

CPVO Policy on the Status of Plant Material Used for DUS Testing Purposes

This aim of this document is to make transparent the policy of the CPVO concerning material sent for DUS testing in the framework of Community Plant Variety Right applications. It will also contribute to a coherent practise by all examination offices in the CPVO. This will permit breeders to make an informed decision before sending material for testing. It is not the competence of the CPVO to decide what examination offices may do in relation to material submitted in the framework of a national pvr application or for national listing purposes. Accordingly, the CPVO cannot assure breeders that the below policy has been applied when the CPVO takes over reports from tests which has been carried out or is in the process of being carried out. The CPVO would nevertheless urge examination offices to follow the same principles when testing varieties for purposes other than in the framework of Community Plant Variety Right applications.

The policy does not apply to any other examination offices other than examination offices entrusted by the Administrative Council of the CPVO for a certain species (hereinafter "EU Network Offices"). Accordingly, when the below mentioned policy refers to a transfer of material between two EU Network Offices, this relates only to material of species that the receiving EU Network Office is entrusted to test by the Administrative Council of the CPVO.

Reference to material in this policy also applies to DNA samples taken by an EU Network Offices from material submitted to it for DUS purposes or in the framework of an R&D project financed or co-financed by the CPVO.

1. What should an EU Network Office do with plant material if the application is withdrawn or if it is rejected?

- 1.1 The EU Network Office should either destroy or send back the material to the applicant.
- 1.2 If the variety is of common knowledge, the EU Network Office may keep the material in its reference collection

2. May an EU Network Office send material

2.1) To an EU Network Office

- 2.1.1 On request the EU Network Office should send material to another EU Network Office entrusted for the same species.
- 2.1.2 If the sample consists of parent lines or would disclose information on hybrid formulas, the EU Network Office should inform the person entitled that the material has been sent to another EU Network Office.
- 2.1.3 The EU Network Office shall not use sub-samples received from another EU Network Office for any other purposes than for DUS tests. The provisions on confidentiality and conflicts of interest in the Designation Agreement between the CPVO and the EU Network Office shall apply.

2.2) To an Other Examination Office

- 2.2.1 The EU Network Office may send material to an Other Examination Office only if consent has been obtained from the person entitled. However, if the variety is being sold on the market, consent from the person entitled is not required. For DNA samples consent should be obtained in any case.

3. What may the EU Examination Office do with material after the variety has been granted a Community pvr?

- 3.1 If the EU Network Office does not keep a living reference collection the material shall be destroyed or sent back to the applicant. For species where DNA samples are taken from the plant material specific rules as regards the keeping of DNA samples need to be set up on a species by species basis.
- 3.2 If the EU Network Office keeps a living reference collection the material should be kept by the EU Network Office.
- 3.3 If the material is kept, the EU Network Office may, on request, transfer material to another EU Network Office or to an Other Examination Office on the same conditions as provided for in Section 2 above.

4. After the Community Plant Variety Expires

- 4.1 Material kept in a reference collection should be kept upon expiry of a Community plant variety right.