

Annual report 2002

Community Plant Variety Office



Community Plant
Variety Office



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1. INTRODUCTION BY BART KIEWIET, PRESIDENT OF THE CPVO



• **The state of the Community plant variety rights system**

As the statistics in this annual report show, the number of applications in 2002 rose compared with the previous year. The Office received 2 223 applications. This high number — the budgetary forecast was based on a total of 2 000 applications — is one of the reasons that the accounts of the report year show a surplus of around EUR 1.1 million. More applications result in higher income out of application fees. Another reason for the positive financial outcome is that the lifetime of protected varieties, which generate by means of the annual fees an important part of the income of the Office, is much longer than foreseen when the level of these fees was established.

Not only higher income than expected was responsible for the windfall. Expenditure related to most of the budget lines was considerably lower than budgeted.

During the report year the following subjects demanded, apart from the routine activities, the special attention of the members of the CPVO staff: modification of the fee system, preparation of the EU enlargement, implementation of the CPVO subsidy scheme, preparation of a new financial regulation, and drafting of test protocols.

• **Modification of the fee system**

The main elements of the system as proposed are:

- The level of the application fees will be kept at EUR 900.
- The examination fees will cover 85 % of the costs related to the execution of DUS tests on behalf of the Office.
- A flat rate annual fee, one tariff for protected varieties of all species whatever their age, will be introduced to cover the costs of the Community system which are not covered out of the other fees.
- In order to reduce the financial reserve of the Office, the level of both the examination fee and the annual fee will be fixed during a period of three years at a lower than their structural level.

Representatives of the breeders' organisations have expressed their consent regarding the philosophy behind the proposals. The Commission is in favour of modifying the CPVO fees regulation along the lines proposed by the Administrative Council.





The 'Hôtel Bordeaux-Montrieux', premises of the CPVO in Angers

- **EU enlargement**

On different levels the Office has prepared the accession of 10 new Member States to the Community plant variety rights system.

The Administrative Council invited representatives of the candidate States to participate in part of its meeting organised in June 2002 in Vienna. On this occasion a presentation of the Office was given.

Members of the staff of the Office participated in an assessment initiated by the European Commission covering, amongst other things, the national plant variety rights systems and the technical infrastructure for the testing of varieties in the candidate countries. On the basis of this assessment the Office will formulate a proposal as concerns the inclusion of examination offices of these States in the network of examination offices working on its behalf.

Legal issues related to the enlargement of the Community plant variety rights (CPVR) system have been discussed by members of the staff of the CPVO with breeders' representatives and the Commission services.

- **The CPVO subsidy scheme**

In its meeting of March 2002 the Administrative Council established the conditions for the participation by the Office in the costs of research and development projects and in the costs related to the maintenance of reference collections.

The CPVO received several requests for a subsidy in the framework of this subsidy scheme. Following the advice of the competent internal committee of the Office and external advisors, a financial contribution was not granted to any of the projects presented. The reasons for the refusals were diverse. Some of the proposals were not well developed; some were related to fundamental research, others were lacking a form of coordination with existing projects in other EU States. Since it was the first year that the scheme was in force it was to be expected that its application would encounter some problems. The balance of this year is nevertheless disappointing for all parties concerned. This year's experience can anyhow be qualified as part of a learning process for the Office as well as for the applicants. In order to avoid a repetition of this year's situation the Office has established guidelines for the submission of subsidy requests. I expect that the applications in 2003 will be more successful than those received this year.

- **A new financial regulation**

In 2002 a new Council regulation applicable to the general budget of the European Communities was adopted. Some new elements in the regulation are: the suppression of the financial control function, the creation of an internal audit function and the rein-

forcement of the role of the European Parliament as the budgetary authority of the agencies receiving a subsidy out of the general budget.

Due to its self-financing character the regulation is not directly applicable to the CPVO. This means that the European Parliament has no direct responsibility in respect of the financial management of the Office. Its Administrative Council continues to be the budgetary authority of the CPVO. Other elements, such as the creation of an internal audit function, have nevertheless to be implemented in a new financial regulation for the Office. The Administrative Council has decided that, if the Commission's internal auditor is not in a position to play this role also in respect of the Office, this function will be externalised.

- **Test protocols**

The technical examinations performed on behalf of the Office have to follow test protocols adopted by the Administrative Council. These protocols are based on the test guidelines established in the framework of the International Union for the Protection of New Varieties of Plants (UPOV) but adapted to the specific needs of the Community plant variety rights system. Recent legislation of the Commission obliges the Member States to take into account the characteristics listed in the relevant CPVO protocols, when testing varieties for inclusion in the agricultural and vegetable common catalogues.

It remains to thank all those who have contributed to the performance of the CPVO for their efforts.

Bart Kiewiet
President of the CPVO



2. FOREWORD BY CARLOS PEREIRA GODINHO CHAIRMAN OF THE ADMINISTRATIVE COUNCIL



I would like to start this introduction with some brief words of acknowledgement, and heartfelt appreciation, of the great dedication and spirit of service shown by the President, the heads of unit and all who have worked at the CPVO in 2002. The Community plant variety rights system owes much of its success to all these people. The result of their efforts is partly reflected in the rising number of applications submitted to the CPVO every year, and in the more than 8 000 varieties now protected by the system.

Of the year's main events, I would like to single out the following:

- The CPVO's preparatory work for the implementation of the system for which it is responsible in the future Member States: this initiative is of immense interest, not only in terms of the institution's administration and internal functioning, but also in terms of the consequences of enlargement for present and future users of the system.
- Many protocols for technical examinations have been prepared and adopted: these protocols currently cover quite a significant range of the species most important to the CPVO's work. These carefully drafted documents form a cornerstone, not only of the Community system, but also within the various Member States to study the distinctness, uniformity and stability of new varieties of certain agricultural vegetables species. Still in the technical field, I think it worth highlighting the Administrative Council's decision giving the green light to exploratory work for the future creation of a database for checking variety denominations. Once operational, this will certainly be a very useful tool for the CPVO, the various national registry services and users.
- Another matter, certainly very important to the functioning of the entire system, was the Administrative Council's decision to propose an amendment to the fees regulation. Indeed, it has had a great impact on all users. The purpose of this measure was to make the system more accessible to all possible users, and to reduce the CPVO's reserves accumulated during the initial stage of implementation and consolidation of the system. The guiding principle is to popularise the Community plant variety rights system allowing access to it and enjoyment of its advantages for as many interested parties as possible. The CPVO, especially its Administrative Council, has adhered quite closely to this principle, making the necessary adjustments as far as possible. This has helped make the Community plant variety rights system more attractive — economically and otherwise.
- The decision by CPVO's Administrative Council to hold an annual meeting with associations representing plant breeders at Community level was taken at the motion of the ESA (European Seed Association). The underlying idea is to forge and promote contacts between the Administrative Council and the CPVO's users. It is an initiative that appears highly appropriate and useful to the system's future and to the ongoing effort to improve the services provided by the CPVO.





Pelargonium DUS trials

- Lastly, I would mention another event that, as such, might have attracted less attention. Nevertheless, it is highly relevant to the functioning of this institution. I refer to the appointment of Mrs Winkler as Chairman (renewed in office following a competition) and Mr Millett as alternate to the Chairman of the CPVO Board of Appeal. I would like to thank them both, on behalf of the Administrative Council, for their willingness to hold these offices, and I wish them every success in the important mission entrusted to them.

Finally, I would like to thank my fellow members of the Administrative Council for the excellent work they have done and for their personal commitment, without which this Council could not have responded properly to the various requests submitted to it.

Carlos Pereira Godinho

Chairman of the Administrative Council



3. THE COMMUNITY PLANT VARIETY RIGHTS SYSTEM

On 27 April 1995 the substantive and procedural parts of Council Regulation (EC) No 2100/94 ('the Basic Regulation') came into force introducing a Community plant variety rights system. Prior to that date, a breeder seeking protection for a new variety in the whole of the territory of the European Union was obliged to make separate applications in each individual Member State. Now, on the basis of a single application to the Community Plant Variety Office ('the Office'), a breeder may be granted protection guaranteeing him exclusive exploitation rights for his variety throughout the EU.

The new system is not intended to replace or even harmonise national systems but rather to exist alongside them as an alternative; indeed, it is not possible for the owner of a variety simultaneously to exploit a Community plant variety right (CPVR) and a national right or patent in relation to that variety. Where a CPVR already exists in relation to a variety, any national right or patent granted for that variety will be ineffective. 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.

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 (DUS). 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 European Union. 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.

Anyone may lodge an objection to the grant 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 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. Objectors become parties to the application proceedings and are entitled to access to relevant documents.

Except in two specific instances where a direct action against a decision of the Office may be brought before the European Court of Justice, a right of appeal against such a decision lies with a Board of Appeal consisting of a chairman, appointed by the Council, and two other members selected by the chairman from a list compiled by the Administrative Council. The addressee of a decision, or another person to whom its content is of direct and individual concern, may appeal against it. After examining the appeal the Board may exercise any power within the competence of the Office or remit the case to the Office which is bound by the Board's decision. Actions may be brought before the European Court of Justice against decisions of the Board.





Alstroemeria DUS trials

Lilium DUS trials

The table in the Annex gives the number of notice(s) of appeal lodged with the CPVO since the beginning 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 five years in relation to specific genera or species. The effect of a CPVR is that certain specified activities in relation to variety constituents or harvested material of the newly protected variety require the prior authorisation of the holder of the right, which authorisation may be made subject to conditions and limitations. Infringement of a CPVR entitles the holder of the right to commence civil proceedings against the perpetrator of the infringement.

Registers, open to public inspection, contain details of all applications received, and all CPVRs granted, by the Office. Every two months, the Office publishes its *Gazette of the Community Plant Variety Office* which also provides this information, as well as other material.



4. THE ADMINISTRATIVE COUNCIL

The Office is supervised by an Administrative Council comprising a representative from each Member State and one from 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 budget of the Office, and granting discharge to the President in respect of its implementation. In addition, it may provide advice, establish rules on working methods within the Office and issue protocols on technical examinations, committees of the Office and general matters.

The Administrative Council met four times in 2002, on 26 and 27 March, 17 and 18 June, 5 September, and 30 and 31 October. The session on 17 and 18 June was held in Vienna at the invitation of the Austrian authorities following the reorganisation of the various national food inspection organisations into a single agency, and the election of the new Austrian Vice-President, Heinz-Peter Zach. The Vienna session ended with an extraordinary meeting attended by representatives from all candidate countries.

The accounts for the financial year 2001 and the preliminary draft budget for 2003 were presented at the **meeting held on 26 and 27 March**. The members of the Administrative Council granted discharge to the President of the CPVO to implement the budget for 2000. They also adopted the guidelines on the co-financing by the CPVO of costs associated with maintaining reference collections and the guidelines on subsidies for research and development projects granted by the CPVO.

Finally, several important matters were discussed at the meeting, including:

- the future financing of technical examinations. Here, the members of the Administrative Council agreed that annual fees should play a key role in reducing the CPVO's reserves;
- revision of the implementing rules for the CPVO's financial regulation;
- the vacancy notice to be published by the European Commission in the Official Journal for the appointment of the Chairman of the CPVO's Board of Appeal and his alternate;
- the possibility, on a provisional basis, of organisations of breeders attending some of the Administrative Council's spring meetings.

The CPVO's technical protocols for the following agricultural and vegetable species: barley, durum wheat, potato, wheat, asparagus, Brussels sprouts, carrot, corn salad, cucumber/gherkin, endive, melon, pepper, radish, spinach, sprouting broccoli.

Finally, a number of technical problems were also discussed, including the appointment of new examination centres, the technical verification of protected varieties, DUS testing of genetically modified varieties and a revision of the list of technical liaison officers.





The members of the Administrative Council of the CPVO at the meeting in Vienna

At the **meeting held in Vienna on 17 and 18 June**, the Administrative Council analysed the various models for implementing a new fee system with the aim of reducing the CPVO's reserve. The members of the Administrative Council adopted a model aimed at reducing reserves by a total of EUR 5 million by the end of a transitional three-year period. This model sets a flat-rate annual fee of +/- EUR 300 during the transitional period and +/- EUR 435 after that period. The members of the Administrative Council also adopted a revision of the implementing rules for the CPVO's Financial Regulation.

The members of the Administrative Council present at the **meeting in Brussels on 5 September** voted unanimously to adopt the draft amending budget for 2002. The Administrative Council also delivered its opinion on the two lists of candidates for appointment/renewal of the mandate of Chairman of the CPVO's Board of Appeal and his alternate.

Given the necessary increase in staff numbers at the CPVO in the near future, the Administrative Council agreed in principle to provide extra space to house the Technical Unit. The Office will follow up the unsolicited offer it made to the owner of an apartment located in the building currently housing the Technical Unit.

At the **meeting held on 30 and 31 October**, the members of the Administrative Council adopted the following items:

- the second amending budget for 2002;
- the draft budget for 2003;
- the CPVO's technical protocols for the following agricultural and ornamental species: rye, sunflower, osteospermum, geranium, alstroemeria, begonia, carnations, exacum, gerbera, gladioli, kalanchoe, lily, rose, statice, tulip and weigela;
- the appointment of the examination offices proposed for new species;
- a change in the flat-rate annual fee, which now totals EUR 300 for a transitional three-year period;
- a number of changes to the guidelines on variety denominations adopted in April 2000.

Following an amendment to the European Commission's Financial Regulation and the abolition of the post of in-house auditor, the Administrative Council granted EUR 50 000 under the 2003 budget to acquire the services of an external auditing firm.

The Administrative Council also deferred the final date for submitting research projects and maintaining reference collections to 1 March 2003. It gave its support to a study on the implementation of a centralised database for verifying variety denominations.



MEMBERS OF THE ADMINISTRATIVE COUNCIL IN 2002CHAIRMAN OF THE ADMINISTRATIVE COUNCIL**Mr C. Pereira Godinho** (Portugal)MEMBERS OF THE ADMINISTRATIVE COUNCIL

Belgium	Mrs C. Vanslebrouck Mrs F. Bedoret (alternate)
Denmark	Mr H.-J. Andersen Mrs M. Buus (alternate)
Germany	Mr U. Von Kroecher Mr H.-W. Rutz (alternate)
Greece	Mr M. Gavras Mr T. Kastrissios (alternate) (until July 2002) Mr E. Zagilis (from August 2002)
Spain	Mr M. Fernandez de Gorostiza Mr L. Salaices (alternate)
France	Mr B. Mathon Ms N. Bustin (alternate)
Ireland	Mr J. Carvill Mr G. Rennick (alternate)
Italy	Mrs G. Morelli Gradi Mr P. Mainolfi (alternate)
Luxembourg	Mr C. Conter Mr M. Weyland (alternate)
The Netherlands	Mr G. van Der Lely Mr C. van Winden (alternate)
Austria	Mr H.-P. Zach (Vice-Chairman) Mr J. Hinterholzer (alternate)
Portugal	Mr C. Pereira Godinho (Chairman) Mrs M.-T. Carrilho (alternate)
Finland	Mr A. Vuori Vacant
Sweden	Mr G. Karltorp Mrs M. Sjöblom (alternate)
United Kingdom	Mrs H. Hamilton Mr J. Dix (alternate)
European Commission	Mr R. Coleman Mr D. Obst (until June 2002)



5. STAFF OF THE CPVO

In December 2002 the Office comprised 11 officials, 17 temporary agents and two auxiliary agents. Eleven nationalities from the European Union's Member States were represented.

• Organisation of the Office

Under the general direction of its President, the Office is organised internally in two principal units and support services dealing with legal, personnel and IT matters.

- **The Technical Unit**, the principal tasks of which are the following: general coordination of the various technical sectors of the Community plant variety rights system; reception and checking of applications for protection; organisation of technical examinations and technical reports; organisation of variety denomination examinations; preparation for granting of rights; production of official technical publications; relations with applicants, national offices and the sector's international organisations; active participation in international committees of technical experts; and cooperation in the development of technical analyses and studies intended to improve the system.
- **The Finance and Administration Unit** is active in two areas:
 - *Administrative section*: awarding of contracts for goods, services or works in compliance with Community procedures; conclusion, administration and management of contracts; organisation of Community publications; administration, management and monitoring of the Office's inventory of movable property and buildings; administration or requirements in logistical, office automation, computing and operational resources with a view to ensuring the smooth functioning of the Office;
 - *Financial section*: commitment, validation, authorisation and payment of expenditure, and in particular that relating to technical matters; recovery of revenue, mainly relating to fees; reimbursement of undue sums; administration of the Office's bank accounts, reserve funds and cash; maintenance of the budget and



Calluna DUS trials



Hydrangea DUS trials

general accounting and preparation of budgets and financial documents; management of the fees system.

— The legal support service furnishes legal advice to the President and other members of the Office staff in the first place on matters related to the Community plant variety rights system, but also on questions of an administrative nature. The service provides legal interpretations and opinions and also draws up draft legislation. It actively participates in various CPVO committees including the so-called decision committees and the Consultative Committee on Purchases and Contracts, thus ensuring that Community procedures and legislation are respected. It is responsible for the administration of objections to applications for CPVRs and for organising sessions of the Office's board of appeal.

- **The personnel support service** deals with the administration and management of the Office's human resources; recruitment, training, reimbursement of expenses relating to the Office's Administrative Council meetings, missions and technical experts' meetings.
- **The IT team** was set up in the second half of 1998. It 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 programs specific to the Office, such as PVR (plant variety rights), SI2 (budget accounting system), a specific invoicing system and a system for administering charge accounts; installation of standard programs; maintenance of the computer installation and its administration; the computer system's security; the help desk; inter-institutional cooperation in computing.

- **Financial control**

Finally, the functions of financial controller are performed by the European Commission's Directorate-General for Financial Control.



ORGANISATIONAL FLOW

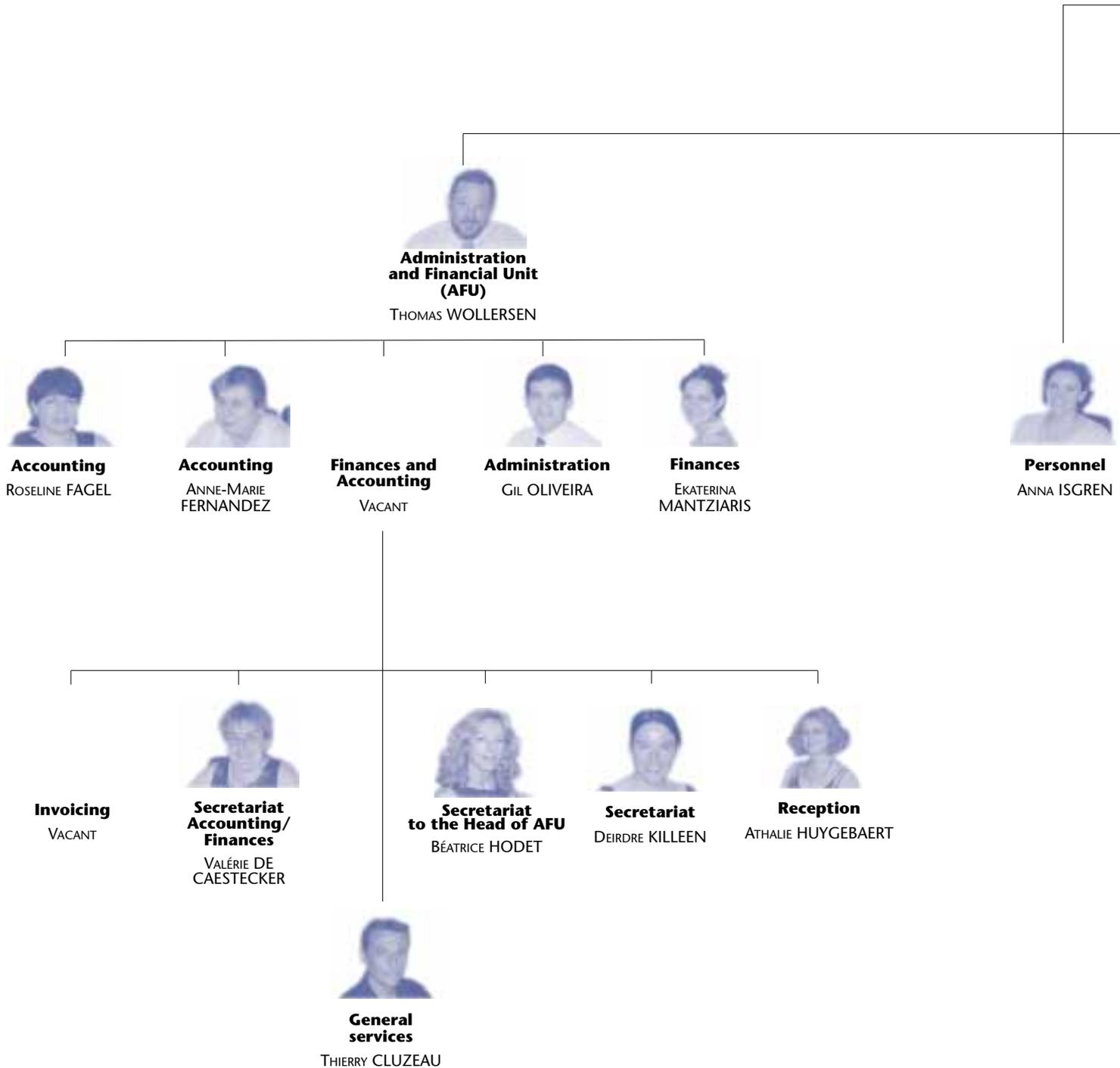
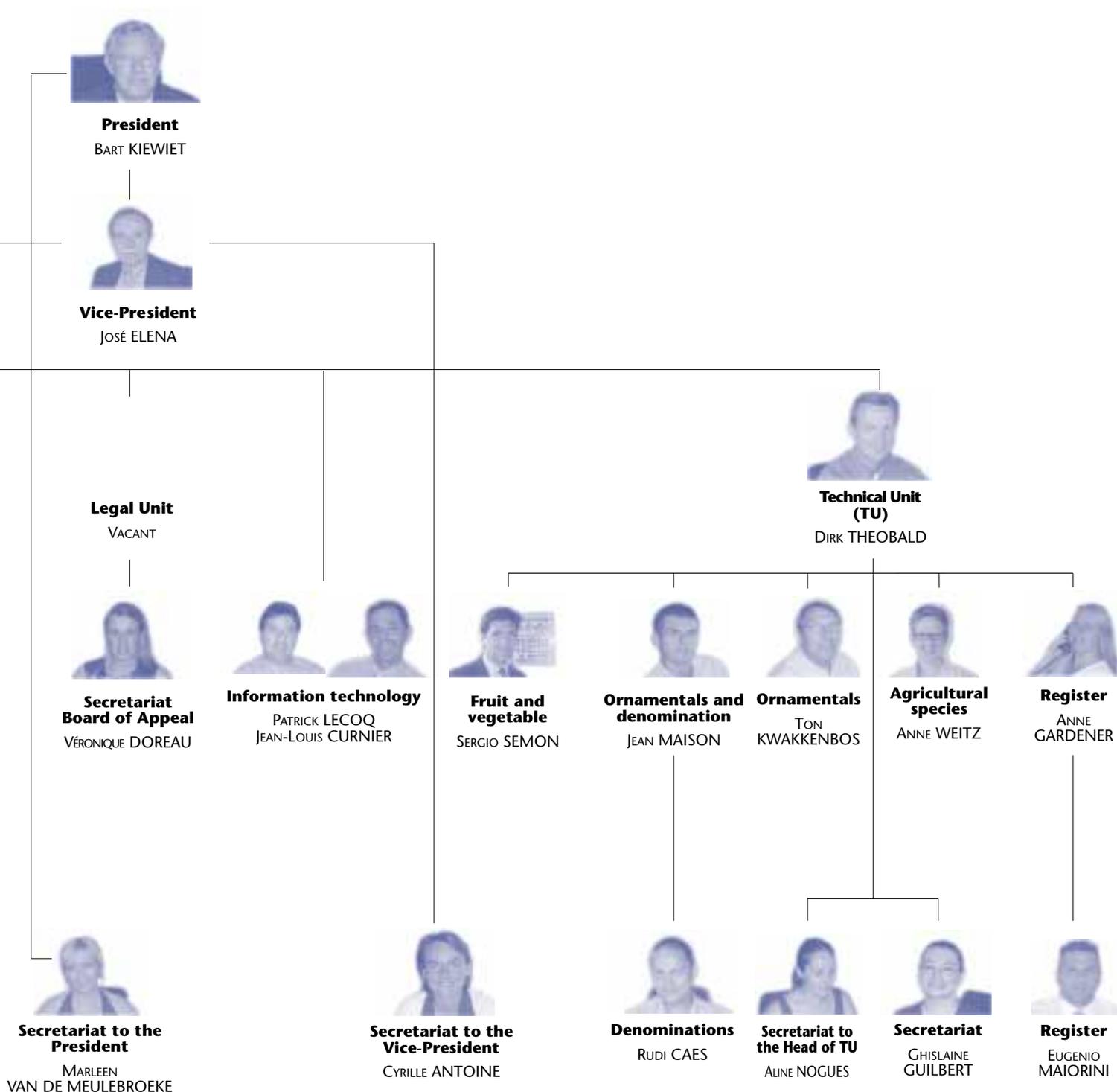


CHART OF THE CPVO 2002(*)



(*) The above organisational flow chart comprises those members of the CPVO employed as officials and temporary agents on 31 December 2002.



6. IMPLEMENTATION OF THE 2002 BUDGET AND FINANCIAL ANALYSIS

Revenue

The Office's revenue basically comprises various fees paid by applicants for and holders of Community plant variety rights and revenue from interest on bank accounts. The total revenue collected in 2002 was EUR 9 240 060.12, and revenue still outstanding amounted to EUR 130 124.95.

The principal types of revenue collected in 2002 are broken down as follows:

- **Fees**

Fees received in 2002 totalled EUR 8 563 536. This amount was divided up as follows: EUR 1 954 700 for application fees, EUR 1 462 992 for examination fees, EUR 127 800 for report fees, EUR 4 879 200 for annual fees, EUR 38 700 for surcharges, EUR 38 700 for sales of reports, EUR 25 500 for appeal fees and EUR 35 944 for miscellaneous fees.

- **Interest on bank accounts**

EUR 615 153.44 was collected in interest on the Office's current accounts.

- **Other revenue**

EUR 93 372.73 was recorded as a debt receivable from the Office for Official Publications of the European Communities for proceeds from the sale of the Office's Official Gazette.

EUR 61 370.68 was earned in 2002 under miscellaneous revenue, mostly from French and Danish VAT refunds.

Expenditure

The total amount for recorded expenditure and appropriation carryovers was EUR 8 238 973.21.

- **Staff expenditure**

The total amount of staff expenditure, including appropriation carryovers, was EUR 2 832 256.55. Under the items relating to the calculation of salaries, an average of 80–90 % of the amount provided for in the budget was utilised, except for the item for auxiliary staff, of which approximately 57 % was utilised.



Pot plants, of different species

Grafting of roses

- **Expenditure on buildings and movable property and miscellaneous operating expenditure**

The total amount for this expenditure was EUR 733 037.75, comprising EUR 570 300.34 in recorded expenditure and EUR 162 737.41 in appropriation carryovers.

- **Operational expenditure**

The total amount for this expenditure was EUR 4 673 678.91, comprising EUR 974 930.81 in recorded expenditure and EUR 3 698 678.10 in appropriation carryovers.

Out-turn for the financial year and accumulated reserve fund

The net budget out-turn for the year is the difference between revenue and expenditure, including appropriation carryovers during the year and cancelled appropriation carryovers during the previous year that were not utilised.

(in euro)

Out-turn for the year 2002	998 537.27	Total
Cancelled appropriation carryovers from the previous year	1 949 477.56	2 948 014.83
Out-turn for the previous year	11 028 828.02	
Out-turn to be brought forward		14 092 948.82

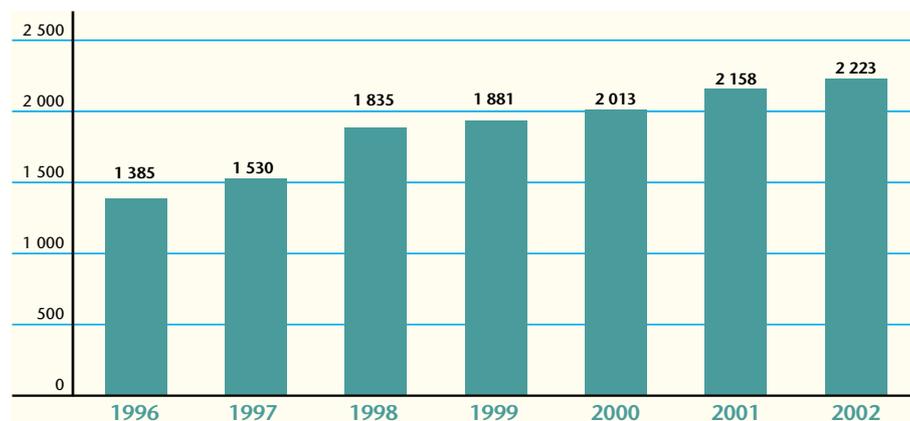
The reserve fund was therefore **EUR 13 976 842.85** at 31 December 2002.



7. DEVELOPMENTS IN THE **TECHNICAL SECTOR**

Applications for Community plant variety rights

In 2002 the Office received 2 223 applications for Community plant variety rights. As illustrated in Graph 1, this represents again an increase (+ 3.1 %) compared to the previous year (2001).



GRAPH 1 — EVOLUTION OF THE ANNUAL NUMBER OF APPLICATIONS FOR COMMUNITY PLANT VARIETY RIGHTS (1996–2002)

Ornamental varieties as illustrated in Graph 2 are on the highest increase compared to all the rest of the species.

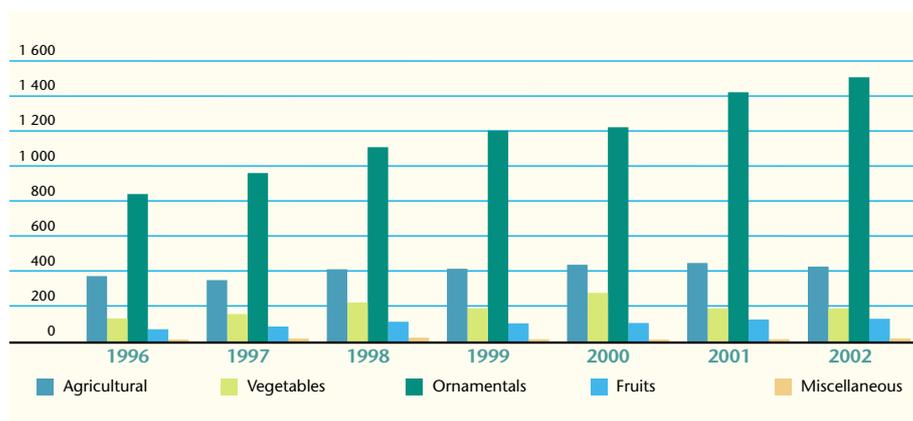
The sectors for agricultural species and vegetable species were slightly on the decrease. The year 2002 saw an increase of fruit varieties.



Pea DUS trials

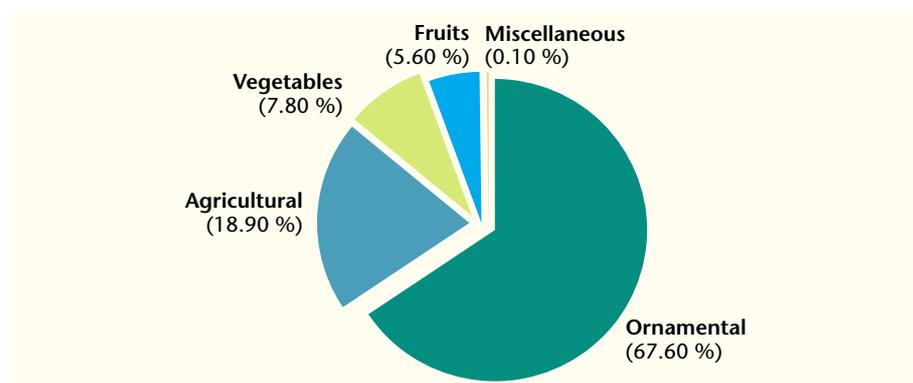


Management of grapevine DUS trials



GRAPH 2 — EVOLUTION OF RECEIVED APPLICATIONS PER CROP SECTOR, 1996–2002

The shares of the main crop sectors show that applications for ornamental varieties represented 67.6 % of all applications.



GRAPH 3 — PERCENTAGE OF APPLICATIONS RECEIVED ACCORDING TO EACH CROP SECTOR IN 2002

The main species for each crop sector are indicated in the following table.





Ornamental species	
<i>Rosa L.</i>	182
<i>Chrysanthemum</i>	181
<i>Impatiens-New Guinea-Hybrids</i>	72
<i>Petunia Juss.</i>	69
<i>Lilium L.</i>	60
Agricultural species	
<i>Zea mays L.</i>	144
<i>Triticum aestivum L. emend. Fiori et Paol.</i>	61
<i>Solanum tuberosum L.</i>	44
<i>Hordeum vulgare L. sensu lato</i>	40
<i>Brassica napus L.</i>	29
Vegetable species	
<i>Lactuca sativa L.</i>	53
<i>Pisum sativum L.</i>	28
<i>Phaseolus vulgaris L.</i>	20
<i>Lycopersicon lycopersic. (L.)Karst.ex.Farw.</i>	15
Fruit species	
<i>Prunus persica (L.) Batsch</i>	35
<i>Malus Mill.</i>	26
<i>Fragaria x ananassa Duch.</i>	13
<i>Prunus armeniaca L.</i>	10
Miscellaneous	
<i>Humulus lupulus L.</i>	1

The total number of different botanical taxa for which the Office has received applications since 1995 went up to 801 in 2001.

The origin of the applications in 2002 is indicated in the following table. Almost 44 % of EU applications originate from the Netherlands, followed by Germany 21.6 %, and France 13.6 %. It should also be mentioned that applicants based in non-EU countries filed more than 19 % of the total number of applications.

European Union	
Netherlands	790
Germany	389
France	244
Denmark	100
United Kingdom	94
Italy	65
Belgium	46
Spain	45
Sweden	14
Greece	10
Austria	2
Total	1 799

Third countries	
United States	267
Australia	43
New Zealand	34
Others	30
Japan	22
Israel	18
Switzerland	10
Total	424



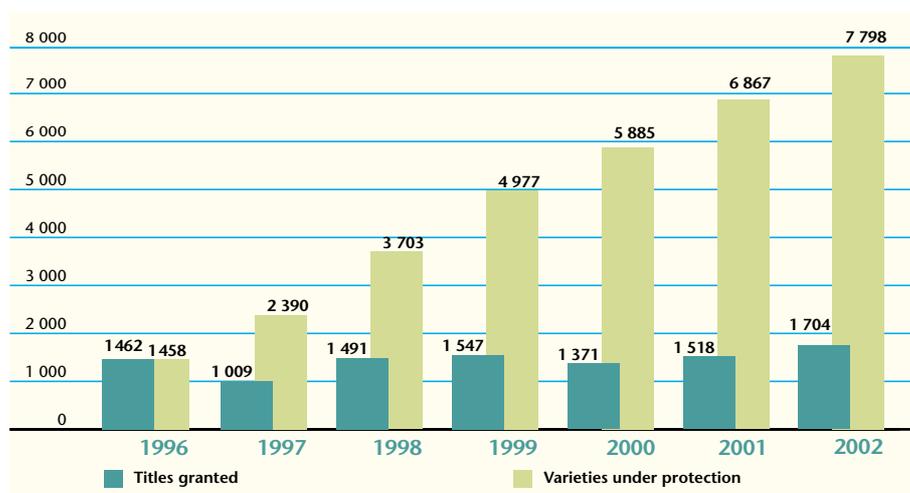
Hosta collection

Lilium DUS trials

Grants of protection

In 2002 the Office granted 1 704 titles for Community plant variety rights. A detailed list of all protected varieties (status at 31 December 2002) is published in the separate Annex to this annual report.

On 31 December 2002, almost 7 800 Community plant variety rights were in force. The table hereafter shows the number of Community titles granted for each year from 1996 to 2002 and illustrates the continuous increase of varieties under protection within the Community system.



GRAPH 4 — COMMUNITY TITLES GRANTED PER YEAR, 1996–2002

Relation with examination offices

Technical examinations

In 2002 the CPVO initiated 1 295 technical examinations to be carried out by the different examination offices working on behalf of the Office. A detailed list of examination offices is to be found under the chapter 'Examination offices'.





Annual meeting with the examination offices

During the sixth annual meeting with the examination offices the main topics discussed were:

- the implementation of a system of closing dates for applications;
- questions related to reference collections and standard samples;
- the interpretation of common knowledge of inbred lines;
- various aspects in the organisation of technical examinations;
- information to be provided in case of negative reports;
- the use of additional characteristics under the CPVO system;
- technical verification issues.

Furthermore the new fees regulation was presented as well as the recent developments concerning the meetings of the Expert Group of Variety Denominations.

In addition to the technical experts from the EU Member States, all countries that are candidates for accession to the EU were invited by the CPVO to attend the meeting as well as representatives of Switzerland and Norway, and officials of the European Commission, UPOV and the Office.

Expert meetings

In the framework of the preparation of draft technical protocols for DUS testing, the Office invited experts from the Member States who carry out technical examinations on behalf of the CPVO to various crop sector related technical meetings. In 2002, the following meetings were held:

- agricultural experts: the draft protocols discussed were oats, rye, triticale, sunflower, pea and a first exchange about a future technical protocol for oilseed rape;
- vegetable experts: the draft protocols discussed were asparagus, Brussels sprouts, carrot, cornsalad, cucumber, endive, melon, pepper, radish, spinach and broccoli;
- fruit experts: the draft protocols discussed were apple, pear, strawberry and peach;
- ornamental experts (two meetings): the draft protocols discussed were *Lilium*, *Tulip*, *Carnation*, *Kalanchoë*, *Elatior Begonia*, *Osteospermum*, *Weigela*, *Exacum*, *Rose*, *Alstroemeria*, *Gladiolus*, *Limonium*, *Fuchsia*, *New Guinea Impatiens*, *Bouvardia*, *Celosia*, *Anthurium*, *Freesia*, *Guzmania*, *Spathiphyllum* and *Zantedeschia*. Furthermore preparations for general technical questionnaires for the following ornamental crop groups have been finalised: cut flowers, pot plants, perennials and woody ornamentals.

Furthermore, a group of experts in the field of variety denominations met several times in 2002.

In March 2001, the Administrative Council of the Office advised establishing an expert group in order to study various issues concerning variety denominations. This expert group met once in 2001, and twice in the first semester of 2002. The findings of the expert group, which were presented to an enlarged group of experts of the 15 EU Member States in September 2002, are the following:

- (a) proposal for modification of the guidelines as adopted by the Administrative Council in 2000;
- (b) recommendation for the Office to develop a centralised database for the purpose of checking proposed variety denominations;
- (c) development of an Internet mechanism for the limited circulation of CPVO opinions in respect of variety denominations.

These conclusions were endorsed by the Administrative Council of the Office at the end of October 2002.

For the centralised database project, an approach in three steps has been adopted by the Administrative Council. It was agreed that a first phase of study would consist of a more detailed technical definition of the project and would involve consultation of denomination experts (users) and discussions with IT experts. A first meeting between denomination experts took place in December 2002. The aim is to present a report of this study phase to the Administrative Council at their autumn 2003 meeting.

Introduction of closing dates for applications

In November 2002 the Office published for the first time a special issue of the Official Gazette, the so-called S2 issue, introducing the CPVO requirements concerning the closing dates for applications and for the submission of plant material. This special issue is updated regularly in the CPVO Official Gazette; moreover, each autumn a consolidated version of S2 is to be published.

New species procedures

In cases where the Office receives applications for varieties of species for which no applications for Community plant variety rights have been filed to date, a so-called new species procedure is launched with the aim to prepare a proposal to the CPVO's Administrative Council. It is the Administrative Council's responsibility to entrust an examination office with the undertaking for the testing of distinctness, uniformity and stability of the candidate varieties. Within the new species procedure, examination offices are invited to express their interest in the conduct of the technical examination of the new species.

In 2002, four new species procedures were initiated by the Office, which encompassed proposals for testing varieties in 47 new species.





8. CONTACTS WITH EXTERNAL ORGANISATIONS

Meetings with professional organisations

In accordance with its policy of maintaining frequent contact with stakeholders, the CPVO organised several meetings with professional organisations.

In order to prepare its participation in the spring 2003 Administrative Council meeting, representatives of the European Seed Associations (ESA) and the International Community of Breeders of Asexually-reproduced Ornamentals and fruit (CIOPORA) attended a meeting in Angers with the Chairman and Vice-Chairman of the Administrative Council and the President and Vice-President of the Office.

- **CIOPORA**

In November 2002, a meeting with CIOPORA took place in Amsterdam, the Netherlands, at the occasion of the Hortifair. The main topic of discussion was the future testing system of varieties of poinsettia infected by phytoplasma.

- **ESA**

In September 2002 a meeting was held in Geneva between the Chairman of the Administrative Council and his deputy, the President and Vice-President of the CPVO on one side and representatives of ESA on the other side to discuss issues of common interest.

- **Fleuroselect Convention/ISF Ornamental Committee**

In connection with the Fleuroselect Convention during July 2002 in Egmond-aan-Zee, the Netherlands, a meeting of the International Seed Federation (ISF) Ornamental Committee was organised. The Office was invited to participate. The main topics were subjects related to seed propagated ornamentals.

Contacts with UPOV

In 1997 the European Communities formally decided to join the International Union for the Protection of New Varieties of Plants (UPOV). Following the procedure established in the 1991 Convention, at the request of the European Commission the Council of the European Union gave positive advice on the conformity of the EU regulation with the provisions of the Convention. Pending to deposit their instrument of accession, the Communities have an observer status. The CPVO participates in UPOV activities since 1996.



Vicia faba DUS trials



Greenhouse rose for cutflower production

CPVO officials regularly attend and actively participate in the meetings of the bodies and committees of the Union:

- UPOV Council,
- Legal and Administrative Committee,
- Technical Committee,
- Technical working parties:
 - Agricultural crops,
 - Vegetables,
 - Fruits crops,
 - Ornamental plants and forest trees,
- Working Group on Biochemical and Molecular Techniques (BMT) and its specialised subgroups,
- Enlarged Editorial Committee.

The Vice Secretary-General of UPOV participates in most of the meetings of the CPVO Administrative Council. Senior officials of the UPOV office also attend on a regular basis expert meetings or working groups organised by the CPVO dealing with technical and legal aspects of common interest to both organisations.

In several regions of the world covered by UPOV, like Latin America and Africa, there is an emergent interest to know the details, experience and results relating to plant variety rights systems with a regional scope. The CPVO frequently provides speakers for seminars organised by UPOV.

Experts of the CPVO participated in the subgroup meetings under the umbrella of the UPOV-BMT group (biochemical and molecular techniques). In 2002, the subgroup meetings took place in connection with the technical working party meetings. In connection with the vegetable working party (TWV), the BMT subgroup dealt with mushroom species, with presentations being made by experts from Japan and the Netherlands. Since the agricultural working party (TWA) took place in Brazil, species of interest for the subgroup were soybean and sugarcane. One aim of the discussions was to identify the most suitable application model for a possible future use of molecular techniques amongst those modalities defined by the UPOV Review group. The subsequent step consisted in the approach to exchange applied techniques and results obtained with a view to harmonise and set up technical protocols of the methods used.





Working group with representative of the CPVO and the candidate Member States of the European Union

Contacts with the African Intellectual Property Organisation – OAPI

OAPI, an intergovernmental organisation based in Yaoundé (Cameroon), works on the implementation of the Bangui Convention that has established a regional plant breeders' right (PBR) system. Consequently it is particularly interested in the experience gained by the CPVO running the Community system.

The President of the Office has signed, with the Director-General of OAPI, a Memorandum of Understanding setting up the framework for future cooperation.

As a launching cooperation activity two OAPI senior officials followed a short training course in the CPVO premises in Angers. The priority areas covered were those specially relevant for the implementation of a regional system: organisation, procedures, financing, legal and technical aspects.

Participation in international fairs

The CPVO continues to attend international fairs in order to inform participants about the Community system. The Office is either present with a stand on its own or it shares a stand with the national examination office where the fair takes place.

In 2002, the following fairs were attended:

- Internationale Pflanzenmesse (IPM) at Essen, Germany (ornamentals, trees and shrubs) in a joint stand with Bundessortenamt, Germany;
- Salon du végétal at Angers (mainly ornamentals, vegetables, trees and shrubs);
- DLG Feldtage at Regensburg (agriculture) in a joint stand with Bundessortenamt, Germany.



Other contacts

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

Directorate-General for Health and Safety: standing committees on seeds, expert working groups, EU comparative trials;

Directorate-General for Agriculture: regulatory committees on geographical indications and designations of origin.

In addition, other activities can be mentioned, such as:

- EU agencies: the Translation Centre Administrative Council meeting; the Steering Group of the SI2 Common Support Service;
- OECD International Seed Schemes annual meeting;
- 18th Pan-American Seed Seminar. Expert panel on enforcement of PBRs;
- As a preparation for the integration of the EU enlargement candidates in the CPVR system, evaluation missions to the Czech Republic, Slovakia and Slovenia.



9. RELATIONSHIP WITH EC INSTITUTIONS

European Commission

- **Standing Committee meetings**

The Standing Committee on 'Seeds and propagating material for agriculture, horticulture and forestry' meets regularly in Brussels and the Office attended these meetings when the subject was of relevance for the Community plant variety rights system.

Of particular interest for the CPVO throughout the year 2002 was the work in view of amendments of Commission Directives 72/168/EEC and 72/180/EEC concerning the characteristics and minimum conditions for examining varieties. Furthermore the Commission activities under Commission Regulation (EC) No 930/2000 establishing rules as to the suitability of variety denominations were closely followed by the CPVO.

- **Community comparative trials**

The CPVO attended comparative trials whenever possible; in 2002 the trials visited by the relevant experts of the Office were those for shallots and seed propagated ornamentals, both organised in Roelofarendsveen, the Netherlands.

- Shallots: Two separate visits were held. Besides examining the usual rationale of conformity of plant material in the marketplace to the varieties listed in the common catalogue, the visits also discussed the divergent opinion on the status of seed propagated material of shallots and its differentiation to onions.
- Seed propagated ornamentals: samples of *Lobelia*, *Petunia* and *Lathyrus* originating from eight EU Member States were tested. Attention was given in particular to seed-borne diseases and composition of mixed samples.

- **Enlargement**

The Office joined the advisory missions organised by the Technical Assistance Information Exchange Office of the European Commission (TAIEX) to the candidate countries. These visits started in winter 2002. The aim was to study the national lists with a view to the possible integration of these varieties into the common catalogue after accession. The intention of the Office's participation was to collect and evaluate DUS testing systems and all the relevant information with a view to the possible inclusion in the future of the candidate countries' official testing institutes as examination offices in the CPVR system. In 2002 the CPVO visited the Czech Republic, Slovenia and Slovakia. Visits to other countries will follow in 2003.



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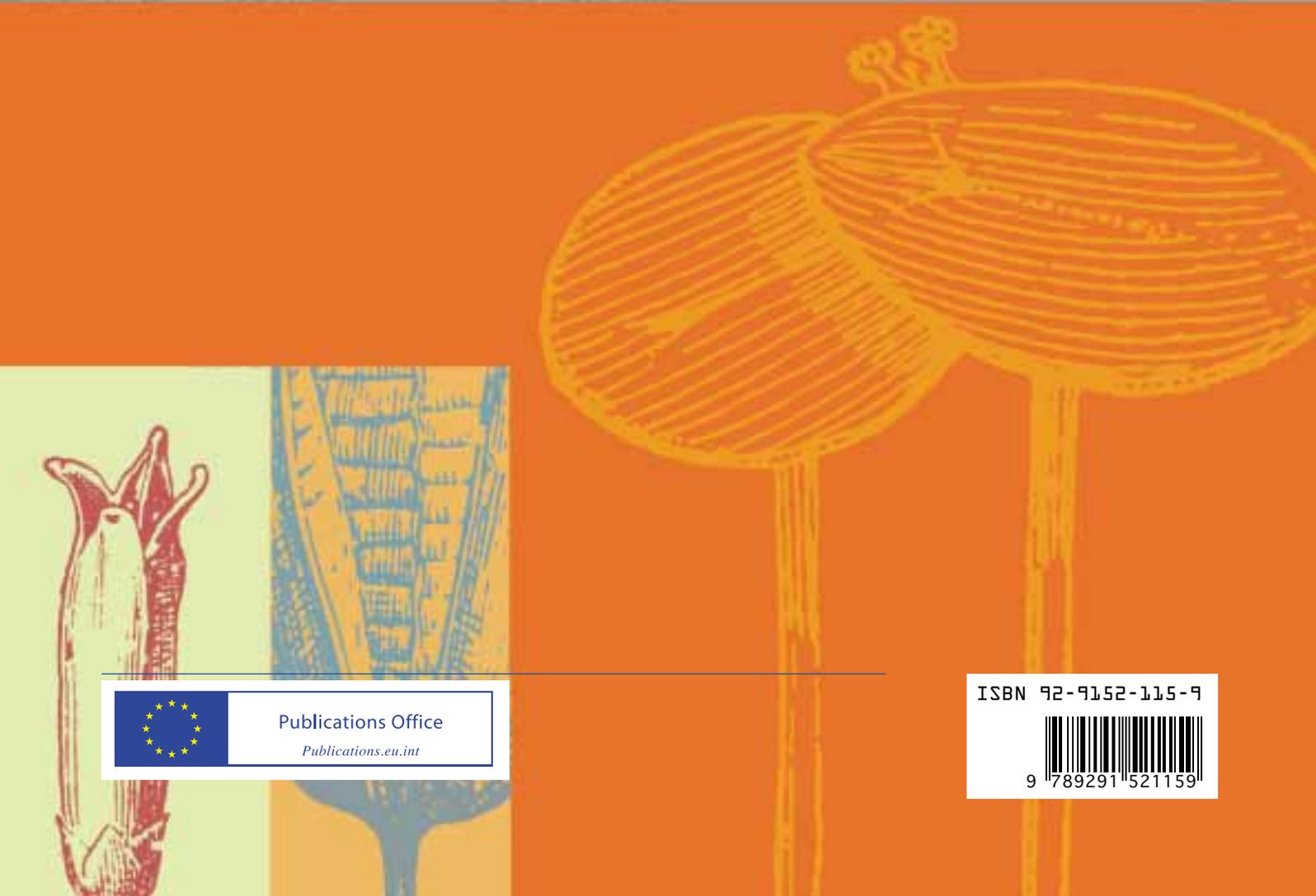
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