



**CPVO**

Community Plant Variety Office

# Newsletter

Issue 4, Autumn 2012

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EDITORIAL

I would like to begin this fourth newsletter by thanking Mr Udo von Kröcher for his much-appreciated work as the Chairman of the Administrative Council during the past 3 years until his mandate came to an end in November 2012. His work has been highly valued by the members of the Administrative Council and his leadership skills proved to be of great help for me personally when I took up the post of President last year. At the same time, I would like to congratulate Mrs Bronislava Bátorová for having been elected new Chairman, the first woman to hold this post since the creation of the CPVO. Mrs Bátorová from Slovakia, is presently working as National Coordinator, Senior Officer, at the Department of Variety Testing of the Central Controlling and Testing Institute in Agriculture (ÚKSÚP) and she is also known to the Office through her work in bodies of UPOV (International Union for the Protection of New Varieties of Plants). I also congratulate Mr Andrew Mitchell, from United Kingdom, Head of Plant Varieties and Seeds at the Food and Environment Research Agency (FERA), for having been elected as vice-chairman. My colleagues and I look forward to working with Mrs Bátorová and Mr Mitchell during their 3-year mandate.

As regards the activities of the Office, a very important step has been taken to change the CPVO from a pure intellectual property agency to an agency which also has responsibilities in the regulatory sector. The Commission has circulated a first draft of a regulation to the Member States in which it is proposed that the CPVO will formally test proposed variety denominations for listing purposes. It is

also proposed that the CPVO will take over the compilation of what is now called the common catalogue and that the CPVO could play a role in listing activities. It remains to be seen what will be its exact role following the legislative procedure to come, and I look forward to participating in this discussion.

After a record year in 2011 (almost 3200 applications), the number of applications is back to a similar figure as for 2010. In fact, during the period 1995–2006, the first 12 years of CPVO activities, the number of applications grew by a little more than 100 applications per year. Since 2007, the number has stabilised, averaging a little less than 3000 per year. The

year 2012 confirms this trend, with 2826 applications received by mid December. As announced in Newsletter No 3, the application fee will be reduced from EUR 900 to EUR 650 on 1 January 2013. It cannot be excluded that some breeders are holding back some applications until the beginning of next year.

Following this introduction, I would like to wish all the readers of our newsletter a Merry Christmas and a Happy New Year.

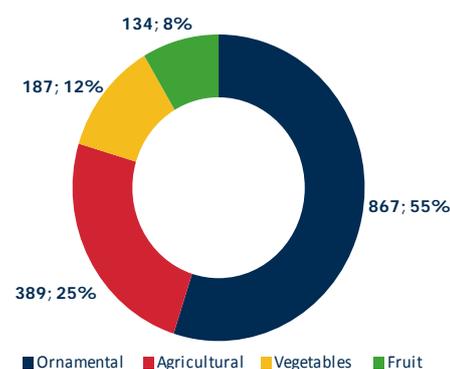
**Martin Ekvad**  
CPVO President

## > General news

### Decrease in application numbers in 2012 compared to 2011

Between 1 June 2012 and 30 November 2012, the Office received 1 577 applications for Community plant variety rights. This is only slightly more than in the same period of 2011 (+ 43 applications). While application numbers for ornamentals and vegetables dropped by 3 and 17, respectively, applications rose for agricultural (+5) and fruit (+ 58) varieties. The slight increase in application numbers cannot compensate for the more significant drop observed in the beginning of the year; the total number of applications received this year is still 7.04 % lower (– 209 applications) as compared to the previous year.

Shares in application numbers per crop sector from 1/6/2012 to 30/11/2012



### Reduced application fee as from 1 January 2013

The CPVO proposed a reduction in its fee for applications to the Administrative Council at the end of 2011. The purpose of the reduction is to ensure that the CPVO can achieve its goal of a balanced budget, thereby providing the most cost-effective service possible for its clients. This proposal was accepted and the necessary changes to the fees regulation were prepared by the European Commission and approved in 2012.

The fee for applications for protection of plant varieties with the Community Plant Variety

Office will therefore be reduced from EUR 900 to EUR 650 for all applications received on or after 1 January 2013 (Commission Implementing Regulation (EU) No 510/2012 of 15 June 2012).

Since October, the CPVO has been informing clients of this good news through the CPVO website and by direct mailing with invoices, and now through this newsletter. Please make a note in your diaries!

## The impact on the CPVR system of Croatia's accession to the EU

When Croatia joins the EU on 1 July 2013, the Community plant variety rights act as well as all rights granted under this law will be extended to its territory. The enlargement of the EU to include a new Member State regularly raises a number of questions; the most common ones are addressed in FAQ on enlargement available on the [CPVO website](#). The information is available in Croatian, Dutch, English, French, German and Spanish and can be provided in other EU languages upon request.

## Dutch delegation visit to the CPVO, 25 September 2012

On 25 September, the CPVO received a visit from several Dutch colleagues, namely Mr Valstar, Mr Fikkert, Mr Groenewoud and Mr van Opstal. The main purpose was to introduce Mr Groenewoud, who replaced Mr Fikkert, secretary to the Dutch Plant Variety Board, from 30 November onwards. Mr Fikkert has been the Netherlands' representative at the CPVO annual meeting with its examination offices since 2000. During this visit, the CPVO had the possibility to discuss some relevant ongoing issues related to plant variety rights. We take this opportunity to thank Mr Fikkert for all the valuable contributions that he has made to the CPVO.

## Meeting at the Swedish Ministry for Rural Affairs, 17 October 2012, Stockholm (Sweden)

The President of the CPVO gave a presentation about the Community plant variety rights system in a seminar organised by the Swedish Ministry for Rural Affairs. Officials from the ministry and the Ministry of Justice participated, together with staff from the Swedish Patent and Registration Office and the Swedish Board of Agriculture. Apart from the Community plant variety protection (PVP) system, subjects such as the draft regulation on plant reproductive material and the interface between plant variety protection and patent protection for plant-related inventions were discussed.

### > International cooperation

## Towards a unique electronic application system in the EU

In 2011, the Office initiated a project to share its online application system with national authorities in the EU. The objective is to investigate under what conditions it would be possible to transfer the CPVO online application system to an independent website where it would be possible to apply for national listing or national plant breeders' rights in the participating countries. The principle will be that, once a variety has been applied in any procedure in the EU, the information can be used to file another application for another procedure for that same variety. A pilot project has been set up with Groupe d'étude et de contrôle des variétés et des semences (GEVES) in France and Naktuinbouw in the Netherlands. During this pilot project, it turned out to be necessary to make some modifications to the current software developed for the purpose of applications for Community plant variety rights in order to make it work for national procedures purposes and in particular for

national listing. A first version of the system should be made available to breeders for a testing phase in the beginning of 2013.

UPOV also has a project to develop electronic application forms and approached the CPVO to discuss how best to cooperate over the development of its own project and CPVO online application system. The development of a common project was one option that had been considered. However, there would be a number of practical difficulties with such an approach, which were likely to significantly outweigh any potential advantages. It was therefore concluded that the most beneficial approach would be for UPOV and CPVO colleagues to share information and ideas as extensively as possible in the development process. UPOV and CPVO meet regularly with the involvement of breeders' associations and some EU Member States in order to review the situation of their respective projects.

## Ring test in the species mandarins

The partial revision of the mandarin technical protocols has been the subject of a number of exchanges of views at UPOV level. During the 2011 Technical Working Party for Fruit Crops (TWF) meeting, it was decided that a ring test should be organised with participants from Morocco, Spain, South Africa and the CPVO. The CPVO should coordinate the activities of this working group, whose scope will be the elaboration of a methodology to assess the new characteristics proposed in relation to the production of seeds in mandarins and a possible review of the wording of these characteristics. Participants agreed on a protocol to the ring test in the beginning of 2012, containing a detailed procedure for pollination and a pollination table in order to assess the production of seeds of a range of varieties with well-defined pollinators in different conditions. The first results are expected at the end of 2012.

## CIOPORA annual general meeting 23-27 April 2012, Miami (USA)

The Vice-President attended the annual general meeting of Ciopora. He was invited to make a presentation on the latest developments in the Community plant variety rights system, with particular attention to the pilot project 'Molecular techniques in variety verification of Rosa L. varieties'. He also attended the international intellectual property conference organised by Ciopora.

## ESA annual meeting

14-16 October 2012, Brussels (Belgium)

The President and the Vice-President participated in the European Seed Association (ESA) annual meeting, which was attended by more than 750 persons. This meeting is always a good opportunity to maintain close relations with clients and to get direct feedback from the stakeholders on the Community plant breeders' rights system.

## Protocol with Naktuinbouw in respect of test reports of *Phalaenopsis* varieties tested in Taiwan

According to a protocol concluded between the CPVO and Naktuinbouw in March 2011, if a plant variety of *Phalaenopsis* or *Doritaenopsis* has already undergone an official technical examination by the Taiwanese examination office, Naktuinbouw may take these examination results on distinctness, uniformity and stability (DUS) into account, provided the DUS examination in Taiwan started after 1 January 2010. Likewise, the Taiwanese plant variety rights authorities will give consideration to DUS examination results gained at Naktuinbouw. This project has not yet been fully implemented but a meeting between the Taiwanese authorities, Naktuinbouw and the CPVO took place on 4 September 2012 in the Netherlands.

## Focus on...

### Benefits of filing applications using the CPVO online application system

*In order to meet possible deadlines more easily with regard to the novelty requirement or with regard to the closing date for technical examination, please note that the online application system allows you to have an arrival date for your application identical to the one of submitting the application, even when the CPVO is closed during the weekends and on bank holidays. This arrival date is potentially the application date provided the application turns out to be complete.*

*In this respect, the online application system includes a range of automatic controls preventing applicants from forgetting information to be given in application forms and securing an application date. Statistics show that applicants using the online application system are denied an application date significantly less frequently than paper users. About 50 % of the applications are filed online and the CPVO recommends the utilisation of the system. Should you need any further information about the online application system, please do not hesitate to contact us.*

## Visits of non-EU delegations

The Office has regular exchanges with plant breeders' rights authorities in other countries. A Russian delegation visited the CPVO on 6 June and a Tunisian delegation on 7 June to get information on the functioning of the Community plant variety rights system. The visitors were not only informed about how the Office works but also received explanations about European legislation, enabling them to better understand the application procedure and granting process.

Sunflower breeders from Argentina visited the CPVO on 9 August to discuss general issues of the Community plant variety rights system procedures.

On 25 October, a delegation from Thailand, Philippines and Malaysia visited the CPVO. The main reason was to acquire information concerning the setting up of a regional system for the intellectual property protection of new plant varieties. There has been an initiative to create a regional system amongst some ASEAN countries for some years, and the CPVO has in the past and will in the future support this initiative.



## Cooperation with ARIPO

The African Regional Intellectual Property Organisation (ARIPO) is in the process of creating a legal framework for a regional plant variety protection system for a number of English-speaking African countries. Like the CPVO, the organisation is self-financed. It already has functioning systems in other intellectual property areas such as patents and trademarks. In June this year, the President of the CPVO attended an expert meeting in Harare, organised in cooperation with UPOV, where the draft legal framework was discussed in detail and a number of important conclusions were reached including recommendations on how to implement the regional system. In late November, these conclusions were presented in the Administrative Council of ARIPO, to which the President of the CPVO was invited. The ARIPO Administrative Council approved the recommendations to implement the regional system and took note of the revised Legal Framework for the Protection of New Varieties of Plants.

In the framework of a study tour organised by the French organisation GNIS, a delegation from ARIPO visited the CPVO and the French examination office, GEVES, in October. The possibility of establishing a memorandum of understanding between ARIPO and CPVO was discussed during this visit.

## UPOV symposium on the benefits of PVP for farmers and growers, 2 November 2012, Geneva (Switzerland)

On 2 November, the President of the CPVO participated in the abovementioned UPOV symposium. The aim was to provide illustrations of how plant variety protection can improve incomes for farmers and growers by supporting the development and supply of new, improved varieties that are suited to their needs. The symposium also provided examples of how farmers and growers can use plant variety protection as breeders. Documents and a video of the symposium are available on the [UPOV website](#).

## 50th anniversary of OAPI, 11-12 September 2012, Yaoundé (Cameroon)

In the framework of cooperation between CPVO and the African Intellectual Property Organisation (OAPI), the Vice-President attended the celebration of the 50th anniversary of OAPI in Yaoundé, including a conference of ministers dealing with 'Intellectual property in the service of Africa's development'.

## Possible involvement of the CPVO in the ENP

The European Commission hosted a meeting with representatives from European neighbourhood policy (ENP) partner countries — which are 16 non-EU candidate countries in Eastern Europe, the Near East and North Africa — and the EU agencies on 28 November 2012 in Brussels. The aim of the ENP is to raise awareness of the work of EU agencies, such as the CPVO, and to encourage technical contacts and cooperation. The CPVO will analyse to which extent it could be involved in this project.

## > Legal affairs

### Recent ruling of the Court of Justice as regards farm saved seeds

The European Court of Justice delivered on 5 July 2012 its decision in Case C-509/10 *Josef Geistbeck and Thomas Geistbeck v Saatgut Treuhandverwaltungs GmbH*. The calculation of the 'reasonable compensation' payable by a farmer who has not fulfilled his obligations of information under Article 14(3) of the basic regulation shall be based on the amount equivalent to the fee payable for the licensed production of propagating material of the same variety in the same area. In other words, farmers cannot, in such circumstances, avail themselves of the derogation. The payment of compensation for costs incurred for monitoring compliance with Community plant variety rights cannot enter into the calculation of such 'reasonable compensation'.

### Rulings of the Court of Justice and the General Court in outstanding cases

- **Cases before the General Court: Cases T-133/08, T-134/08, T-177/08 and T-242/09 "Lemon Symphony"**

In a decision delivered on 18 September 2012, the General Court dismissed the action brought against the decision of the Board of Appeal of the CPVO of 23 January 2009 (Case T-242/09 against decision in appeal A010/2007) concerning an application for annulment of the Community plant variety right granted for the variety *Lemon Symphony*.

The Court held that the findings made in that regard by the Board of Appeal are based on complex assessments of a scientific or technical nature, the judicial review of which must be restricted to a review as to manifest errors of assessment. The Court also reaffirmed the CPVO's wide discretion with regard to complex botanical assessments.

The Court held that the three other cases joined were linked to Case T-242/09 by a relationship of dependence, since the outcome of that case will be decisive for the outcome of the other cases.

The plea alleging, in the three cases, infringement of the provision on summons and of the right to be heard was judged to be well founded and such as to lead to the annulment of the three contested decisions.

The Court set aside the decisions of the Board of Appeal of the CPVO of 4 December 2007 in Case A006/2007 concerning an application for revocation of the CPVR granted for the variety *Lemon Symphony* and in

Case A005/2007 concerning an application for the grant of a CPVR for the variety *SUMOST 01* and ordered each party to bear its own respective costs. At the time of preparing this notice, the decision of the General Court had not entered into force.

- **Case before the Court of Justice: Case C 534/10 "Schniga GmbH"**

The opinion of the Advocate General delivered on 12 July 2012 recalled that the jurisdiction of the Court of Justice in an appeal is indeed, according to settled case-law, limited to a review of points of law. However, by contrast, the jurisdiction of the General Court to review the legality of decisions adopted by the Board of Appeal includes the power to find and appraise the relevant facts and to assess the evidence.

In the light of the assessment of facts (which may not be called into question in an appeal before the Court), according to which there was a lack of clarity in relation to the fact that the material to be submitted for the technical examination had to be virus free, the General Court, having regard to the principles of sound administration and legal certainty, was entitled to conclude without erring in law that it was within the discretion of the CPVO to clarify, in a second request to the applicant, a previous request in that regard and to authorise the submission of new, virus-free material. At the time of preparing this notice, the decision of the Court of Justice had not been delivered.

### Interface between patents and PVRs : discussions are ongoing at the CPVO

A plant variety may receive CPVR protection, but may not be patented as such, while an invention related to plants may be patented so long as it is not confined to a particular plant variety. Despite this distinction there seems to be a grey area in which it is not fully clear to which extent plant related inventions can be patented. This is a major concern for breeders and actors of the plant variety rights world, particularly as patents become more prevalent in agricultural research.

This issue has been referred to the CPVO, which is currently discussing possible actions in order to provide information to breeders in respect of plant-related patents. Some ideas were discussed during the last Administrative Council meeting of the CPVO, including the creation of a dedicated part on the CPVO website providing general information on this issue and the organisation of a seminar in cooperation with the European Patent Office Office end 2013/beginning 2014. More information will be available on the CPVO website in due course.

### Renewal of the mandate of Chairman of the Board of Appeal for 5 years



Mr Paul A. C. E. van der Kooij, acting chairman of the Board of Appeal of the CPVO since 17 December 2006, has been reappointed as Chairman by the Council of the European Union of

4 December 2012 for 5 more years. His new mandate will run from 18 December 2012 until 17 December 2017.

Mr van der Kooij has been a senior lecturer in intellectual property law at the University of Leiden (Netherlands) since 1980 and deputy judge at the district court of The Hague since 1991. He has written many articles and books in the field of intellectual property law, including works on the Community regulation on plant variety rights. He has been assisted by Mrs Saari Haukka as alternate chairperson since 15 October 2011.

### Activities of the ad hoc working group of legal experts in 2012

An important activity of the Office is the work carried out by the ad hoc legislative working group as a follow-up of the evaluation of the Community plant variety protection system. This group, created by the Administrative Council in March 2012 in order to discuss such legal issues of importance for the plant variety rights system, met twice in 2012. During those two meetings key elements of the basic regulation have been discussed such as novelty, variety constituency and essentially derived varieties. Whilst important discussions are carried out in an open, brain storming kind of way, the group has in mind to draw conclusions and to come up with proposals on how to interpret or change existing legislation. The group will continue its activities in 2013.

## Agenda

- > **14 -15 January 2013, Paris (FR)**  
Working Group on legislative matters
- > **16 -17 January 2013, Angers (FR)**  
Visit of Egyptian delegation to the CPVO
- > **27 - 28 February 2013, Angers (FR)**  
CPVO Administrative Council
- > **5 - 6 December 2013, Angers (FR)**  
17<sup>th</sup> annual meeting with Examination Offices

## > Technical news

### Denominations guidelines (state of affairs and follow up)

On various occasions, the CPVO has received feedback from some of its stakeholders stating that the CPVO's interpretation of the rules for suitability of variety denominations is perceived to be too strict or not very clear. For this reason, the Office proposed in 2011 the organisation of a working group to help inform stakeholders which considerations are taken into account by the Office when interpreting the applicable rules. The European Commission, seven Member States and all breeders' associations were all represented in this group.

Exchanges of views took place and concrete proposals were made and it turned out that most of them concerned the explanatory notes to the guidelines rather than the guidelines themselves. These explanatory notes are a tool to help with interpreting the guidelines that have been drafted by the CPVO, based on the jurisprudence and case-law as developed by the internal committee of the Office. Their aim is to help applicants to formulate a denomination proposal suitable according to Article 63 of Council Regulation (EC) No 2100/94 and to make it easier for national authorities to analyse the suitability of proposals for denominations according to the rules.

The working group also made some proposals to amend the guidelines themselves. In order to have equivalent rules on denominations for the purpose of listing, amendments of the guidelines should only be made if a modification of Commission Regulation (EC) No 637/2009 establishing implementing rules as to the suitability of the denominations of varieties of agricultural plant species and vegetable species is also made.

The Administrative Council took note of the new version of the explanatory notes, added a few comments, requested the Commission to implement the amendments proposed to the guidelines in Regulation 637/2009 and asked the Office to modify the guidelines accordingly with effect from the date that the changes in the regulation enter into force. The Commission announced that discussions would take place in the standing Committee on Seeds.

### Cooperation with OHIM



In 2012, the Office reinforced its cooperation with the Office for Harmonization in the Internal Market (OHIM) in Alicante. During the first quarter of the year, a delegation visited OHIM, where it had the opportunity to explain in detail how variety denominations are assessed for suitability in the framework of Article 63 of Regulation No 2100/94.

An OHIM delegation headed by the Vice-President of OHIM, Mr Christian Archambeau, visited Angers in return in June 2012, and explained their procedures concerning registration of a Community trademark. It was underlined in particular that the denomination of varieties granted Community or national plant variety rights or listed in the EU common catalogue were not considered to amount to an absolute ground to refuse the registration of a trade-mark in class 31. This exchange triggered nevertheless investigations in this respect and in September 2012 the Office was informed that OHIM examiners of proposals for Community trade marks were given the instruction to ensure that the term making up the trade mark does not coincide with the name of a specific plant variety granted Community plant variety rights. In order to verify this, OHIM examiners were all given access to the CPVO Variety Finder. The CPVO is currently developing a web service in order to render this access automatic.

Furthermore, OHIM accepts the principle that denominations of varieties granted National plant variety rights and varieties registered in the Common catalogue should constitute an impediment for the registration of Community Trade Marks (CTM). This will be implemented as soon as computerisation renders it possible.

The Office intends to include the relevant Community Trade Marks (CTM), mainly registered in class 31, in its Variety Finder, accessible to national authorities and breeders. Possible reductions of the scope of the CTM will be indicated. CTM will be taken into account by the Office when analysing proposals for variety denominations. In case of an application for Community plant variety rights, applicants will be informed of the existence of an identical or similar CTM but it will be up to them to decide whether they want to maintain their denomination proposal or not. The Office will only refuse denomination proposals in case of a valid objection received from a trade mark holder. In the frame of the cooperation project, the CPVO will inform of the existence of a similar or identical CTM national authorities which will decide on how to deal with this situation.

### Open Day on ornamentals held at the Bundessortenamt



On 5 July 2012, the Bundessortenamt and the CPVO held a joint open day at the examination office in Hanover. The event provided an opportunity for breeders of ornamental crops to become more familiar with the conduct of the technical examination in general and in particular with how decisions on the compliance with the DUS requirements are reached. Breeders could thus get a better understanding of certain legal requirements of the application procedure. This open day was attended by some 25 breeders from not only Germany but also Denmark and the Netherlands.

### Publication

The S2 Gazette covers deadlines for the submission of plant material and submission requirements of species for which applications are regularly filed. You are requested to contact the Office for information if the species in question is not listed. Please remember that it is the applicant's responsibility to familiarise him/herself sufficiently with all aspects of the application procedure including the details on the submission of plant material for the conduct of the technical examination. When filing an application, applicants must be in a position to submit plant material of their variety by the deadline and in the quality and quantity prescribed in the S2 Gazette. Otherwise, they run the risk of their application being rejected. The S2 gazette is available under 'documents' on the [CPVO website](#).

### New and revised technical protocols (TPs) adopted in November

Meeting on 27 and 28 November 2012 in Angers, the CPVO Administrative Council adopted the new technical protocols for *Prunus dulcis*, *Olea europea*, *Cannabis sativa*, *Heuchera* & *Heuchera* and *Echinacea* as well as revisions of 10 existing protocols for *Fragaria*, *Ribes uva-crispa*, *Ribes rubrum*, *Prunus persica*, *Lilium*, *Kalanchoe blossfeldiana* and its hybrids, *Prunus salicina*, *Actinidia*, *Impatiens New Guinea* and *Lonicera caerulea*. These protocols are published on the [CPVO website](#).

## Preparing EU candidate countries for their accession to the EU

Since 2006, the CPVO has participated in the so-called multibeneficiary programme aimed at preparing candidate countries for accession to the European Union. This programme was initially set up for Turkey and Croatia; today also Albania, Bosnia & Herzegovina, the Former Yugoslav Republic of Macedonia, and Serbia participate.

In the frame of this programme, the Office conducted a special seminar in Zagreb informing Croatian plant breeders and growers about the consequences of Croatia's accession to the EU. The Office also trained the Croatian plant variety testing authorities about the quality requirements to be met by a CPVO-entrusted examination office.

For Serbian and Albanian crop experts, a practical training course on the DUS technical examination of maize and sunflower varieties has been conducted at the Slovakian examination office, ÚKSÚP. The programme also provided the funding for the participation of experts from Croatia, the former Yugoslav Republic of Macedonia and Serbia in a 2-week training course on the plant variety rights system given by the University of Wageningen in the Netherlands. In September, experts from Albania, Bosnia and Herzegovina, Croatia and Serbia participated in a DUS training course for vine varieties given by the German Bundessortenamt.

Finally, participants from all beneficiary countries participate in the crop experts' meetings held at the CPVO as well as in the annual meeting between the CPVO and its examination offices in December 2012.

## Research and developments projects update

### Follow-up of finalised projects

#### Management of peach reference collections

This project was finalised in 2011. GEVES, the project coordinator, has built up a database called GEMMA containing morphological, and DNA data as well as pictures from approximately 500 peach varieties studied. This database is linked to a search tool and is available to all partners in the project with certain access limitations. The establishment of general contract between GEVES and each user on the utilisation of the database has been proposed. Since this is a very powerful tool enabling each entrusted peach examination office to have access to the data of the others' reference collections, the CPVO believes it is important to keep the database updated regularly in order to improve the efficiency and reliability of peach DUS testing. Peach was a pilot species but it is likely that this database will be utilised for other species in the future.

#### Construction of an integrated microsatellite and key morphological characteristic database of potato varieties in the EU common catalogue

This project started in April 2006 and the final report was received in spring 2008. The partners involved are Germany, the Netherlands, Poland and the United Kingdom.

The project delivered a database including marker profiles of potato varieties, key morphological characteristics and a photo library with light sprout pictures. The aim is to rapidly identify plant material of a vegetatively propagated crop where reference material has to be submitted every year and to ease the management of the reference collection. At the request of the breeders' association ESA (European Seed Association), the possible use of molecular means for variety identification for enforcement purposes has been taken into account. As a follow-up measure for the implementation of the results of the project within the practical DUS work, it was decided to conduct a ring test during 2012 at the nine entrusted examination offices for potato. The aim of this ring test was to harmonise the assessments made by the different experts with the intention of making variety descriptions entered into the database sufficiently reliable to be used by a third country as a source of information for the decision as to whether this variety should be included in the growing trial or not. In July, a meeting took place at the ring test location in the Netherlands where first observations, mainly on light sprouts, were discussed.

First conclusions are to work on the harmonisation of the set-up of the light sprout cabinets, the plant material to be used for light sprout tests and the improvement of the calibration books used by the experts for the assessment of varieties.

#### A potential UPOV option 2 approach for barley high density SNP genotyping

This project was presented by the National Institute of Agricultural Botany (NIAB) from the United Kingdom; the grant agreement was signed at the end of 2010. The project considers three possible approaches: (i) calculation of correlations between molecular and morphological distances; (ii) quantification of morphological and molecular distances against pedigree; (iii) genomic selections for phenotypic predictions. If such correlation exists, and calibration thresholds for the phenotype can be established, this could be used as a powerful tool for the grouping of varieties in the growing trial. The project started at the beginning of 2011.

The final report was presented in February 2012. The correlation which could be established does not allow setting up calibration thresholds for the phenotype, additional work would need to be carried out. The CPVO is currently assessing the results under the question whether a follow up of the project should be considered or not.

## New project

### Impact analysis of endophytes on the phenotype of varieties of *lolium perenne* and *festuca arundinacea*

This project was submitted to the CPVO for a request of financing at the end of July 2012. The project partners are the CPVO as coordinator, the examination offices FERA (UK), Bundessortenamt (Germany) and GEVES (France) and the European Seed Association (ESA). The aim is to determine whether the presence of endophytes in the plant material submitted for DUS testing has an impact, or not, on the expression of the phenotype. If this were the case, the provisions as regards the quality of the plant material for DUS testing would need to be revised. The project foresees the conducting of trials on four varieties each of the species perennial ryegrass and tall fescue, divided into endophyte-rich and endophyte-poor material. The President of the CPVO decided at the beginning of November to provide finance. Work was due to start the same month and the final report should be available in November 2015.

## Project under way

### Harmonisation of vegetable disease resistances 2



The CPVO formally approved earlier in 2012 the co-funding of this research and development project involving eight project partners from throughout the EU. The project is

a follow up to the earlier 'Harmonisation of vegetable diseases resistances' completed in 2008, and will deal with seven disease resistances in pepper, pea and lettuce. A first meeting was organised by GEVES, the project coordinator, at the end of June 2012, in order to obtain consensual agreement amongst the project partners on the work schedule and the races/isolates and example varieties to be utilised. Work in the second half of 2012 was to concentrate on the description and comparison of the existing tests for these disease resistances. The next meeting of the group is scheduled for mid May 2013.

## UPOV meetings

### TWA meeting, 21-25 May 2012, Angers (France)

The Technical Working Party for Agricultural crops (TWA) was attended by 50 experts from 28 different countries and was hosted by GEVES of France. Particular attention was paid to the elaboration of UPOV technical protocols for wheat, sorghum and Kentucky blue grass, amongst other species. The different statistical methods used in the examination of distinctness, uniformity and stability were discussed by Member States in order to achieve as much harmonisation as possible. A technical excursion was made to GEVES' trial station. The visit to the DUS trials of technical experts from around the world is always an excellent opportunity to exchange experience. The next TWA session will take place in June 2013 in Kyiv (Ukraine).

### TWV meeting, 11-15 June 2012, Venlo (the Netherlands)

The CPVO participated in only part of the meeting of the 2012 Technical Working Party for Vegetables (TWV), although it presented papers on:

- guidance for providing photographs with the technical questionnaire;
- levels of uniformity according to the state of expression of obligatory disease resistance characteristics and varieties not bred for having such disease resistances.

This latter paper requires greater discussion at the EU level in the coming months, the results of which will be presented at the next TWV session in Japan in May 2013. The 2012 session finalised eight new or revised UPOV vegetable guidelines, which will be proposed for adoption at the UPOV Technical Committee in March 2013.

### TWC meeting, 26-29 June 2012, Chisinau (Moldova)

Reports from UPOV members on the utilisation of image analysis for DUS testing at the Technical Working Party on Automation and Computer Programs (TWC) were of particular interest and may trigger some follow-up from the CPVO. The discussions on the methods for data processing and the assessment of distinctness and for producing variety descriptions are also being followed with particular attention by the Office.

### TWF meeting, 30 July-3 August 2012, Beijing (China)

A number of technical documents were discussed at the Technical Working Party for Fruit Crops (TWF), including the need to have example varieties in technical guidelines, where the group proposed a list of conditions to be fulfilled before deciding to include reference varieties for a given characteristic. The CPVO that discussion papers be drafted clarifying the terminology 'growing period' and 'growing cycle' and on the influence of the method of propagation on the expression of characteristics observed during DUS testing. A report was given on the situation of the ring test coordinated by the CPVO in respect of the partial revision of the mandarin technical protocols.

## > Quality audit

### All CPVO-entrusted examination offices audited by end of 2012

With two assessment visits in Italy and Greece at the end of 2012, the first triennial cycle of the entrustment audit programme has been completed. As scheduled, over this period the 26 offices entrusted by the CPVO with the conduct of DUS trials for close to 1 600 botanical taxa were evaluated against the criteria defined in the CPVO entrustment requirements. Overall, a total of 30 audit missions, covering 57 test sites, were conducted. Assessment teams comprising two or three members visited up to five test locations in a single audit. Some 27 different technical experts were involved in the visits, almost half of them in more than one audit.

Implementing the audit programme resulted in 28 recommendations to the Administrative Council, which ultimately entrusted the examination offices for their corresponding scopes. For three examination offices, the follow-up process was not finalised for the last meeting of the Administrative Council in November 2012; the recommendations are expected in time for the first meeting in 2013.

As a result of the audit findings, examination offices implemented corrective actions and reviewed their scope of entrustment, where necessary. Although drastic steps were required in some cases, none of the examination offices resorted to filing an objection with the Audit Advisory Board. Most importantly, where audit conclusions affected ongoing trials, suitable arrangements between applicants, CPVO and offices concerned could be made.

In an internal evaluation initiated by the President of the CPVO, it was recognised that the audit scheme fulfilled its purpose. The entrustment requirements, revised once in 2011, were seen as effective criteria for evaluating the competence of DUS test providers. However, it was also recognised that they needed to be reviewed regularly in order to respond to an ever-changing environment.

## CPVO participation in

### UPOV meetings

- > UPOV week of meetings, 18-22 March 2013
- > UPOV TWO/46, 22-26 April 2013, Melbourne (Australia)
- > UPOV TWF/44, 29 April-3 May 2013, Napier, (New Zealand)
- > UPOV TWV/47, 20-24 May 2013, Nagasaki, (Japan)
- > UPOV TWC/31, 4-7 June 2013 Seoul, (South Korea)
- > UPOV TWA/42, 17-21 June 2013, Kiev, (Ukraine)

### Forthcoming events

- > IPM, 22-25 January 2013, Essen, Germany (Hall 2 Stand 2B23)
- > Salon du Végétal, 19-21 February 2013, Angers, France (Grand Palais)
- > Made in Angers, February - March 2013, Angers, France
- > Heads of European agencies meeting, 14 February 2013, Brussels, Belgium

### TWO meeting, 6-10 August 2012, Jeju (South Korea)

The 2012 UPOV Technical Working Party for Ornamental Plants and Forest Trees (TWO) was attended by 15 delegations from different UPOV members, two breeders' organisations and four observer countries. Two documents provoked particularly intense discussions: the document setting quality standards for photographs to be provided by applicants with the technical questionnaire and the TGP/14 section for colour characteristics, which aims at providing guidance on the development of characteristics related to colours and colour patterns in UPOV technical guidelines; these subjects are of particular relevance in the ornamental sector. In addition, 18 guidelines were discussed in subgroups, and 10 guidelines will be presented for adoption to the Technical Committee in March 2013. Fifteen guidelines are expected to be discussed during the next TWO in 2013, of which four will be new guidelines. During the week, the group of experts also had the opportunity to visit a breeding company for aloe crop.

> **IT news**

**Invoicing and VAT : the new provisions**

The amended directive on the common system of value added tax as regards the rules on invoicing (Council Directive 2010/45/EU) was adopted on 13 July 2010. It will become effective in all Member States by transposition into national laws from 1 January 2013 at the latest.

The purpose of this directive is to ensure that the rules governing invoicing in the European Union are simplified and that the current obstacles, in particular to cross-Member State invoicing, are removed. One of the key changes introduced is that, subject to agreement between both parties, paper and electronic invoices shall have equivalent legal status throughout all Member States. Electronic invoices are also valid invoices for VAT purposes.

The CPVO is committed to providing a sound IT infrastructure to its clients and suppliers. In particular, clients and suppliers will be offered the possibility of exchanging electronic invoices with the CPVO. If you are interested, please let us know.

**Reorganisation within the CPVO**



The information technology service of the CPVO, formerly a responsibility of the Vice-President, Carlos Godinho, has been, since 1 August 2012, a responsibility of the Head of the Administrative and Financial Unit, Thomas Wollersen.



**EU institutions agree common approach on agencies**

After 3 years of intensive work, the European Parliament, the Council and the Commission agreed on 12 June 2012 on a joint statement and common approach on the 31 EU decentralised agencies. These agencies are spread across the Member States, employ more than 5 000 people, operate in a number of policy areas, perform a wide range of tasks and are the closest visible presence of the EU for many European citizens. The CPVO is one of them. This agreement aims at improving the agencies' governance and efficiency and makes them a more effective tool in implementing the policies of the EU. It contains a comprehensive set of guiding principles addressing key issues such as the role and position of the agencies in the EU's institutional landscape, their creation, structure and operation, and funding, budgetary, supervision and management issues.

The EU institutions will take this common approach into account in the context of all their future decisions concerning the decentralised agencies, following a case-by-case analysis. The agencies and Member States are also invited to create the conditions to operate as efficiently as possible by taking into account the elements of the common approach that relate to them. By the end of 2012, the Commission will propose a roadmap for implementing the agreed improvements, taking into account the unique features of each agency.

You may get more information on [http://europa.eu/agencies/regulatory\\_agencies\\_bodies/index\\_en.htm](http://europa.eu/agencies/regulatory_agencies_bodies/index_en.htm)

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**To be noted...**

The CPVO postal address changed as from 1 September 2012. Please remember to use this address when writing to us:  
Community Plant Variety Office (CPVO)  
3 boulevard Maréchal Foch – CS 10121  
49101 ANGERS CEDEX 2 - FRANCE

**The CPVO will be closed from 24 December 2012 to 2 January 2013 included.**



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