPS

The EDPS issues guidelines on specific themes in order to provide guidance for EU institutions and bodies in certain fields relevant to them, such as recruitment, processing of disciplinary data and video surveillance.

These guidelines also facilitate the prior checking by the EDPS of processing operations in the EU agencies as they serve as a reference document against which agencies can measure their current practices.

The EDPS adopted a thematic guideline concerning the processing of personal data with regard to the management of conflicts of interest. He also published, *inter alia*, a position paper on the transfer of personal data by EU institutions and bodies that is intended to serve as a reference to the institutions.

16.3.4. Information provided to data subjects

The staff members of the CPVO are informed about data protection issues through the DPO intranet, which is updated on a regular basis. It contains the principles of data protection, the subjects' rights, the controller's obligations, the regulation, some documents and decisions of the President relating to data protection issues, data protection notices and privacy statements, the register, the forms for notifications to the DPO and a contact e-mail address.

Processing of personal data relating to other individuals is routinely made in conjunction with a specific data protection notice that is made available to the data subject before any data are collected.

16.3.5. Meetings of the DPO network in 2014

As a function common to all EU institutions and bodies, DPOs are now well established and regularly meet within a DPO network twice a year. These meetings are organised in order to share know-how and best practices. They usually contain a training module and a session with the EDPS.

The DPO of the CPVO participated in two meetings of the DPO network, in Brussels (June 2014) and Thessaloniki (November 2014).

17. APPEAL PROCEDURES

17.1. Composition of the Board of Appeal of the CPVO

The Board of Appeal of the CPVO is composed of a chairperson, an alternate to the chairperson and qualified members.

17.1.1. Chairperson and alternate of the Board of Appeal

Mr Paul van der Kooij's position as Chairperson of the Board of Appeal was renewed for a term of 5 years by a Council Decision of 4 December 2012 (OJ C 378, 8.12.2012, p. 2). His alternate, Ms Sari Haukka, was appointed by a Council Decision of 12 July 2011 (OJ C 209, 15.7.2011, p. 17). Her mandate runs from 15 October 2011 until 14 October 2016.

17.1.2. Qualified members of the Board of Appeal

In accordance with the procedure prescribed by Article 47(2) of Council Regulation (EC) No 2100/94, the Administrative Council of the CPVO, at its meeting of 16 February 2011, adopted the following list of 19 qualified members of the Board of Appeal for a period of 5 years starting on 23 February 2011 (21 members were appointed but two members resigned, on 24 November 2011 and on 12 November 2012).

List of qualified members 2011–16

- | | |
|-------------------------------------|--|
| 1. Cornelis Joost Barendrecht | 11. Michaël Köller |
| 2. Pier Giacomo Bianchi | 12. Miguel Angelo Pinheiro de Carvalho |
| 3. Richard Bianchi | 13. Dirk Reheul |
| 4. Beatrix Boenisch | 14. Kurt Riechenberg |
| 5. Richard Brand | 15. Timothy Wace Roberts |
| 6. Zoltán Csurić | 16. Elizabeth Scott |
| 7. Krieno Adriaan Fikkert | 17. Hanns Ullrich |
| 8. Huibert Cornelis Helmer Ghijssen | 18. Nicolaas Petrus Antonius Van Marrewijk |
| 9. Joël Guiard | 19. Arnold Jan Piet Van Wijk |
| 10. Helen Johnson | |



Board of Appeal meeting, Angers, France



Board of Appeal meeting, April 2014, Angers, France

17.2. Decisions of the Board of Appeal in 2014

The Board of Appeal took six decisions in 2014:

- On 13 January 2014, in Appeal Case A006/2013 ('Gradivina'), the appellant agreed to waive his right to be heard provided by Article 71 of Council Regulation (EC) 2100/94 and the Board of Appeal dismissed the appeal.
- On 4 April 2014, in Appeal Case A004/2013 ('Sprilecpink'), the Board found that the appeal was admissible but not well-founded. Decision R1175 of the CPVO was upheld and the appellant had to bear the costs of the appeal proceedings.
- On 1 July 2014, in Appeal Case A008/2013 ('Banana Cream'), the Board found the appeal admissible and well-founded and set aside Decision No R 1202 of the CPVO of 29 July 2013. The Board decided that the CPVO had to conduct a new DUS testing of the candidate variety 'Banana Cream' and to bear the cost of the appeal proceedings.
- On 2 July 2014, in Appeal Case A007/2013 ('Oksana'), the Board found the appeal admissible and not well-founded. The contested decisions were upheld and the appellant had to bear the costs of the appeal proceedings.
- On 11 September 2014, in Appeal Case A016/2013 ('Skonto'), the appellant agreed to waive his right to be heard provided by Article 71 of Council Regulation (EC) 2100/94 and the Board dismissed the appeal. The appellant had to bear the costs of the appeal proceedings.
- On 26 November 2014, in Appeal Case A010/2013 ('M02205'), the Board dismissed the appeal and rejected the request for a new DUS examination. The appellant had also to bear the costs of the appeal proceedings.

The decisions are summarised below.

17.2.1. Appeal Case A006/2013 — 'Gradivina'

Background

On 18 April 2011, the CPVO granted a Community plant variety right for the variety 'Gradivina' of the *Malus domestica* Borkh species.

On 19 December 2012, the CPVO sent an invoice to the procedural representative of the holder for an amount of EUR 300 that corresponded to the third annual fee of the period between 18 April 2013 and 17 April 2014. Since the appellant did not proceed with the payment of the annual fee in the time limit specified in Article 9(2) of Commission Regulation (EC) No 1238/95 of 31 March 1995, the CPVO sent, on 11 March 2013, a registered mail with acknowledgement of receipt to the procedural representative with reference to the non-payment of the annual fee and gave a deadline of 1 month for the payment of the annual fee. The annual fee was not paid within the specified time limit, hence the CPVO cancelled the title on 17 June 2013 pursuant to Article 21(2)(c) of the Basic Regulation.

On 22 July 2013, the holder (hereinafter 'the appellant') lodged an appeal against the cancellation decision. The appellant also proceeded to the payment of the annual fee. The CPVO did not rectify its decision pursuant to Article 70 of the Basic Regulation.

Arguments raised by the parties

- The appellant argued that he had never received the registered mail with acknowledgement of receipt for unknown reasons. He also noted that he had eventually paid the third annual fee on 15 July 2013.
- The CPVO argued that the acknowledgement of receipt of the registered mail had been signed and that the appellant was informed that the annual fee was not paid.
- The CPVO has submitted evidence that the letter with delivery confirmation of 8 March 2013 has been duly received by the procedural representative of the CPVR's holder. Based on that, the said procedural representative could not validly claim that he did not receive it. The said letter contains the second request for payment of the annual fees pursuant to Article 83(2) of the Basic Regulation

Decision of the Board of Appeal

The Board of Appeal stated that the CPVO bears the burden of proof for establishing that the service of the letter was made to the recipient. According to constant jurisprudence, the sending of an official communication by a registered mail with acknowledgement of receipt is an appropriate means of service as it enables the establishment, with certitude, of the date on which a given deadline starts to run. In the present case, the appellant did not claim that the acknowledgement of receipt was signed by a non-authorised person. Moreover, the existence of a valid notification by registered mail with acknowledgement of receipt is not conditional upon providing the evidence of the effective knowledge by the recipient of the letter. In order to be validly notified, a communication shall have been served on the recipient and it suffices that the latter has been placed in the position to have knowledge of the content of the said communication.

The Board of Appeal concluded that the confirmation of delivery serves this purpose as it enables the sender to obtain evidence of the delivery of the communication. By decision of 13 January 2014, the Board of Appeal rejected the said appeal.

17.2.2. Appeal Case A004/2013 — 'Sprilecpink'

Background

In December 2009, Sprint Horticulture, Australia, filed an application at the CPVO for the variety 'Sprilecpink' of *Cordyline banksii* (Application No 2010/0038). During the technical examination the submitted sample was concluded to be non-uniform. The plant material was propagated through tissue culture and 20 out of 25 plants grown in the trial had side branches, where the maximum acceptable number of off-types in a sample size of between 6 and 35 plants is one.

The CPVO issued a negative decision rejecting the application on the basis that the applicant had failed to comply with Article 55(4) or (5) of Regulation 2100/94, namely to submit suitable plant material for the test.

The applicant (hereinafter ‘the appellant’) appealed against that decision on 5 September 2013.

Arguments raised by the parties

- The appellant argued that it had fully complied with the requirements to submit plant material and that the basis for the rejection was incorrect. On that basis, the applicant requested that the decision to reject the application be cancelled and that the case be remitted back to the CPVO for a complementary examination.
- The CPVO claimed that the instructions regarding the submission of plant material were clear. The CPVO further argued that the appellant did not inform the CPVO about the need to grow the plants in accordance with specific growing conditions in the application nor did he contest the said conditions during the trial.

Decision of the Board of Appeal

The Board of Appeal found the appeal not well-founded.

As regards, firstly, the technical basis for rejection of the application, the lack of uniformity was consequent to the conditions of the samples as submitted. The result of the technical examination has shown that the said uniformity problems were caused by the non-suitability of the submitted material, which did not comply with the requirements established under Article 55(4) of the Basic Regulation. Secondly, as regards the request for submission of plant material, the general instructions of the CPVO cover far more than the details in the CPVO’s letter to the applicant with the instructions on the submission of plant material, and hence it is implicit that they also apply. Moreover, the general instructions are made available on the website of the CPVO and the latter can always be contacted in case of doubt. The general instructions recommend in particular that ‘plant material that has been reproduced by micro-propagation must be sufficiently established, hardened and of equivalent size to comparable plug plants. Micro-propagation must not have any influence on the plants’ appearance during the technical examination’.

The acceptance by the examination office of the submitted material was correct, since the said material was deemed to be healthy on arrival. When visiting the trial in April 2012, the appellant did not raise any concern in relation to the trial set up nor was there any advice given as to growing conditions prior to the start of the trial.

The submitted material was tested and considered representative of the variety. When the variety is routinely micro-propagated, different issues may arise during the multiplication if it is not carried out with due care. Therefore, it is the applicant’s responsibility to ensure

that the variety does not change during the propagation process and that the submitted sample is, therefore, representative and suitable for DUS testing.

On the above basis, the Board of Appeal found no grounds for upholding the request of a new trial and consequently dismissed the appeal.

17.2.3. Appeal Case A008/2013 — ‘Banana Cream’

Background

On 20 September 2010, Walters Gardens Inc. filed an application for the variety ‘Banana Cream’ of the species *Leucanthemum x superbum* (Bergmans ex J. W. Ingram) D. H. Kent (Application No 2010/1743).

During the technical examination, the examination office could not observe any differences from the reference variety ‘Leumayel’. A second cycle of observations was, therefore, undertaken. However, no differences were observed. As a result, a final negative report was established by the examination office and sent to the CPVO.

The applicant raised doubts regarding the identity of the plant material used to represent the reference variety. The examination office informed the CPVO that the said plant material of ‘Leumayel’ had been delivered by the owner of the said variety and that a check had been done during the first growing cycle using the official description of ‘Leumayel’. As a conclusion, the plant material had been declared to be in conformity with the official description of ‘Leumayel’.

On 11 September 2013, the applicant (hereinafter ‘the appellant’) lodged an appeal asking the Board of Appeal to confirm the distinctness of the candidate variety or, alternatively, to perform a further technical examination including plant material of ‘Leumayel’ supplied from at least a source different from its holder.

Arguments raised by the parties

- The appellant claimed that the plants used in the DUS testing were not plant material of ‘Leumayel’ in particular due to the presence of lateral flowering branches in the sample which are not present in the said variety.
- The CPVO claimed that the said characteristic was not part of the protocol used in 2006 to describe ‘Leumayel’. This does not mean that lateral flowering branches were not present at the time. However, there are no data to prove that.

Decision of the Board of Appeal

The Board of Appeal found that the identity of the reference variety was doubtful. Taking into account that the said characteristic was one of those mentioned by the applicant to distinguish ‘Banana Cream’ from ‘Leumayel’, the uncertainty on the identity of the

reference variety jeopardises the applied-for variety for lack of distinctness from the reference variety.

Therefore, the Board decided that a new DUS test has to be undertaken with samples of the reference variety 'Leumayel' taken at least from three different sources to be included in the trial, including one sample from the holder of the CPVR for 'Leumayel', in order to check in particular whether 'Leumayel' has or does not have lateral flowering branches.

17.2.4. Appeal Case A007/2013 — 'Oksana'

Background

On 8 June 2005, the CPVO received an application for the variety 'Oksana' of the species *Pyrus communis* L. (Application No 2005/1046). In the application form, the applicant mentioned that the breeder was the Research Institute for Horticulture based in the Republic of Moldova and that the rights to the variety were acquired through a contract with the breeder.

The examination office informed the CPVO that the variety 'Oksana' had been included in its reference collection for more than 20 years and that it had been commercialised in Switzerland by Rheinbaumschulen nurseries under the trade mark 'Novembra' for about 6 years and that other nurseries informed the examination office of their intention to commercialise it in Germany.

During the application proceedings, several objections for lack of novelty have been filed. On the basis of the information received by the objectors, the CPVO asked the examination office to guarantee that plant material of varieties sold under other names, namely 'Nojabrskaja' and 'Novembra', were used as comparison varieties in the DUS test of 'Oksana'. The examination office replied that the variety 'Nojabrskaja' was already included in the trials and that plant material of 'Novembra' would be ordered.

Despite the foregoing, the result of the DUS test was positive. Consequently, the CPVO inquired with the examination office whether the variety of common knowledge 'Nojabrskaja' was used in the DUS examination for the variety 'Oksana' since the final technical examination report was positive. The examination office answered, stating that there had never been any doubt that 'Nojabrskaja' and 'Oksana' were the same variety. It further stated that it was confirmed during the trial examination that the plant material submitted by the applicant and the plant material of 'Nojabrskaja' kept in the reference collection of the examination office were identical. Consequently, there had not been a problem of distinction but of novelty as from the beginning of the procedure. The UPOV variety description is not likely to allow the comparison of a variety with itself but with another one, namely the most similar one. This is the reason why the variety was not compared to itself but to the closest known variety 'Gräfin von Paris'.

Following the receipt of clarifications from the examination office, the CPVO asked the examination office to draft the technical report in order to make clear that under point 17 of

the variety's description the candidate variety at the end of the technical examination was found to be the same as the variety of common knowledge 'Nojabrskaja', which according to the declarations of the examination office, has been present in the Wurzen testing station's reference collection since 1982. On that basis, the CPVO rejected the application for 'Oksana' for lack of novelty.

On 6 September 2013, Ten Hoopen Jonker Fresco, Attorneys at Law, filed an appeal on behalf of Boomkwekerij van Rijn — de Brujin BV. Artevos GmbH and the Dachverband Kulturpflanzen- und Nutztiervielfalt, both parties to the proceedings, as referred to in Article 59(2) of Council Regulation No 2100/94, expressed their wish to be parties to the appeal proceedings.

Arguments raised by the parties

- The appellant argued that the CPVO was wrong to focus disproportionately on whether the variety 'Nojabrskaja' was of common knowledge and then formally concluded that the variety 'Oksana' was not novel within the meaning of Article 10 of the Basic Regulation.
- The appellant rejected the fact that the variety 'Nojabrskaja' was of common knowledge, which would affect only the distinctness of the variety should this be the case. He underlined that the final technical examination report found the variety 'Oksana' to be distinguishable from any other variety of common knowledge.
- The appellant argued that none of the arguments put forward by the CPVO, nor the accounts submitted by the opponents, showed that constituents or harvested material of the variety 'Oksana' had been sold or otherwise disposed of longer than allowed by the Basic Regulation.
- The appellant further argued that, in his opinion, the CPVO lacked the authority to have an improved description of the variety prepared.
- Finally, the appellant held that the CPVO should have been more complete in its communication with the applicant and should have taken its decision to refuse to grant a Community plant variety right to the candidate variety 'Oksana' much earlier.
- During the oral hearing, the representative of the examination office who participated in the CPVO delegation explained that it had been common practice in the countries of the former eastern European countries to distribute a new plant variety over several institutes in order to spread material among growers as soon as it showed good prospects, which was the case for the 'Nojabrskaja' variety.
- The appellant replied that the breeder of 'Nojabrskaja' had not been aware of the transfer of material of that variety to the collection of Wurzen in 1982.

Decision of the Board of Appeal

The Board found the appeal admissible but not well-founded for the following reasons.

- *On the question as to whether 'Nojabrskaja' is a variety of common knowledge*

The Board held that the answer to this question was not relevant for the assessment of the grounds of rejection, i.e. whether or not the candidate variety was new at the time of the

Application No 2005/1046. So there was no need for the Board to consider the pleading in this respect.

Nevertheless, for the sake of completeness, the Board pointed out that since the applicant had indicated on the application form that the candidate variety was the same variety as the previously bred 'Nojabrskaja' variety, 'Nojabrskaja' had to be considered a commonly known variety at the time of filing Application No 2005/1046. However, the commonly known 'Nojabrskaja' variety played no role in the assessment of the distinctness of the candidate variety because the candidate variety, which is the same variety as 'Nojabrskaja', must be distinguishable from any other variety according to Article 7(1) of Council Regulation No 2100/94.

- *On the novelty of the candidate variety*

The Board found that the numbers and the nature of the plant material (500 trees of 1 and 2 years old as well as small bushes of the 'Nojabrskaja' variety) in the relevant debit notes in the years 2000 to 2003 addressed to commercial companies contradicted the claim that the sales were not made for the purpose of exploitation of the variety. As a consequence, the Board rejected the claim that the candidate variety 'Oksana' was new on the application date.

The Board also rejected the claim that this trading took place without the breeder's consent since it could not find any suitable evidence but merely a declaration of the breeder to the appellant stating that prior to the submission of application 2005/1064 no constituents or harvested material of the candidate variety had been sold or otherwise disposed of to third parties by him or with his consent in or outside the European Union for purposes of exploitation of the said variety.

- *On the revision of the variety description*

Article 56(2) of Council Regulation No 2100/94 stipulates that the CPVO can give instructions with regard to the execution of the technical examination. Taking into account the fact, demonstrated above, that the candidate variety was the same variety as the previously bred 'Nojabrskaja' variety, the Board concluded that the CPVO was not only authorised to instruct that the description of the variety should reflect the answer but also exercised due care when it did so.

- *On other procedural matters*

The Board rejected the claim that the appellant had been informed at a late stage of some findings and documents. The fact that the CPVO may not have acted promptly enough did not restrict the appellant in his possibilities to react and could not be considered as a ground for annulment of the disputed decision.

The Board of Appeal concluded that the candidate variety 'Oksana' was not new in the sense of Article 10 of Council Regulation No 2100/94 and therefore did not comply with Article 6 of the same regulation. The Board rejected the appeal and upheld CPVO Decision R 1232 and related Decisions Nos OBJ 13-086, OBJ 13-087, OBJ 13-088 and OBJ 13-090.

17.2.5. Appeal Case A016/2013 — ‘Skonto’

Background

By Decision No C847 of 18 November 2014, the CPVO cancelled the Community plant variety right EU 26183 granted on 19 October 2009 to the *Solanum tuberosum* L. variety ‘Skonto’, based on non-payment of the fifth annual fee.

The holder (hereinafter ‘the appellant’) of the CPVR lodged an appeal on 28 November 2013 against that decision of the CPVO.

Arguments raised by the appellant

In his grounds of appeal, the appellant argued in essence that the non-payment was due to an ‘error’ in the internal accounting system of his company.

Decision of the Board of Appeal

The Board of Appeal dismissed the appeal as unfounded.

The Board considered that the above ground referred to circumstances which fell exclusively within the internal area of responsibility of the holder.

It furthermore stated that Article 21 of the Basic Regulation did not foresee any such circumstances to prevent cancellation of a CPVR and that no rule could form the legal basis for restoring a cancelled CPVR (therefore, once a CPVR is cancelled, its revival is not possible).

Finally, the Board held that under Article 21(2) of the Basic Regulation no objection could be raised against the order for payment procedure chosen by the CPVO and the implementation of that procedure (namely the request of the CPVO to pay the annual fee within a time limit specified by it).

17.2.6. Appeal Case A010/2013 — ‘M02205’

Background

Following a nullity request by Aurora S.r.l., Finaly Emilia (MO), Italy, the CPVO issued Decision NN 010 on 23 September 2013, refusing to declare null and void the CPVR EU 15118 granted for the variety ‘M 02205’ (Application No 2002/1973).

On 4 October 2013, Brantsandpatents lodged, on behalf of its client Aurora S.r.l., an appeal against the rejection by the CPVO with Decision No NN010 of its request for nullity. The appellant requested that the contested decision (to maintain CPVR 15118 in force) be revoked in full as the sugar beet variety ‘M02205’ did not comply with the requirements

of Articles 7 to 11 of the Basic Regulation. The title holder, SESVanderHave, confirmed its wish to become party to the appeal proceedings.

Arguments raised by the parties

- The appellant argued that he had understood the 'distinctness information' (DI) included in the grant of CPVR EU 15118 to be the primary information upon which distinctness of the granted CPVR was based and maintained that there was no distinctness evident in this case from the stated reference varieties 'Dieck 3903' and 'KW 043' included in the DI.
- The appellant queried the failure of the examination office to correct the DI more effectively and questioned the inclusion of irrelevant characteristics.
- The appellant also underlined that a copy of the underlying test data in the Swedish examination office had been requested but never furnished by the CPVO. The only information available to the appellant was from 'public access' to the relevant application files.
- The appellant stated that the numerous amendments subsequently made to the original DI form, included in the certificate for CPVR EU 15118, could only result in making the initial grant null and void for lack of distinctness. In patent law, such amendments were not acceptable.
- The appellant further argued that the CPVO and the examination office compared living material with data collected at an earlier date and, as such, no direct comparison of living material was made, which was contrary to the rules.
- Finally, the appellant stated that the report on distinctness, uniformity and stability and the DI were both invalid as they compared figures from different test years.
- The holder of the right replied that the distinctness information did not play such a 'key role' but merely contained information derived from the relevant test results during the two subsequent test cycles since neither Article 62 of the Basic Regulation nor the CPVO sugar beet protocol (CPVO-TP/Sugarbeet/1) requires that a separate DI form be prepared. The basis for distinctness was contained in the report and variety description. For sugar beet varieties, the practice was indeed to include the DI but examination offices differ in their policies.
- The CPVO held that the testing had been performed in accordance with the CPVO protocol and the relevant UPOV test guidelines and that the CPVO relied entirely on the expertise of the Swedish examination office, including their database of test results.
- The CPVO confirmed that the DI document was not 'key information' but rather complementary. The CPVO had no rigid rules on the inclusion of this information and it is entered in the report at the discretion of the relevant examination office.
- The CPVO recognised that errors had been made with regard to the DI, but stressed that all the crucial information contained within the report and the variety description was included in the CPVR certificate.

- The CPVO concluded that, (1) the testing of a candidate variety had been performed according to the CPVO protocol and the UPOV recommendations, (2) the candidate had been compared with all reference varieties during two successive cycles in the field, (3) all recorded data were stored in a database, (4) DUS reports were drawn up in accordance with the instructions, (5) positive reports were completed with a variety description according to the UPOV model, and (6) distinctness information based on the testing cycle had been included.

Decision of the Board of Appeal

The Board of Appeal found the appeal admissible but not well-founded for the following reasons.

- *On the distinctness information*

The Board considered that the appellant overestimated the importance of the said distinctness information document as it concerns additional information derived from the test results. Nevertheless, the Board invited the CPVO and the examination office to carefully inspect such information and to pay special attention to the relevance of any such data, if and when included. Under Article 87(4) of the Basic Regulation, the CPVO can correct obvious mistakes or errors. The variety description in this case has not been changed.

- *Direct comparison in field tests*

The Board held that direct comparison of living material took place. Because of yearly and environmental influences on the expression of characteristics in botanic material, candidates cannot be compared with earlier collected and documented results.

- *Request for additional information and 'public access'*

The Board recognised that not all the data in possession of the examination office were made available to the appellant (namely data on test recordings). However, any such data would not change the outcome of the appeal. Probably the fact that the said data were not made available was due to a miscommunication between the Technical Unit of the CPVO and the examination office.

- *Reliability of the plant variety protection system*

The parallels drawn by the appellant between the patent and the plant variety system were found irrelevant.

The Board rejected the appeal as well as the claim for damages compensation under Article 33(3) of the Basic Regulation.

17.3. Further appeals to the Court of Justice in 2014

In accordance with Article 73 of Regulation (EC) No 2100/94, a further appeal to the Court of Justice shall lie from decisions of the Board of Appeal.

17.3.1. New further appeals in 2014

In 2014, three further appeals were lodged with the General Court.

- Cases T-91/14 and T-92/14 were lodged with the General Court on 1 February 2014 against Decisions A003/2007 and A004/2007 of 20 September 2013 of the Board of Appeal of the CPVO for 'Gala Schnitzer'.
- Case T-767/14 was lodged with the General Court on 17 November 2014 against Decision A007/2013 of the Board of Appeal of the CPVO for 'Oksana'.

17.3.2. Rulings by the General Court and the Court of Justice of the European Union in 2014

In 2014, no ruling — either by the General Court or by the Court of Justice — has been delivered in 2014.

17.3.3. State of affairs of the further appeals lodged with the Court of Justice of the European Union

Case No before the General Court	Contested decision No	Variety denomination	Date of General Court ruling	Date of further appeal to the Court of Justice	Case No before the Court of Justice	Date of Court of Justice ruling
T-95/06	A001/2005	Nadorcott	31.1.2008	N/A	N/A	N/A
T-187/06	A003/2004	Sumcol 01	19.11.2008	29.1.2009	C-38/09 P	15.4.2010
T-187/06 DEP I	Non-payment of recoverable costs of the proceedings T-187/06	Sumcol 01	16.9.2013	N/A	N/A	N/A
N/A	N/A	Sumcol 01	N/A	7.2.2013	C-38/09 P-DEP	10.10.2013
T-133/08	A007/2007	Lemon Symphony	18.9.2012	28.11.2012	C-546/12 P	Pending
T-134/08	A006/2007	Lemon Symphony	18.9.2012	28.11.2012	C-546/12 P	Pending
T-135/08	A003/2007 and A004/2007	Gala Schnitzer	13.9.2010	15.11.2010	C-534/10 P	19.12.2012
T-177/08	A005/2007	Sumost 01	18.9.2012	28.11.2012	C-546/12 P	Pending
T-242/09	A010/2007	Lemon Symphony	18.9.2012	28.11.2012	C-546/12 P	Pending
T-367/11	A007/2010	Southern Splendour	21.10.2013	N/A	N/A	N/A
T-91/14	Decision of 20 September 2013 in case A004/2007	Gala Schnitzer	Pending			
T-92/14	Decision of 20 September 2013 in case A003/2007	Gala Schnitzer	Pending			
T-767/14	A007/2013	Oksana	Pending			

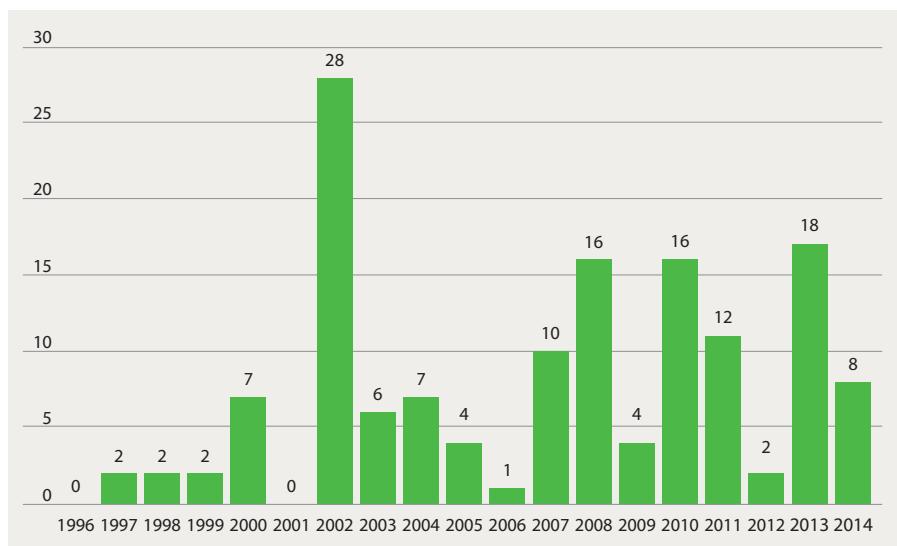
17.4. Appeals received by the CPVO and decisions reached by the Board of Appeal since its inception (statistics)

17.4.1. Number of appeals lodged per year between 1996 and 2014

One hundred and forty-five appeals have been lodged with the CPVO since the opening of the Office. These are distributed as shown in Graph 16.

Graph 16

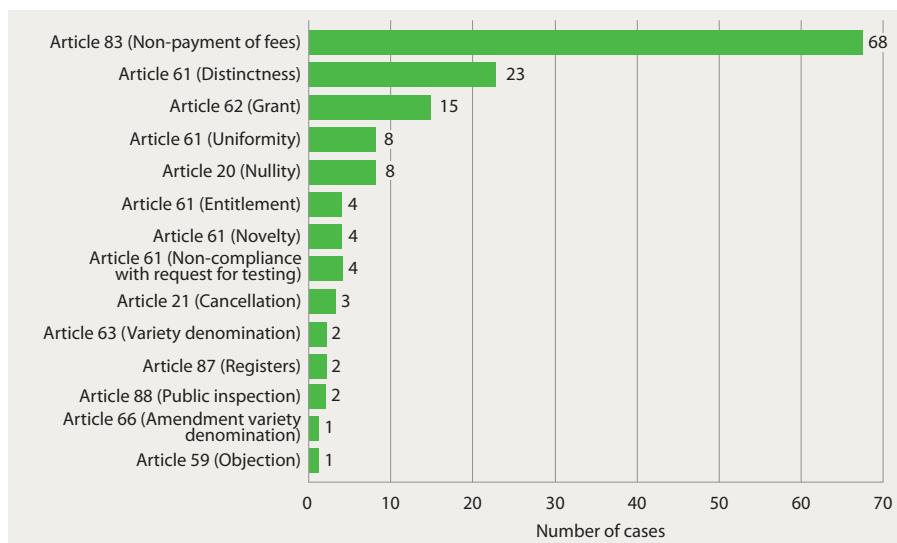
Number of appeal cases lodged per year with the CPVO between 1996 and 2014



17.4.2. Legal basis of the appeals lodged since 1996 (with reference to Council Regulation (EC) No 2100/94)

Graph 17

Legal basis of the appeal cases lodged with the CPVO since 1996

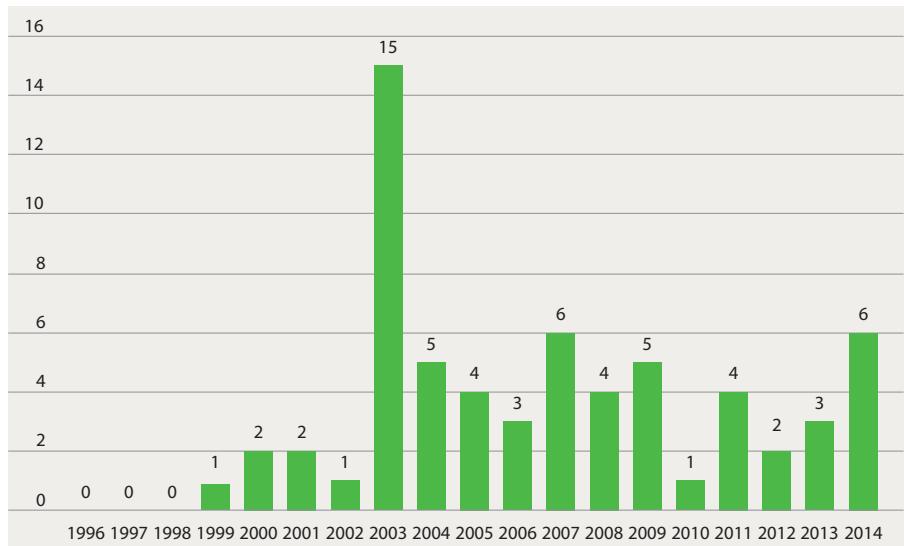


17.4.3. Decisions of the Board of Appeal of the CPVO per year

A total of 64 decisions were taken by the Board of Appeal of the CPVO between 1996 and 2014, distributed as detailed in Graph 18.

Graph 18

Number of decisions reached by the Board of Appeal per year since 1996

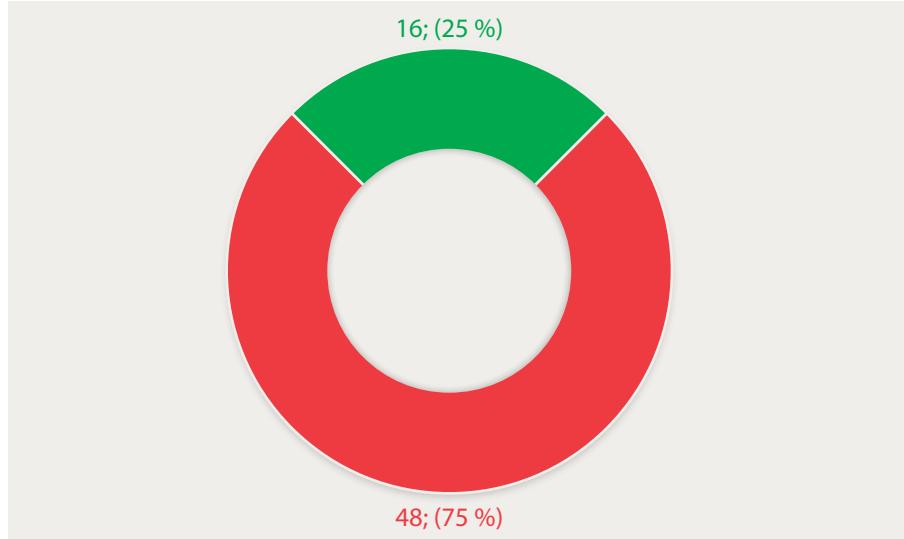


17.4.4. Outcome of the 64 decisions of the Board of Appeal 1996–2014

Graph 19

Share of the total number of decisions of the Board of Appeal (1996–2014)

- Appeals dismissed
- Appeals upheld



The references of the decisions taken by the Board of Appeal are given in the following table.

Year	Appeal case number and date of decision of the Board of Appeal
1999	A002/1998 of 14.9.1999
2000	A001/1999 of 25.1.2000 A002/1999 of 19.5.2000
2001	A002/2000 of 27.3.2001 A004/2000 of 6.12.2001
2002	A005/2000 of 28.5.2002
2003	A005/2002 of 2.4.2003 A001/2002, A002/2002 and A003/2002 of 1.4.2003 A018/2002 of 14.5.2003 A008/2002, A009/2002, A010/2002, A011/2002, A012/2002 and A013/2002 of 15.5.2003 A017/2002 of 3.4.2003 A023/2002 of 8.10.2003 A031/2002 of 8.12.2003 A021/2002 of 9.12.2003
2004	A003/2003 and A004/2003 of 4.6.2004 A005/2003 and A006/2003 of 28.9.2004 A001/2004 of 16.12.2004
2005	A006/2004 of 15.6.2005 A005/2004 of 16.6.2005 A004/2004 of 18.7.2005 A001/2005 of 8.11.2005
2006	A003/2004 of 2.5.2006 A004/2005 of 13.10.2006 A007/2005 of 7.7.2006
2007	A001/2007 of 11.9.2007 A003/2007 and A004/2007 of 21.11.2007 A005/2007, A006/2007 and A007/2007 of 4.12.2007
2008	A011/2007 of 9.9.2008 A009/2008 of 2.12.2008 A001/2008 and A002/2008 of 4.12.2008
2009	A010/2007 of 23.1.2009 A004/2008 and A005/2008 of 21.4.2009 A010/2008 and A011/2008 of 8.10.2009
2010	A018/2008 of 15.3.2010
2011	A001/2010, A005/2010, A006/2010 and A007/2010 of 18.2.2011
2012	A009/2011 of 17.1.2012 A001/2012 of 10.10.2012
2013	A003/2007 and A004/2007 of 20.9.2013 (second decisions for the same cases further to remittal from the Court of Justice) A007/2011 of 23.4.2013
2014	A006/2013 of 13.1.2014 A004/2013 of 4.4.2014 A008/2013 of 1.7.2014 A007/2013 of 2.7.2014 A016/2013 of 11.9.2014 A010/2013 of 26.11.2014

The detailed decisions of the Board of Appeal are available in the CPVO case-law database on the CPVO website.

18. CONFLICTS OF INTERESTS

DG Health and Consumers has set up a an Interagency Task Force on Conflicts of Interests, in order to implement Commission December 2013 guidelines 'on the prevention and management of conflicts of interest in EU decentralised agencies for members of the management board, executive directors, experts in scientific committees or other similar bodies and members of boards of appeal'.

In 2014, the DG Health and Consumers' Interagency Task Force held only one meeting, in Brussels in May, where it was decided that there was no longer a need for two annual meetings.

During this meeting, DG Health and Consumers organised a *tour de table* on the implementation of independence rules by its non-food scientific committees and some of the agencies under its umbrella: European Medicines Agency (EMA), European Food Safety Authority (EFSA), European Centre for Disease Prevention and Control (ECDC) and CPVO.

The EMA and the EFSA reported that they had adopted a revised policy on the handling of declarations of interests of scientific committees' members and experts. The ECDC indicated that its Independence Policy and Implementing Rules on Conflicts of Interests had been endorsed.

The CPVO reported that it was also in the process of revising its model declaration of interests for members of management, as well as its guidelines on the prevention and management of conflicts of interests, on the basis of the Commission December 2013 guidelines.

A second *tour de table* of the agencies addressed the implementation of *ex ante* and *ex post* controls in order to avoid conflicts of interests. The CPVO is not concerned by such controls, having no scientific committee in charge of risk assessment.

The DG Health and Consumers' Interagency Task Force on Conflicts of Interest circulated, by electronic mail, the revised EMA policy on handling declarations of interests for scientific committee members and experts, due to enter into force on 30 January 2015. The CPVO's guidelines could also be circulated in 2015.

The next meeting date, initially scheduled for January 2015, has been postponed to a date still to be determined.

ACRONYMS AND ABBREVIATIONS

A

AC	Administrative Council of the CPVO
AGES	Agentur Gesundheit Ernährungssicherheit company (Austria)
APHA	Animal and Plant Health Agency (United Kingdom)
ARIPO	African Regional Intellectual Property Organisation

B

Basic Regulation (BR)	Council Regulation (EC) 2100/94 of 27 July 1994 on Community plant variety rights
BMT	biochemical and molecular techniques
the Board	the Board of Appeal of the CPVO
BSA	Bundessortenamt (Germany)
B2B	business-to-business

C

CAAR	Consolidated Annual Activity Report
CEIPI	Centre d'Études Internationales de la Propriété Intellectuelle (France)
Ciopora	International Community of Breeders of Asexually Reproduced Ornamental and Fruit Varieties
Coboru	Research Centre for Cultivar Testing (Poland)
CPVO	Community Plant Variety Office
CPVR	Community plant variety right
CRA-SCS	Consiglio per la Ricerca in Agricoltura e l'analisi dell'economia agraria-Centro di Sperimentazione e Certificazione delle Sementi (Italy)
CTM	Community trade mark
Customs regulation	European Parliament and Council Regulation (EC) No 608/2013 of 12 June 2013

D

DAF	Department of Agriculture and Food (Ireland)
DNA	deoxyribonucleic acid
DI	distinctness information
DUS	distinctness, uniformity, stability

E

EC	European Community
ECDC	European Centre for Disease Prevention and Control
EDPS	European Data Protection Supervisor
EFSA	European Food Safety Authority
EMA	European Medicines Agency
EO	examination office
EPO	European Patent Office
ESA	European Seed Association
EU	European Union

F**FERA**

Food and Environment Research Agency (United Kingdom)

G**GAIA****GEVES**

software for the management of reference collections

Group for the Study and Control of Varieties and Seeds (France)

H**HR**

human resources

I**IEPI****ILVO****INIA**

Instituto Ecuatoriano de la Propiedad Intelectual (Ecuador)

Instituut voor Landbouw- en Visserijonderzoek (Belgium)

Instituto Nacional de Investigación y Tecnología

Agraria y Alimentaria (Spain)

INIAP

Instituto Nacional de Investigaciones Agropecuarias (Ecuador)

IP

intellectual property

IPM

Internationale Pflanzenmesse

ISTIS

State Institute for Variety Testing and Registration (Romania)

IT

information technology

K**KAVB**

Royal General Bulb Growers' Association (Netherlands)

M**MSPP**

multiannual staff policy plan

N**NÉBIH**

National Food Chain Safety Office (Hungary)

O**OAPI**

African Intellectual Property Organisation

OEVV

Oficina Española de Variedades Vegetales (Spain)

the Office

the Community Plant Variety Office

OHIM

Office for the Harmonization of the Internal Market

OJ

Official Journal of the European Union

P**Plantum**

Dutch association for the plant reproduction material sector

PRM

plant reproductive material

PVR

plant variety right

Q**QAS**

quality audit service

R**R & D**

research and development

S**SASA**

Science and Advice for Scottish Agriculture (United Kingdom)

T**TPs**

technical protocols

TWV/49

49th annual UPOV technical working party for vegetables

TLO

technical liaison officer

U**UKSUP**

Central Controlling and Testing Institute in Agriculture (Slovakia)

ÚKZÚZ

Central Institute for Supervising and Testing in

Agriculture (Czech Republic)

UPOVInternational Union for the Protection of New Varieties
of Plants**USDA**

United States Department of Agriculture

USPTO

United States Patent and Trademark Office

W**WIPO**

World Intellectual Property Organisation



CPVO

Community Plant Variety Office

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Служба на Общността за сортовете растения

Oficina Comunitaria de Variedades Vegetales

Odrůdový úřad Společenství

EF-Sortsmyndigheden

Gemeinschaftliches Sortenamt

Ühenduse Sordiamet

Κοινοτικό Γραφείο Φυτικών Ποικιλιών

Community Plant Variety Office

Office communautaire des variétés végétales

Ured Zajednice za zaštitu biljnih sorti

Ufficio comunitario delle varietà vegetali

Kopienas Augu šķirņu birojs

Bendrijos augalų veislių tarnyba

Közösségi Növényfajtja-hivatal

L-Uffiċju Komunitarju dwar il-Varjetajiet tal-Pjanti

Communautair Bureau voor plantenrassen

Współnotowy Urząd Ochrony Odmian

Instituto Comunitário das Variedades Vegetais

Oficiul Comunitar pentru Soiuri de Plante

Úrad Spoločenstva pre odrody rastlín

Urad Skupnosti za rastlinske sorte

Yhteisön kasvilajikevirasto

Gemenskapens växtsortsmyndighet



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