



# Introduction to the EU Plant Variety Protection (PVP) system

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# OUTLINE

- **I. Introduction to the European Union Plant Variety System**
- **II. The CPVO**
- **III. Community Plant Variety Rights**
- **IV. Application Procedure**
- **V. Proceedings before the Office and appeals**
- **VI. Enforcement**
- **VII. Statistics**





## Historial Background

- **Sole and exclusive system** for the industrial property protection of plant varieties in the EU (Art. 1 BR)
- The intellectual property rights granted under this system are valid throughout the territory of the **27 Member States of the EU**, encompassing over **400 million consumers**
- This system was established by a Council Regulation in 1994, which is modelled on the International Convention for the Protection of New Varieties of Plants of 1991 (1991 UPOV Act)
- The **EU** became **party to UPOV** as inter-governmental organisation in **2005**



## Coexistence of the CPVR system

The CPVR-system  
co-exists with the  
national systems

Applicant's  
choice:  
National\* OR EU  
route (Art. 3 BR)



\* **24 EU Member States** are members to UPOV and have their own Plant Variety Rights' system  
(all EU MS with the exception of Cyprus, Greece, Malta and Luxembourg)



## Legal Basis

### ■ Basic Regulation (BR):

**Council Regulation (EC) No  
2100/94 on Community plant  
variety rights**

### ■ Implementing Regulations (IRS):

- 3 Commission Regulations relating to:

**Regulation No.  
874/2009**

- **Proceedings  
before the CPVO**

**Regulation No.  
1238/95**

- **Fees payable to  
the CPVO**

**Regulation No.  
1768/95**

- **The agricultural  
exemption**



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## Description

The EU Plant Variety system is run by the  
Community Plant Variety Office (CPVO):

- Official Agency of the EU
- Based in Angers (France)
- Operational since 1995
- Independent legal status
- Fully self-financed
- President and Vice-President (appointed by the Council)



## Mission statement

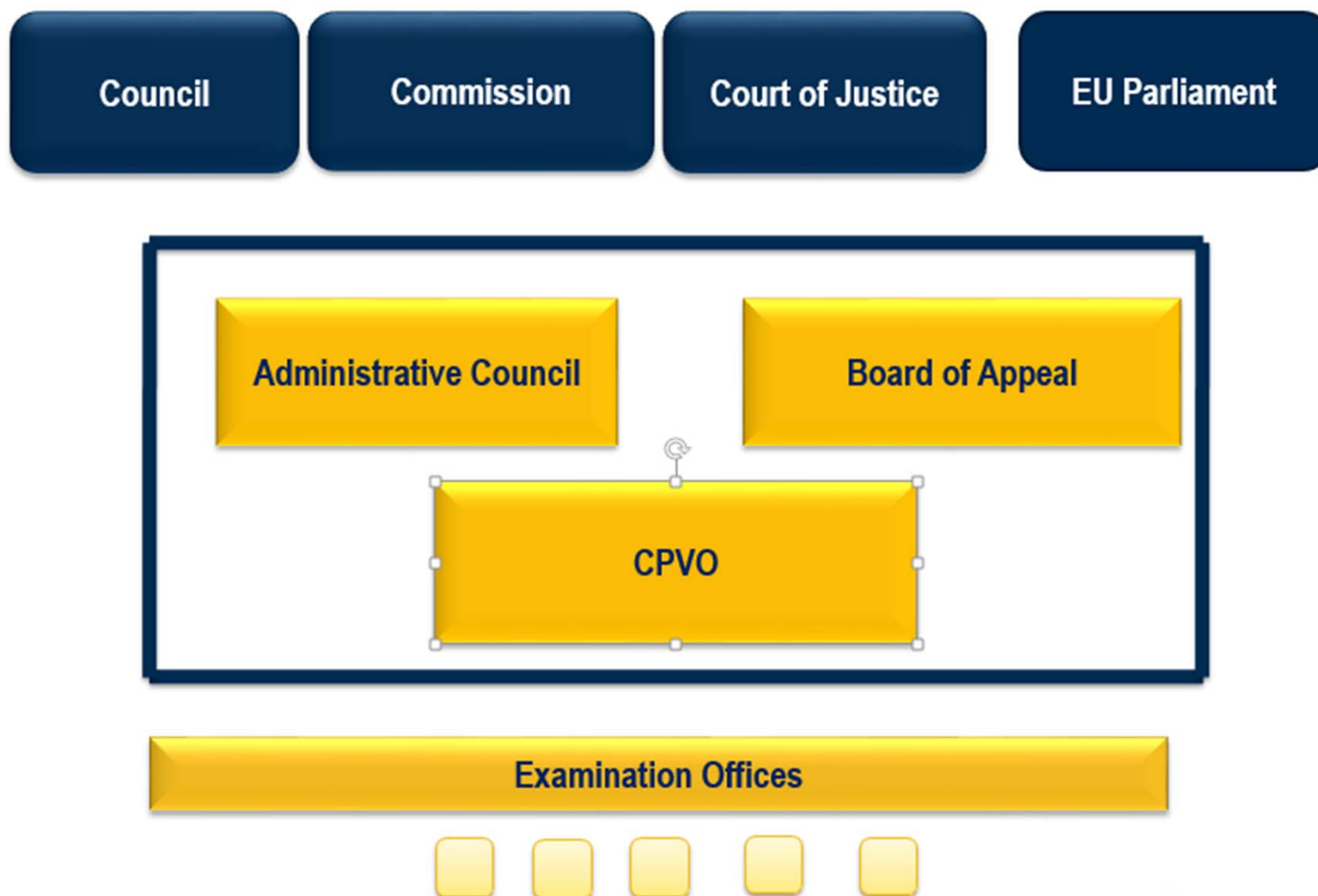
*'To deliver and promote an efficient  
Intellectual Property Rights system that  
supports the creation of new plant varieties for  
the benefit of Society'.*





## ● II. The CPVO

# Institutional Framework



## **Administrative Council**

- The Administrative Council (AC) is made up of representatives of the **EU Member States**, a representative of the **European Commission** and **Observers**
- The Administrative Council is **responsible for**:
  - Monitoring the CPVO
  - Approval of the Budget
  - Approval of the Technical Protocols
  - Entrustment of Examination Offices



## Funding

- Under the terms of the basic Regulation the CPVO is **self-financing**:
  - It must administer the system without financial support from the general European Union budget
  - The CPVO receives revenue from fees



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## Object of protection

- Varieties of all botanical genera and species may be protected, including, inter alia, hybrids between genera or species [Art. 5(1) BR].
- The Office has received applications for more than **2100** species.



## **Uniform Effect of the Protection**

- Community plant variety rights (CPVRs) shall have **uniform effect** within the **EU territory** and may only be granted, transferred or terminated within such territory on a uniform basis (Art. 2 BR)

## **Duration of the Protection**

- The duration of the protection of plant varieties is of (Art. 19 BR):

- **25 years** or

- **30 years** – for vineyards, trees and potatoes

- Provisional Protection**: it covers the period between publication of the application for a CPVR and the grant thereof (Art. 95 BR)



## Scope of the Rights (Acts)

- The **holder** is entitled to carry out the following acts:

a) Production or reproduction (multiplication)

b) Conditioning for the purpose of propagation

c) Offering for sale

d) Selling or other marketing

e) & f) Exporting from/Importing to the European Union

g) Stocking for any of the above mentioned purposes

- For the abovementioned acts, the **authorisation** of the holder is required [Art. 13(2) BR]:



## Exceptions to the protection

- The main exceptions to CPVRS – restricting the breeder's scope of rights – are:
  - The limitations of the effects of CPVRS as listed in Art. 15 BR:
    - Acts done privately for non-commercial purposes
    - Acts done for experimental purposes
    - Acts done for the purpose of breeding, or discovering and developing new varieties (the breeder's exemption)
  - The agricultural exemption (Farm-saved seed) (Art. 14 BR):
    - Covering varieties belonging to a limited list of 21 agricultural crops





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## ● IV. Application Procedure



### Filing of the application



- The system is open to **any natural or legal person** (Art. 12 BR)
  - Applicants outside the EU must appoint a procedural representative (Art. 82 BR)
  - If the applicant is **not** the breeder of the variety, a deed of assignment must be enclosed attesting to the transfer of rights (Art. 11 BR)



## CPVR Grant Requirements



The Plant Variety must comply with the following requirements  
(Art. 6 BR):

### THE DUS CRITERIA

- D – Distinctivity
- U – Uniformity
- S – Stability

### NOVELTY

### VARIETY DENOMINATION



## ☛ IV. Application Procedure

### **Technical Examinations**

- The CPVO has **not** created its own technical infrastructure
- Technical examinations are carried out by the **Examination Offices** (EOs) entrusted by the Administrative Council



## Network of Examination Offices in the E.U. on 31/12/2019





## Technical Protocols

- Technical examinations are generally carried out according to the CPVO technical protocols [Art. 56(2) BR] → In default of these, UPOV guidelines shall serve as reference [Art. 22(3) PR]
- The CPVO technical protocols contain a compulsory list of characteristics to be met by the varieties
- The CPVO protocols are:
  - Based on the relevant UPOV guidelines
  - Elaborated together with national crop experts
  - Formally adopted by the CPVO's Administrative Council



## IV. Application Procedure

### Grant of the CPVR

- If the Office considers that the **examination findings are sufficient** and there are **no impediments**, it shall **grant the CPVR** and the decision shall include an official description of the variety (Art. 62 BR)
- If a CPVR requirement is **not** fulfilled, the application is **rejected** (Art. 61 BR)



**CERTIFICAT ATTESTANT L'OCTROI D'UNE PROTECTION COMMUNAUTAIRE DES OBTENTIONS VÉGÉTALES**

PAR LA PRÉSENTE, L'OFFICE COMMUNAUTAIRE DES VARIÉTÉS VÉGÉTALES RECONNAÎT L'OCTROI D'UNE PROTECTION COMMUNAUTAIRE DES OBTENTIONS VÉGÉTALES PAR SA DÉCISION N° **EU 24514** DU **06 AVRIL 2009**, ARRÊTÉE CONFORMÉMENT AU RÈGLEMENT (CE) N°2100/94 DU CONSEIL, INSTITUANT UN RÉGIME DE PROTECTION COMMUNAUTAIRE DES OBTENTIONS VÉGÉTALES, AVEC EFFET À LA DATE DE LA DÉCISION PRÉCITÉE, EN FAVEUR DE

**PEPINIERES JEAN REY S.A.** et **LES SERRES DU LODEVOIS S.A.R.L.**  
**LA PASCALETTE - R.D. 559** **ROUTE DE MONTPELLIER**  
**FR - 83250 LA LONDE LES MAURES** **FR - 34700 LODEVE**

EN TANT QUE TITULAIRES DE LA PRÉSENTE PROTECTION, POUR LA VARIÉTÉ DE *Mandevilla sanderi* (*Hemsl.*) *Woodson*, PORTANT LA DÉNOMINATION ATTRIBUÉE SUIVANTE :

**LUTEVA PINK AGLÆ**

PENDANT UNE DURÉE EXPIRANT LE **31 DÉCEMBRE 2034** AU PLUS TARD.

LA PROTECTION COMMUNAUTAIRE DES OBTENTIONS VÉGÉTALES A UN EFFET UNIFORME SUR LE TERRITOIRE DE LA COMMUNAUTÉ EUROPÉENNE ET NE PEUT ÊTRE TRANSFÉRÉE POUR CE TERRITOIRE QUE SUR UNE TELLE BASE UNIFORME. LES TITULAIRES L'EXERCENT ET EN BÉNÉFICIENT CONFORMÉMENT AU RÈGLEMENT N° 2100/94 DU CONSEIL INSTITUANT UN RÉGIME DE PROTECTION COMMUNAUTAIRE DES OBTENTIONS VÉGÉTALES.

LA PRÉSENTE RECONNAISSANCE N'AFFECTE PAS L'OBLIGATION INCOMBANT AUX TITULAIRES D'ACQUITTER LES TAXES DUES POUR CHAQUE ANNÉE DE DURÉE DE LA PROTECTION COMMUNAUTAIRE DES OBTENTIONS VÉGÉTALES.

Le Président de l'Office Communautaire des Variétés Végétales  
  


**APPROVED**



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## ● V. Proceedings before the Office and appeals

### **Objection**

- Any person may lodge with the CPVO a written objection to the grant of a CPVR (Art. 59 BR)
- Objections may be based only on the grounds of:
  - Conditions laid down in Articles 7 to 11 BR
    - *The objection may be lodged at any time after the application and prior to a grant/refusal decision*
  - An impediment to a proposed variety denomination
    - *The objection shall be lodged within 3 months of the publication of the proposed variety denomination*



## ● V. Proceedings before the Office and appeals

### Appeals



- Any natural or legal person may appeal against a decision addressed to that person or against a decision of direct and individual concern (Art. 68 BR)
- The appeal has a **suspensory effect** on the contested decision [Art. 67(2) BR]
- The Board of Appeal is responsible for deciding on appeals



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## Enforcement

- The CPVR holders can enforce their rights on the **grounds** of infringing acts in relation to the variety or to the variety denomination
- At the moment there are **no specialised courts on PVRs**
- **National courts** are competent to hear infringement cases



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# CPVO - Key Statistics

**53,900** titles granted

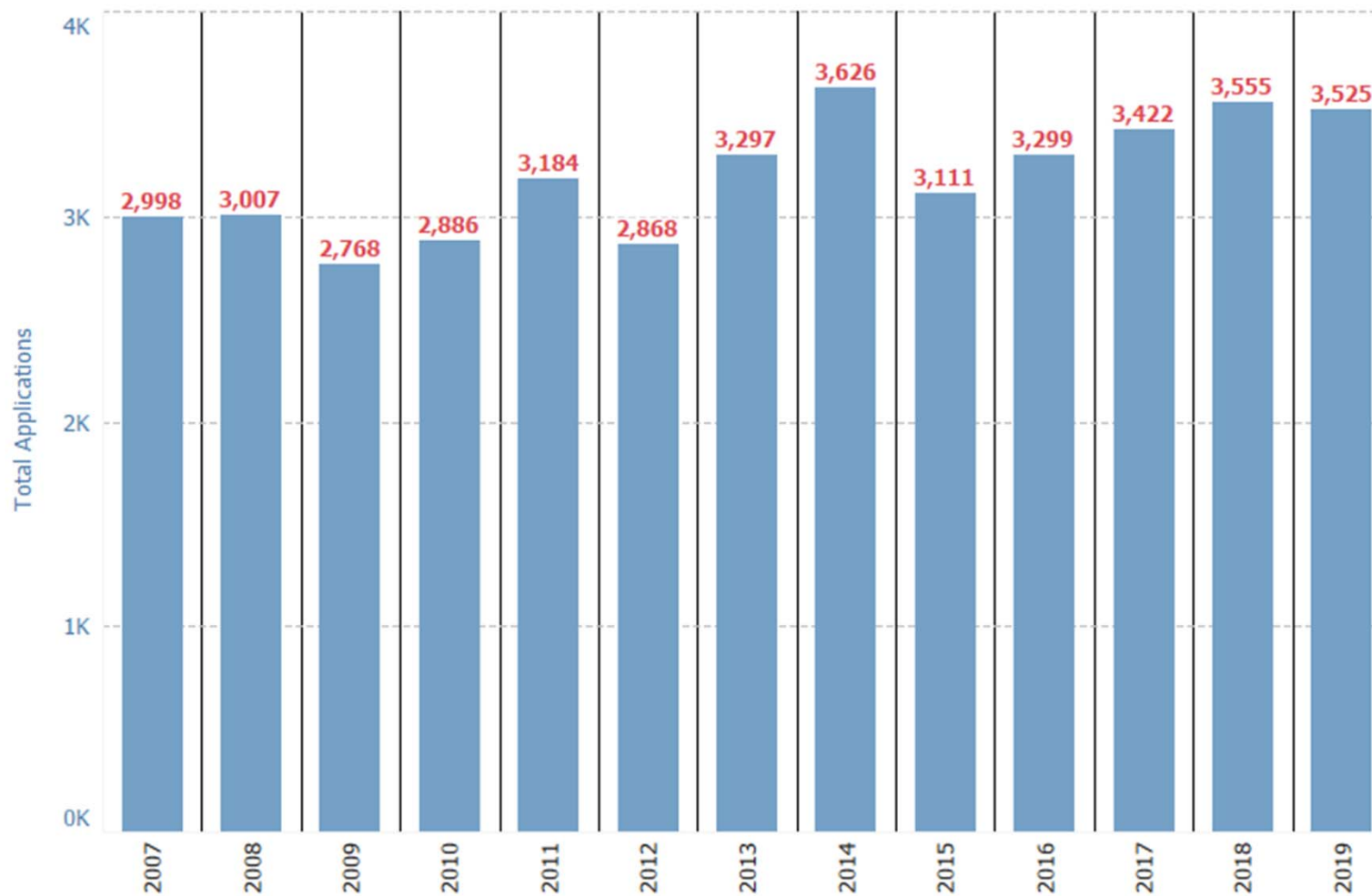
**28,200** active titles

**69,200** applications received

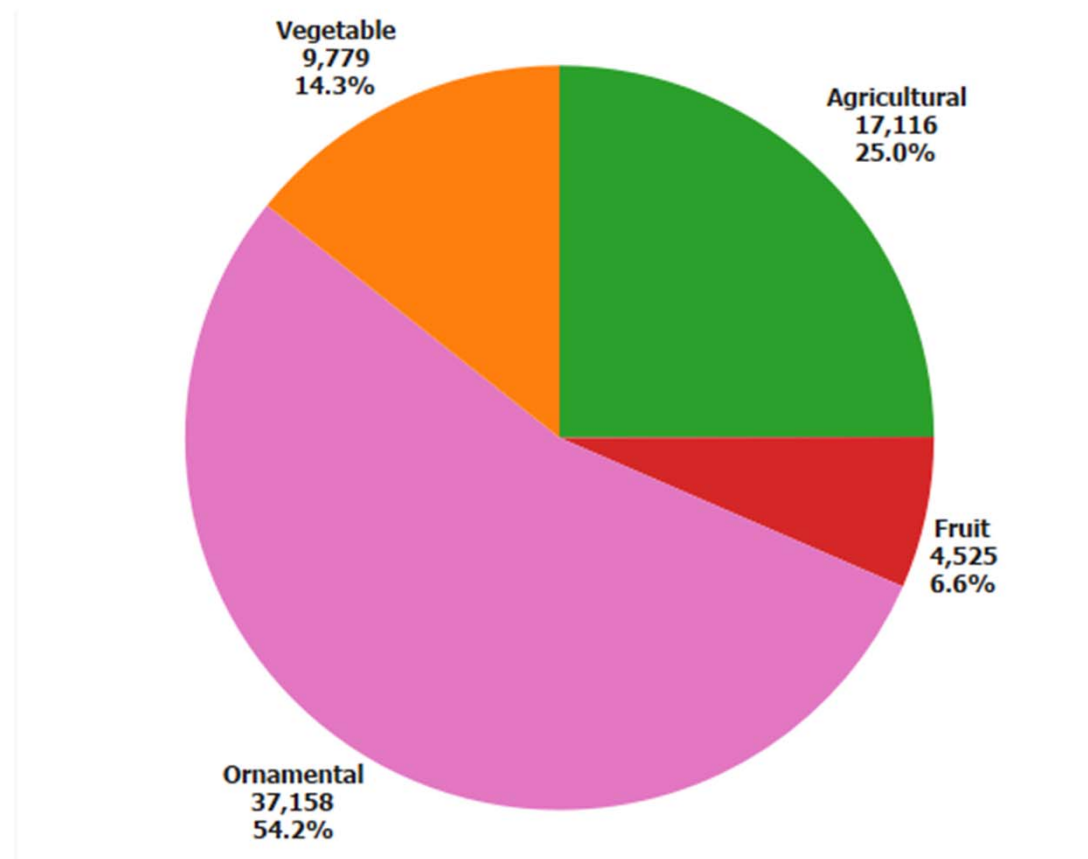
**2,200** different species



# Applications

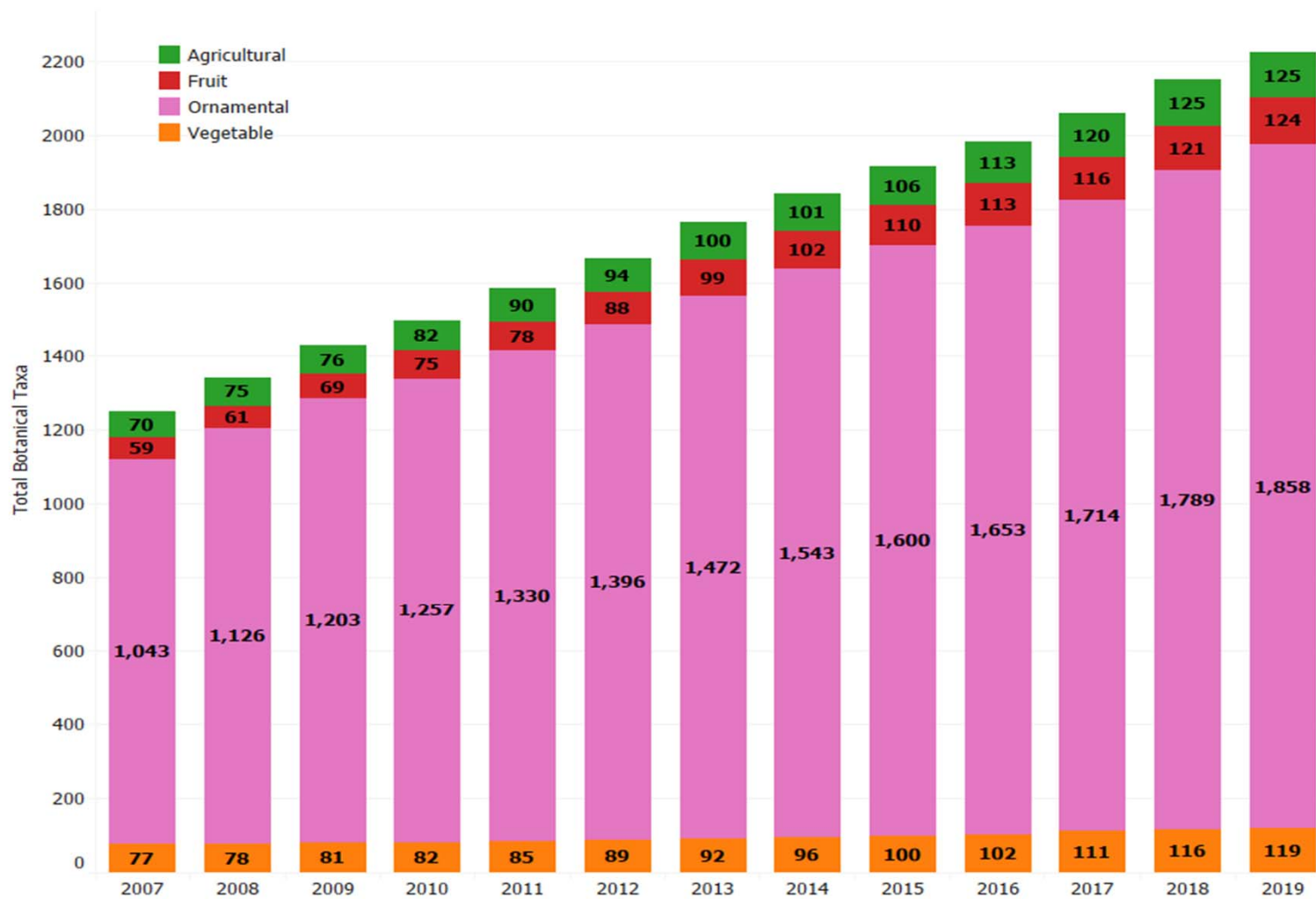


# Applications by crop

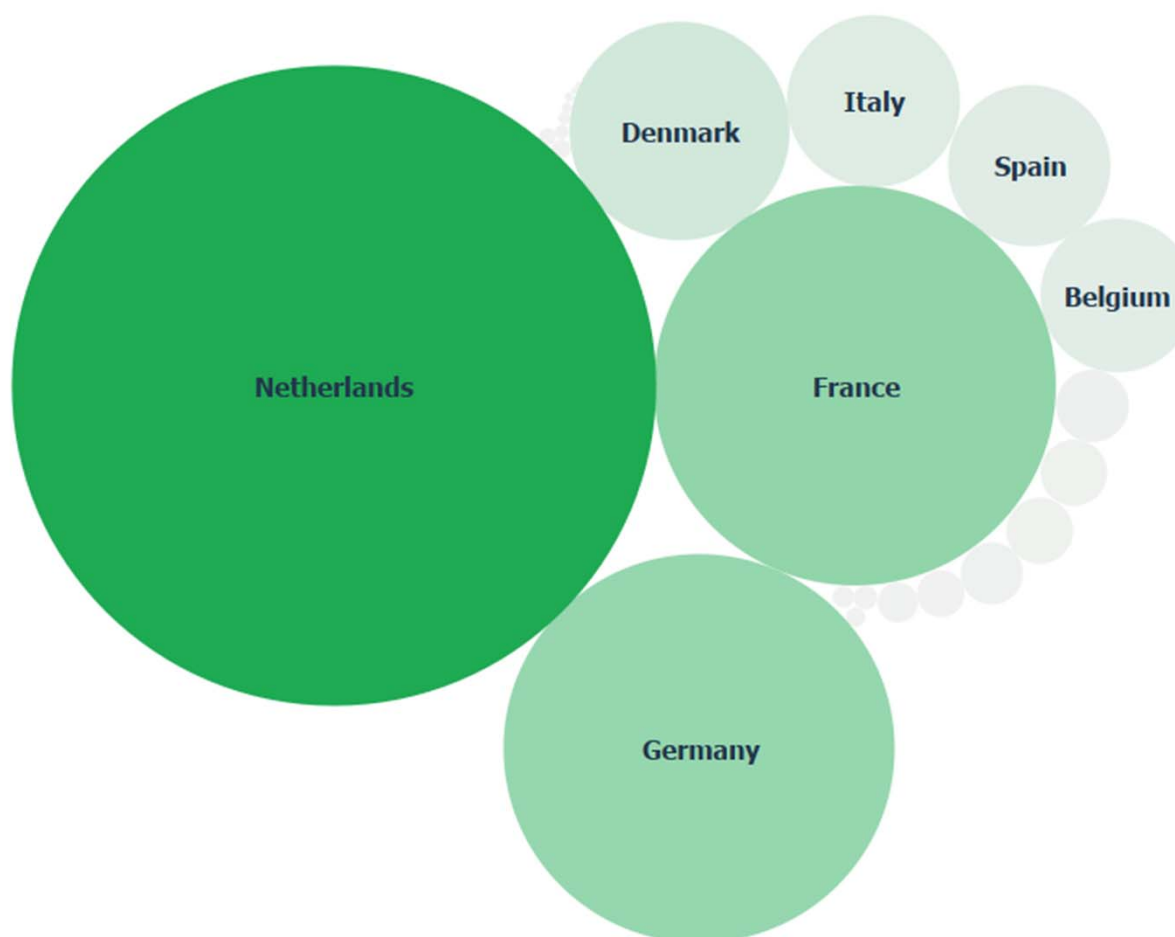




# Evolution of botanical taxa



# Applications EU : 1995-Present



Netherlands	22,914
France	8,925
Germany	8,445
Denmark	2,673
Italy	1,654
Spain	1,457
Belgium	1,321
Sweden	293
Austria	248
Poland	246
Czech Republic	215
Hungary	124
Ireland	90
Greece	31
Slovenia	26
Cyprus	21
Slovak Republic	20
Finland	16
Luxembourg	11
Portugal	9
Latvia	6
Estonia	5
Croatia	2
Malta	1
Romania	1





# CPVO

Community Plant Variety Office



## Visitors address:

Community Plant Variety Office  
3 boulevard Maréchal Foch  
FR – 49000 ANGERS

## Find us



## @Contact:

- › TEL : ( +33 ) ( 0 ) 2 - 41 . 25 . 64 . 00
- › E-mail : [cpvo@cpvo.europa.eu](mailto:cpvo@cpvo.europa.eu)
- › Webmaster : [webmaster@cpvo.europa.eu](mailto:webmaster@cpvo.europa.eu)



Seminar on Farm-Saved Seed - Tartu 4 March 2020