



COMMUNITY PLANT VARIETY OFFICE

ANNUAL REPORT

2007



Annual report 2007

Community Plant Variety Office

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Luxembourg: Office for Official Publications of the European Communities, 2008

ISBN 978-92-9152-132-6

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Printed in Italy

PRINTED ON WHITE CHLORINE-FREE PAPER

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1. INTRODUCTION, BY BART KIEWIET, PRESIDENT OF THE CPVO



1.1. The state of the Community plant variety protection (PVP) system

In 2007, some 2 977 applications were received, almost 9 % more than in 2006. That the steady growth of the Community PVP system had come to a halt, as I stated in the 2006 annual report, was clearly a wrong observation.

Due to the fact that the number of grants (2 616) largely exceeded the number of surrenders (897), the number of protected varieties increased considerably and reached a level of 14 598.

The health of the Community system reflects that this system is still considered as an effective tool to protect the output of the breeding industry.

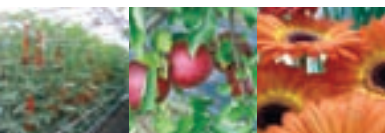
1.2. Enforcement

The value of intellectual property rights is largely determined by the possibilities to enforce them. A title of protection that cannot be effectively defended by its owner has no practical value.

Piracy, counterfeiting and illegal production are also phenomena with which the breeding industry is confronted. It is firstly the responsibility of the rights holders, in our case the breeders, to act against such acts. But they need effective legal tools to do so. In respect of the Community system, such rules can be found in Council Regulation (EC) No 2100/94, the basis of the Community PVP system, and in general Community regulations and directives on the enforcement of intellectual property rights.

The Community Plant Variety Office can contribute to the enforceability of Community PVPs by granting, as in my opinion it does, solid rights based on a comprehensive examination of candidate varieties. Furthermore, I consider it a task of the Office to give information about the Community system to all parties who are involved in the enforcement of Community plant variety rights, such as judges, prosecutors, lawyers, growers and last but not least the breeders themselves. For this purpose, the CPVO has initiated the organisation of so-called enforcement seminars aimed at the target group just mentioned. After successful seminars organised in Brussels and Warsaw, this year it was Madrid that hosted a seminar with speakers from France, Spain, Portugal and the CPVO. As I have the impression that there is still some missionary work to be done, we will continue with organising this kind of event all over Europe. For 2008, seminars in Bulgaria and Romania are planned.





*Laos Delegation at CPVO,
Angers, France, September 2007*

1.3. International cooperation

The CPVO is an organ of the European Community and, as such, embodies international cooperation at the European level. Although its competence is restricted to the territory of the 27 Member States of the European Union, I consider it in the interest of the CPVO to entertain close relations with PVP authorities outside the EU. Co-operation with non-EU countries initially takes place in the framework of UPOV. Members of the CPVO staff attend meetings of most of the organs of this worldwide organisation. The continuous development of test guidelines under the UPOV umbrella is of major interest for the CPVO, since they form the basis for its test protocols. The CPVO contributes to the activities of UPOV by presenting papers in seminars and participation in other activities meant to spread knowledge about plant variety protection. On the basis of a memorandum of understanding signed by the Secretary-General of UPOV and the CPVO President, cooperation has been established as regards the creation of a database of plant variety denominations in the world, facilitating authorities to test proposed denominations on their compliance with the relevant rules. Since the beginning of this year, breeders have also had access to this database.

Another form of international cooperation relates to the testing of varieties. Where no testing facilities for a species exist in the European Community, the CPVO can — with the authorisation of the Administrative Council — make use of the services of non-European examination offices. Examples are: Japan (water lilies), Israel (Aster), Australia (a number of ornamental species indigenous in that country) and Mexico (Avocado). A number of foreign countries are important buyers of test reports made on behalf of the CPVO (more details can be found in Chapter 9 of this report).

In some cases, for instance with Japan, UPOV, Ukraine and OAPI, the cooperation has been formalised in a letter of understanding.

1.4. Strategic discussion

In the report year, important conclusions were drawn in the framework of the so-called strategic discussion on the future of DUS testing in an enlarged European Community.

The main conclusion was that a restructuring of DUS testing should not be imposed but be the result of a policy to establish a network of examination offices entrusted with this task by the Administrative Council of the CPVO on the basis of a set of strict quality requirements.

In 2008, the Office will start with the creation of an audit capacity that will support the implementation of the conclusions of the strategic discussion (see more about this subject in Chapter 9).

1.5. New Member States

On 1 January 2007, two new Member States (Bulgaria and Romania) joined the European Union. This means that all valid plant variety rights granted by the CPVO are, from that date, enforceable in those countries, which is certainly good news for breeders.

In order to establish a basis for cooperation between the Office and the authorities in both countries competent for plant variety protection and related policy areas, the chairman of the Administrative Council, Jože Ileršič, and I paid a visit to Sofia and Bucharest in November. We discussed at ministerial level items of mutual interest and discussed the possibilities of integration of the examination offices of the two countries in the CPVO network.

1.6. Farewell to José Elena

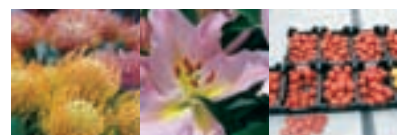
On 1 March 2007, the second mandate of José Elena, Vice-President of the CPVO since 1 March 1997, came to an end. José had the ideal profile to occupy this post. He brought to the Office experience on technical and policy matters acquired during almost 30 years in the Spanish administration. His contributions to the Community system cannot be overestimated. He was a very pleasant person to work with, not only for me but also for the other members of staff at the CPVO.

I wish José, together with his family, all the best for a long future.



Jose Elena's farewell, Angers, France, March 2007

Bart Kiewiet
President of the CPVO





2. FOREWORD BY JOŽE ILERŠIČ, CHAIRMAN OF THE ADMINISTRATIVE COUNCIL



2.1. Introduction

Again this year, the high number of applications received for Community plant variety rights illustrates the appreciation for the Community system by breeders from all over the world, who commercialise their varieties in Europe. I would like to thank the President and the rest of the CPVO staff for the efficient and effective way in which they manage this steadily growing system.

The Administrative Council said farewell to a number of its (alternate) members. I would like to express my appreciation for the contributions they made to the activities of the CPVO and give a special word of thanks to Heinz-Peter Zach, my predecessor as Chairman of the Administrative Council, who unfortunately has had to give up this position for personal reasons. As he will still be representing Austria, we will continue to benefit from his knowledge and experience.

Finally, I would like to thank José Elena for the way he performed his duties as Vice-President of the Office during the last 10 years. He did a very good job. His successor, Carlos Godinho, is known in CPVO circles. I wish him much success in his new function.

2.2. Analysis and assessment of the authorising officer's report

The President of the Community Plant Variety Office presented the annual activity report for the year 2007 to the Administrative Council at its meeting in Angers on 12 and 13 March 2008.

The Administrative Council analysed and assessed the report and came to the following conclusions.

- a) The system continued its growth.
- b) The reserve was significantly reduced due to the continuation of a reduced annual fee and an increase in expenditure, i.e. for the renovation work of the new premises.
- c) The Administrative Council is satisfied with the results of the internal audit. It takes note of the reviewed list of identified potential risks and looks forward to the follow-up of this exercise.
- d) The Administrative Council takes note of the information on *ex post* verifications, negotiated procedures and the confirmation of instructions.

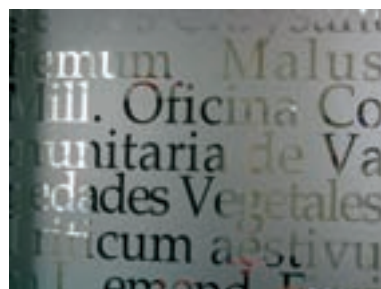
- e) The Administrative Council takes note of the declaration of the authorising officer that his report gives a true view and that he has reasonable assurance that the resources assigned to the activities described in his report have been used for their intended purpose and in accordance with the principles of sound financial management, and that the control procedures put in place give the necessary guarantees concerning the legality and regularity of the underlying transactions. The Administrative Council is satisfied that the President of the CPVO is unaware of any matter not reported which could harm the interests of the CPVO.

Jože Ileršič
Chairman
of the Administrative Council



3. THE COMMUNITY PLANT VARIETY RIGHTS SYSTEM

The introduction of a Community plant variety rights system in 1995 has proved to be a successful initiative and welcomed by the business community seeking intellectual property protection for new plant varieties. As mentioned in the introduction of this annual report, the number of applications has increased over the years and the Community Plant Variety Office ('the Office') has adapted its size and organisation to meet the increased demand.



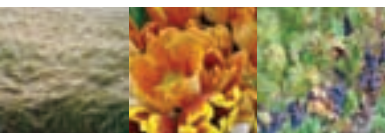
In 2007, the European Union was again enlarged as a consequence of the new memberships of Bulgaria and Romania. Titles are now valid in 27 countries. The fact that protection guaranteeing exclusive exploitation rights for a plant variety is acquired in 27 countries, through a single application to the Office, makes the Community system for protecting new varieties very attractive.

The Community plant variety rights 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 in one of the Member States 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.

The legal basis for the Community plant variety system is found in Council Regulation (EC) No 2100/94 (hereunder 'the basic regulation'). 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 Community. 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 the 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 who is directly and individually concerned by the decision, may appeal against it. After examining the





*Hearing at the
Court of First Instance,
Luxembourg, July 2007*

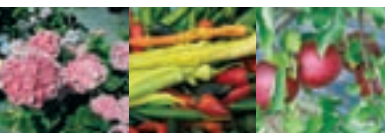
appeal, the Board may exercise any power within the competence of the Office or remit the case to the Office which is bound by the Board's decision. Actions may be brought before the Court of First Instance in Luxembourg against decisions of the Board.

The table in Chapter 15 shows the number of notices of appeal lodged with the CPVO and the decisions reached by the Board of Appeal.

Once granted, the duration of a CPVR is 25 years, or 30 years in the case of potato, vine and tree varieties. These periods may be extended by legislation for a further 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. Information on applications and varieties in force are also found in a database accessible on the Office's website.





4. THE ADMINISTRATIVE COUNCIL

The CPVO is supervised by an Administrative Council comprising one representative of each Member State, one representative of the European Commission and their alternates.

The Administrative Council monitors the activities of the Office. In particular, it is responsible for examining the annual report of the President, adopting the Office's budget, and granting discharge to the President in respect of its implementation. In addition, it can provide advice, establish rules on working methods within the Office and issue guidelines on technical examinations, committees of the Office and general matters.

The Administrative Council met three times in 2007, on 20 and 21 March, on 17 July and on 13 and 14 November.

At the **meeting on 20 and 21 March**, the provisional accounts and financial analysis for the 2006 financial year were presented together with the preliminary draft budget for 2008. The members of the Administrative Council also decided:

- to increase fees — specifically as regards examination fees enabling 85 % of examination costs to be covered, annual fees of EUR 300 and application fees remaining at EUR 900 — with a view to amending Commission Regulation (EC) No 1238/95;
- to introduce into the proceedings regulation an option for the CPVO to accept electronic documents.

The members of the Administrative Council also adopted:

- the amending budget for 2007;
- the authorising officer's report, which, in accordance with Article 39(2) of the financial regulation, was sent to the Court of Auditors and included in the annual report for 2006;
- the rules on co-financing of research and development projects by the CPVO;
- the new guidelines of the Administrative Council on variety denominations.

They discussed several other important matters, including:

- the possible assigning of new tasks to the CPVO;
- the strategic discussion on the future of DUS testing.

The members of the Administrative Council were informed that a database containing all European case-law on plant variety protection has recently been added to the website of the CPVO. Lastly, they took note of the annual report of the Board of Appeal for 2006.

At the **meeting on 17 July** (the Chairman of the Administrative Council appointed in November 2006 having resigned by letter of 25 April 2007), the Administrative Council appointed, by a unanimous vote of the 26 votes cast, its new Chairman, Mr J. Ileršič, from the Slovenian delegation. Mr U. von Kröcher, from the German delegation, was elected Deputy Chairman.

At this meeting, the members of the Administrative Council granted a discharge to the President of the CPVO for the implementation of the budget for 2005, the multiannual plan on staff policy and the supplementary and amending budget for 2007.



*Administrative Council,
November 2007*

Further, following the decisions reached at the previous meeting, the members of the Administrative Council issued a positive opinion on the two proposals for amendment to the fees regulation and the proceedings regulation. They also decided that each delegation would forward a proposal for the appointment of two representatives to join the consultative group on research and development projects, as indicated in the rules on CPVO co-financing of such projects adopted last March.

At the **meeting on 13 and 14 November**, the members of the Administrative Council adopted by unanimous vote of the members present having voting rights or voting by proxy:

- the draft budget for 2008;
- the budgetary transfers proposed by the CPVO in respect of the 2007 budget.

They also decided to launch a study on legislation relating to farm-saved seed. This study will be undertaken by a consultant external to the CPVO, specialising in the law on plant variety protection.

The members of the Administrative Council took note:

- of the social report of the CPVO, which will be available on its website;
- of the state of progress of work on the building at 9, boulevard Foch, which started in June 2007;
- of the state of progress of the working group in their consideration of possible extensions to the tasks of the CPVO;
- of the appointment of two representatives (one Belgian and one Polish) to the consultative group on CPVO research and development projects;
- of the state of progress of work on the strategic discussion on the future of DUS testing;
- of the outcome of and possible follow-up to the research and development project 'A European reference collection of rose varieties'.

Lastly, the members of the Administrative Council approved the inclusion of a statement in the relevant CPVO technical protocols specifying that the date of entry into force of these protocols is the date of their publication on the CPVO website.





CHAIRMAN OF THE ADMINISTRATIVE COUNCIL:

Mr H-P. Zach (Austria) until 17 July 2007

Mr J. Ileršič (Slovenia) elected 17 July 2007

VICE-CHAIRMAN OF THE ADMINISTRATIVE COUNCIL:

Mr J. Ileršič (Slovenia) until 17 July 2007

Mr U. von Kröcher (Germany) elected 17 July 2007

MEMBERS OF THE ADMINISTRATIVE COUNCIL

Belgium	Ms C. Vanslebrouck Ms M. Petit (alternate)
Cyprus	Mr A. Kyrtzīs Mr C. Nicolau (alternate)
Czech Republic	Mr J. Staňa Mr D. Jurecka (alternate)
Denmark	Mrs H. Elberling Mrs B. Lund (alternate)
Germany	Mr U. von Kröcher (Vice-Chairman from 17 July 2007) Mrs B. Rücker (alternate from 14 March 2007)
Estonia	Mrs P. Ardel Alternate vacant
Ireland	Mr N. McGill Mr D. McGilloway (alternate)
Greece	Mr E. Zangilis Mr K. Michos (alternate from 24 April 2007)
Spain	Mr R. Lopez de Haro Wood (member until 5 September 2007) Mr E. Rios Lopez (member from 5 September 2007) Mr L. Salaices Sánchez (alternate)
France	Mr R. Tessier Ms N. Bustin (alternate)
Italy	Mrs I. Pugliese (member from 2 November 2007) Alternate vacant
Latvia	Mr S. Katanenko (member until 5 July 2007) Mrs S. Kalinina (member from 5 July 2007) Alternate vacant
Lithuania	Ms S. Juciuvienė Alternate vacant
Luxembourg	Mr M. Weyland Mr F. Kraus (alternate)
Hungary	Mrs G. Szenci Mrs M. Posteinerner Toldi (alternate)
Malta	Ms M. Delia Mr M. Sciberras (alternate from 12 March 2007)
Netherlands	Mr C. Van Winden Mr K. Fikkert (alternate)
Austria	Mr H.-P. Zach (Chairman until 17 July 2007) Mr L. Girsch (alternate)
Poland	Mr E. Gacek Mrs J. Borys (alternate)
Portugal	Mr Carlos Godinho Mrs A. Rocha (alternate)
Slovenia	Mr J. Ileršič (Chairman from 17 July 2007) Ms M. Rogelj-Zupan (alternate)
Slovakia	Mrs K. Beňovská (member until 20 December 2007) Mrs B. Bátorová (alternate until 20 December 2007 then member) Mrs M. Andrašková (alternate from 20 December 2007)
Finland	Mr A. Vuori (member until 30 December 2007) Mr M. Puolimatka (member from 30 December 2007) Alternate vacant
Sweden	Mrs G. Idestrom Alternate vacant
United Kingdom	Mr M. Wray Mrs. E. Nicol (alternate from 14 May 2007)
European Commission	Mr J. Gennatas

5. ORGANISATION OF THE CPVO

In December 2007, the staff of the Office comprised 11 officials and 32 temporary agents. Thirteen nationalities from the European Union's Member States were represented. One seconded national expert from Germany was present.

Under the general direction of its President, assisted by the Vice-President, the Office is organised internally into two units and three support services.

The **Technical Unit**, has as its principal tasks: 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; maintenance of the Office's registers; production of official technical publications; relations with applicants, national offices, stakeholders and international organisations; active participation in international committees of technical experts and cooperation in the development of technical analyses and studies intended to improve the system.

The **Administration and Financial Unit** is active in two areas.

- Administrative section: awarding contracts for goods, services or works in compliance with the procedures in the CPVO's financial regulation; the conclusion, administration and management of contracts; organisation of the Office's publications; administration, management and monitoring of the Office's inventory of movable property and buildings; administration of requirements in logistical, office automation, computing and operational resources with a view to ensuring the smooth functioning of the Office.
- Financial section: management of the financial workflow of the Office (commitment, validation, authorisation and payment of expenditure, in particular that relating to technical matters); recovery of revenue, reimbursement of undue sums; reserve funds and cash, maintenance of the budgetary and general accounting systems and preparation of budgets and financial documents; management of the fees system.

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


















CPVO Staff














ORGANISATIONAL CHART OF THE CPVO*



ADMINISTRATION AND FINANCIAL UNIT (AFU)

	Filing Clerk Sharmila Assane Ali		General Services Thierry Cluzeau		Secretary Valérie De Caestecker		Accountant Paul Desfosses		Audit & Evaluation Roseline Fagel		Deputy Accountant Anne-Marie Fernandez		Secretary to the Head of Unit Béatrice Hodet		Reception Daniëlle Leenaarts
	Secretary Bénédicte Legrand		Finances Ekaterina Mantzianis		Administration Gil Oliveira		Public Relations & Training Fabienne Santoire		Filing Clerk Manuel Teixeira		Secretary Laurence Verger		Head of AFU Thomas Wollersen		

TECHNICAL UNIT (TU)

	Database Manager Carole Bonneau		Ornamental species Urszula Braun-Młodecka		Denominations Rudi Caes		Register Pierre-Emmanuel Fouillé		Registrar Anne Gardener		Register Nadège Grantham		Secretary Ghislaine Guilbert		Ornamental species Ton Kwakkenbos
	Register Eugenio Maiorini		Deputy Head of Unit Jean Maison		Secretary to the Head of Unit Aline Noguès		Fruit and Vegetable species Sergio Semón		Head of TU Dirk Theobald		Secretary Laurence Theodore		Ornamental species Jens Wegner		Agricultural species Anne Weitz

* The above organisational chart comprises those members of the CPVO employed as Officials and Temporary Agents on 31 December 2007.



CPVO headquarters, Angers, France



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

The **IT service** 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; development and maintenance of Office websites; installation of standard programs; maintenance of the computer installation and its administration; security of the computer system; help-desk; interinstitutional cooperation in computing.

In 2007, the CPVO prepared a social report with information concerning staff turnover, work environment and social aspects of the CPVO. The different headings treated in the report were employment (staff members, recruitment procedure, staff joining or leaving the CPVO, promotions, absenteeism, gender balance); working conditions (hours worked, part-time, parental leave); training (language training, IT training, other training); professional relations (Staff Committee). The social reports of the CPVO 2006 and 2007 can be consulted on the CPVO website under the heading Annual reports.

6. THE MULTI-BENEFICIARY PROGRAMME ON THE PARTICIPATION OF TURKEY AND CROATIA IN THE CPVR SYSTEM

By Commission Decision C/2005/4762 of 9 December 2005 a multi-beneficiary programme for the participation of Turkey and Croatia in certain Community agencies, including the CPVO, was established. On the basis of a contribution agreement with the EC, the CPVO has taken action to conduct the programme. A seconded national expert was charged to manage the programme.

The general objectives of the programme were to inform competent bodies and stakeholders about technical, administrative and procedural aspects of the CPVR system as well as about the legal impacts of the extension of the CPVR system to the territory of Turkey and Croatia after accession. A further aim was the preparation of the competent national authorities to participate in the system.

A detailed working programme subdivided in a part for Turkey and Croatia was developed in cooperation with the partners. Depending on particular experience and the change in preconditions during the term, some adaptations to the programme took place.

In total, the working programme comprised 30 activities, 14 for Turkey and 16 for Croatia. Four activities could not be conducted for various reasons. The established benchmarks for all other activities could be fulfilled. For the conduct of the programme, 319 activity days and 153 travelling days were needed. The subdivision of the days needed is given in the following table.

TABLE: ACTIVITY (ACT.) AND TRAVELLING (TRA.) DAYS SPENT DURING THE PROGRAMME

CPVO experts		External experts		TR experts		HR experts	
act. days	tra. days	act. days	tra. days	act. days	tra. days	act. days	tra. days
57	60	12	19	155	46	95	28

In Turkey, the interest in PVR is highly developed. In January 2004, a national plant variety protection act was issued which is based on the UPOV Convention 1991. National authorities, lawyers, breeders and producers, in particular of ornamental plants, were well informed. 48 rights were granted up to September 2007. The activities, in particular DUS training, were very much welcomed. Through the programme, the competent bodies and stakeholders could familiarise themselves with all aspects of the EU system.

The situation in Croatia is rather different. The authorities are familiar with the PVR system and perform DUS tests in accordance with the UPOV and CPVO guidelines. But because of an existing subsidy system for the use of certified seed, the interest of breeders in asking for plant variety rights is still not very well established. Although a plant variety protection law was issued in 1997, no right has been granted thus far. The list of protectable species is still limited mainly to agricultural species. It is intended to add fruit and ornamental species to the list. Furthermore, it can be reported that the





*Evaluation of the
multi-beneficiary programme,
Ankara, Turkey, November 2007*

first application for agricultural crops has been filed. It can be assumed that the programme contributed to this positive development.

The draft for a follow-up programme for 2008 was passed to the Commission for approval. This draft programme also involves the former Yugoslav Republic of Macedonia. For Turkey and Croatia, it will comprise some complementary activities which the countries had asked for.



7. RESEARCH AND DEVELOPMENT

Following the rules established by the Administrative Council in 2002 for financially supporting projects of interest for the Community plant variety rights system, the Office received several applications for co-financing R & D projects. The following projects received financial support from the CPVO in 2007.

- Harmonisation of resistance tests for diseases of vegetable crops in the European Union.** Although the three-year project was due to finish formally at the end of 2006, due to climatic reasons the tests for *Pseudomonas savastanoi* pv *phaseolicoli* in French bean could not be finalised until the second half of 2007. The project's results and conclusions were discussed at the annual vegetable experts meeting, and the executive summary was analysed by the Office in order to see which recommendations could be implemented on a practical level in relation to the DUS testing of tomato and French bean. The CPVO tomato protocol TP-44 was subsequently revised in March to take account of the new disease resistance testing techniques for ToMV, *Fusarium* and *Verticillium*. It is expected that the improved disease resistance techniques for French bean (BCMV, *Colletotrichum*, *Pseudomonas*) can be implemented in a revision to the CPVO protocol TP-12 in the early months of 2008. The Office will further examine in 2008 how best to disseminate the findings of the project to other examination offices and breeders working in these two crops.
- European variety collection of rose varieties.** This is a project coordinated by Plant Research International (PRI) and carried out by the Bundessortenamt, NIAB and PRI/Naktuinbouw. It aims at the compilation of key morphological characteristics, pictures and DNA fingerprints eventually facilitating a (cost-)efficient management of reference collections. Work started in 2005 and was concluded at the end of 2006.



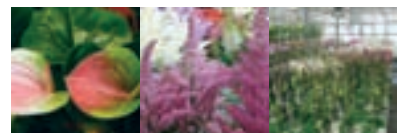
*Roses R & D project,
Angers, France, April 2007*



UPOV BMT working group

In 2007, the results were presented to breeders and to the UPOV-BMT working group. The knowledge gained can serve as a basis to attach DNA fingerprints to variety descriptions, thus supporting breeders in their struggle to enforce their Community plant variety rights.

- Management of winter oilseed rape reference collections.** This NIAB project, in cooperation with GEVES, DIAS and the Bundessortenamt, tries to establish the use of DNA markers as a tool for an efficient selection of suitable reference varieties. The project started in 2005 and the final results can be expected in January 2008.



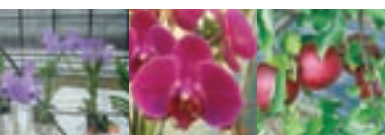


Tomato DUS trials, Netherlands

- **Development and evaluation of molecular markers linked to disease resistance genes for tomato DUS testing (option 1a).** This was the second year in a two-year collaborative project between PRI and Naktuinbouw (Netherlands), GEVES and INRA (France), and IVIA and OEVV (Spain). The project partners analysed marker assays via their prior testing for reproducibility and robustness. At a meeting in Madrid in June, a set of standard varieties was identified on which to run the marker assays in order to make a direct comparison with the phenotypic characterisation. The final report with the results and conclusion of the project was presented to the CPVO at the end of the year; the executive summary within expressed a very positive outcome, with molecular markers showing a very close correlation to physiological tests for all the asterisked disease resistance characteristics included in the study. The CPVO will further analyse the report in early 2008 and subsequently discuss the outcome of the project with the project partners and stakeholders (examination offices and breeders) in tomato varieties.
- **Potatoes.** This project started in April 2006, and the final report can be expected in spring 2008. The partners involved are the United Kingdom, the Netherlands, Germany and Poland. The project plans to create 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.



*Light sprout of a potato plant,
Bundessortenamt, Germany*



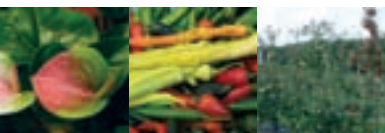
- **Management of peach tree reference collections.** This proposed project is a collaborative venture between GEVES and INRA (France), OEVV, IVIA and CITA (Spain), CRO-FRU (Italy) and the Central Agricultural Office (Hungary), all these being the CPVO's examination offices for *Prunus persica*. After two revisions to the project proposal and a meeting between various stakeholders in peach/nectarine (CPVO, examination offices, main applicants/breeders) in Paris in September, the Office gave the green light at the end of 2007 for the commencement of this three-year-long project in 2008. The aims of the project are to create and manage a peach tree database via all the examination offices working in this species for the CPVO, in the framework of the delivery of plant breeders' rights at the national and EU levels. The project will look to:
 - a) establish an available EU peach/nectarine tree collection, structured if necessary in varietal groups;
 - b) establish a common database containing phenotypic, visual and molecular descriptions.

In March 2007, the Administrative Council adopted the new rules of procedures concerning the (co-)financing by the CPVO of research and development projects. In accordance with this ruling, projects eligible for (co-)financing — total or partial — shall be related at least to one of the following areas:

- DUS testing;
- identification of varieties;
- organisation and management of reference collections.

In respect of each request for financing, the following procedure will be followed. Proposals for R & D projects to be (co-)financed by the CPVO will initially be assessed by the relevant sector expert group of the CPVO, if the project is considered by these experts as a promising one, a more detailed version of the project shall be presented by the applicant and assessed by an advisory group, composed of representatives of the Administrative Council and organisations of breeders and two staff members of the CPVO, one of whom will chair the group. This advisory group on R & D projects shall advise the President of the CPVO about a possible (co-)financing by the Office. The results of the projects, once finalised, shall be broadly presented to interested circles such as breeders, UPOV technical working parties and CPVO expert groups. Two or three years after the completion of a project, its impact shall be assessed by the Technical Unit of the CPVO together with experts of the relevant CPVO expert group. The results of the assessment shall be presented to the advisory group and the CPVO President.





8. FINANCES AND BUDGET

8.1. Revenue

The Office's revenue mainly 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 2007 was EUR 9.6 million.

The principal types of revenue collected in 2007 are broken down as follows:

	Var. %	2007	2006
Fees	6 %	9.0	8.5
Bank interest	7 %	0.5	0.5
Other revenue	– 85 %	0.1	0.3
Total revenue	3 %	9.6	9.3

- **Fees**

Fees received in 2007 totalled EUR 9.0 million. This amount was composed of EUR 2.7 million for application fees, EUR 3.0 million for examination fees, EUR 0.3 million for report fees and EUR 3.0 million for annual fees.

- **Interest on bank accounts**

The Office's treasury investments yielded an interest of EUR 0.5 million ⁽¹⁾.

8.2. Expenditure

The total amount for recorded expenditure and commitments carried over was EUR 12.2 million, compared with EUR 10.3 million in 2006. The increase in total expenditure of 18 % is mainly due to renovation of the CPVO building and examination costs.

	Var. %	2007	2006
Staff expenditure	4 %	4.6	4.4
Administrative expenditure	59 %	2.5	1.6
Operational expenditure	18 %	5.1	4.3
Total expenditure	18 %	12.2	10.3

⁽¹⁾ This figure does not include the interest corresponding to one investment running until February 2009. The part related to 2007 is estimated at EUR 0.1 million.

- **Staff expenditure**

The total amount of staff expenditure was EUR 4.6 million. Almost 100 % of the appropriations for wages were used in 2007.

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

The total amount for this expenditure committed was EUR 2.5 million, comprising EUR 1.0 million disbursed during the year and EUR 0.9 million to be disbursed in 2008.

- **Operational expenditure**

The total amount paid for this expenditure committed was EUR 5.1 million. The total of outstanding commitments to be disbursed in subsequent years was EUR 9.3 million at the end of 2007.

8.3. Outturn for the financial year and accumulated reserve fund

The net outturn for the year is the difference between revenue and expenditure, including carryovers of commitments to subsequent years and commitments carried over from the previous year that were not used and therefore cancelled.

	<i>million EUR</i>
Budgetary outcome of the financial year (a)	– 2.6
Non-budgetary expenses (b)	0.0
Non-budgetary income (c)	0.4
Net outcome of the financial year (=a–b+c)	– 2.2
Cumulated outcome carried over from the previous financial year	14.2
Outcome to be carried over	12.0

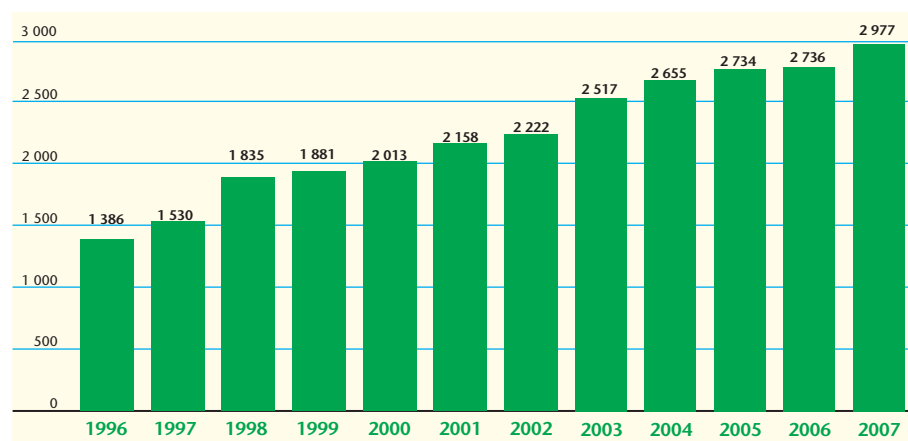


9. DEVELOPMENTS IN THE **COMMUNITY SYSTEM**

9.1. Applications for Community plant variety protection

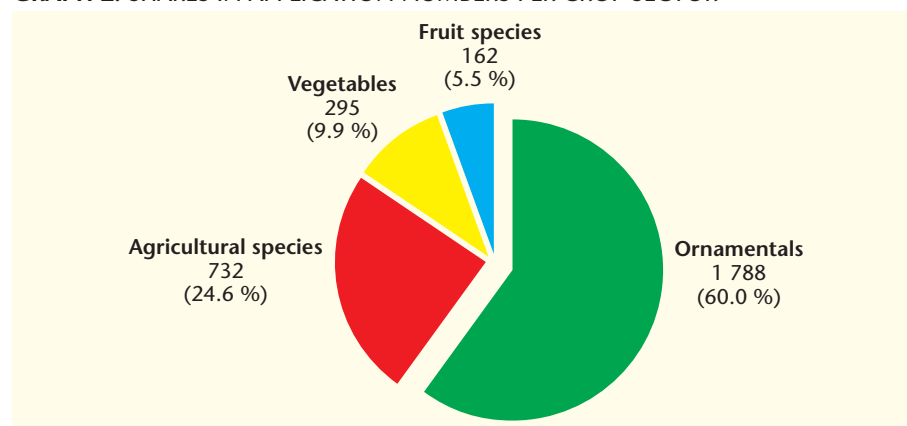
In 2007, the Office received 2 977 applications for Community plant variety protection. As illustrated in Graph 1, this represents an increase of 9 % compared with the previous year.

**GRAPH 1: EVOLUTION OF THE ANNUAL NUMBER OF APPLICATIONS
FOR COMMUNITY PLANT VARIETY PROTECTION, 1996–2007**



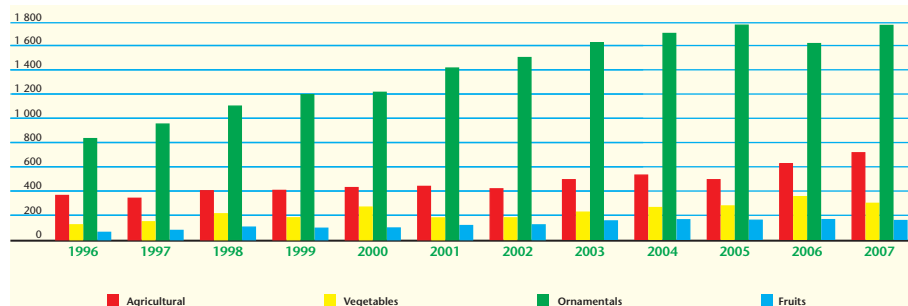
The graph below represents shares of the crop sectors in number of applications received in 2007.

GRAPH 2: SHARES IN APPLICATION NUMBERS PER CROP SECTOR



Agricultural species, as illustrated in Graph 3, showed with + 20.5 % the highest increase in application numbers compared to the rest of the species. As for ornamental species, an increase of + 10.6 % was recorded. By contrast, in 2007 decreasing application numbers were noticed for vegetable species (– 15 %) and fruit species (– 5 %).

GRAPH 3: EVOLUTION OF APPLICATION NUMBERS PER CROP SECTOR, 1996–2007



9.1.1. Ornamentals

With 60 % of the applications received in 2007, ornamentals represent the largest group of applications filed for Community plant variety rights. As can be seen from Graph 3, ornamentals are of outstanding importance in all years. The total of 1 788 applications for 2007 (+ 172 applications compared with the previous year) comes close to the all-time record for 2005 (1 798 applications).

The fact that ornamentals have the greatest share within the European plant variety protection system may be explained by the following.

- Ornamental varieties subject to applications for Community plant variety rights are almost exclusively vegetatively propagated. Their easy reproducibility triggers the demand for protection against unauthorised propagation (both within and outside the European Union).
- Varieties of many ornamental species have an EU-wide market whereas in other crop sectors the regional adaptation of varieties limits the production and commercialisation of varieties. Consequently, EU protection is not always worth it for these varieties.
- The breeding of vegetatively propagated varieties is less time-consuming than the breeding of seed-propagated varieties whose characteristics need to be fixed through many propagating generations. This feature, combined with a market characterised by rapid evolution of consumer taste and cultivation techniques, is certainly a major reason for the dynamic breeding activities.

Two species are clearly the subject of more extensive breeding than others: roses and chrysanthemums have always dominated the sector in terms of application numbers.

The increase in diversity of species subject to applications in the ornamental sector is noticeable: while roses and chrysanthemums represented nearly 30 % of the applications in the sector in 1996, their proportion dropped to around 18 % in 2007. Also, lilies, gerberas, pelargonium, petunias or impatiens have always been important species



Lupinus DUS trials, Netherlands





Calibrachoa DUS trials, Germany

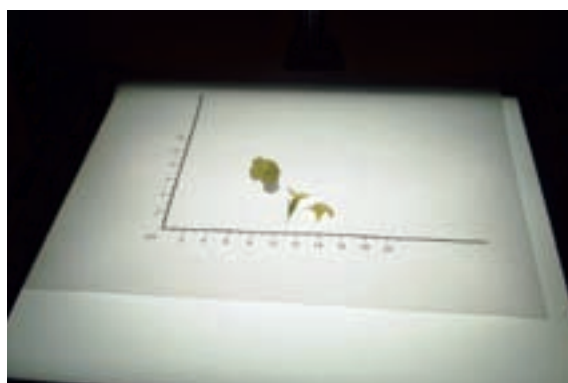
in terms of numbers of applications, but the market is constantly looking for new products and clear trends could be observed in breeding activities at the level of species. The table below gives an overview of the number of applications for a few species since the establishment of the Community plant variety rights system 12 years ago. The number of applications for *Saintpaulia* and *Ficus benjamina* is decreasing, whereas *Phalaenopsis* saw the greatest increase last year. Also *Verbena*, *Calibrachoa*, *Nemesia* and *Zantedeschia* have gained importance over recent

years. For example, the breeding of *Zantedeschia* has led to many new colours and a different use of the species (cut flower and pot-plant varieties) for the European market, and consequently the number of applications has increased considerably.

There is also continual interest in protecting vegetatively propagated varieties of many other species with a comparatively small market share such as woody ornamental shrubs and trees, perennials and a few applications for varieties for biomass production (*Salix*) which were also recorded. The section 'new species procedures' of this chapter lists such taxa for which applications — most of them ornamentals — were received for the first time in 2007.

The decisive role the method of propagation plays in the need for an effective protection system becomes evident if one looks at the application numbers for varieties of species that are usually seed-propagated. *Viola*, *Cyclamen*, *Primula*,

Calceolaria and *Bellis* are of paramount importance in the industry; however, there are no or hardly any varieties applied for Community plant breeders' rights. That said, the cost-efficient development of vegetative propagation methods may lead to an increase



Calibrachoa DUS trials, flower size, Germany

TABLE 1: NUMBER OF APPLICATIONS FOR CERTAIN SPECIES

Species	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	Total
<i>Saintpaulia</i>	13	9	13	9	5	4	2	3	3	3	2	0	66
<i>Ficus benjamina</i>	17	9	6	1	2	5	2	5	2	0	1	1	51
<i>Verbena</i>	3	10	17	14	3	42	10	48	29	33	21	19	249
<i>Calibrachoa</i>	0	0	7	2	6	18	35	20	28	23	28	53	220
<i>Nemesia</i>	1	2	4	0	1	9	17	19	22	23	13	19	130
<i>Zantedeschia</i>	0	1	0	4	4	3	29	32	33	33	13	40	192
<i>Phalaenopsis</i>	2	1	6	19	28	12	5	17	40	11	47	92	280

in the number of their applications. In recent years, the Office has received first applications for varieties of species that are usually seed propagated, but due to developments in tissue culture, the Office has received applications for vegetatively propagated *Primula* and *Cyclamen* varieties.

9.1.2. Agricultural species

The year 2007 confirmed the trend in agriculture by an increase of 20.5 % in the number of applications; in 2006, the number of applications had already increased by 22 %.

The 10 most important species in the agricultural sector are the same as in previous years: maize is again at the top, followed by wheat, potato and rye grass at the end of the list. The most important

development can be observed for oilseed rape applications. The table below shows the number of applications for the 10 most important agricultural species for the last 7 years.

With regard to the technical examination of candidate varieties, in many cases, the DUS test has been carried out already in the framework of the procedure for authorisation of marketing, or is in the process of being carried out at the moment of the application. The DUS report can be taken over from the entrusted examination office, according to Article 27 of the implementing rules (Commission Regulation (EC) No 1239/95) and constitute a sufficient basis for a decision.



Barley DUS trials, Bundessortenamt, Germany

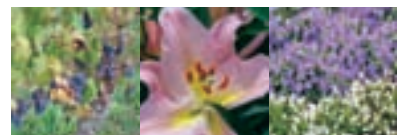
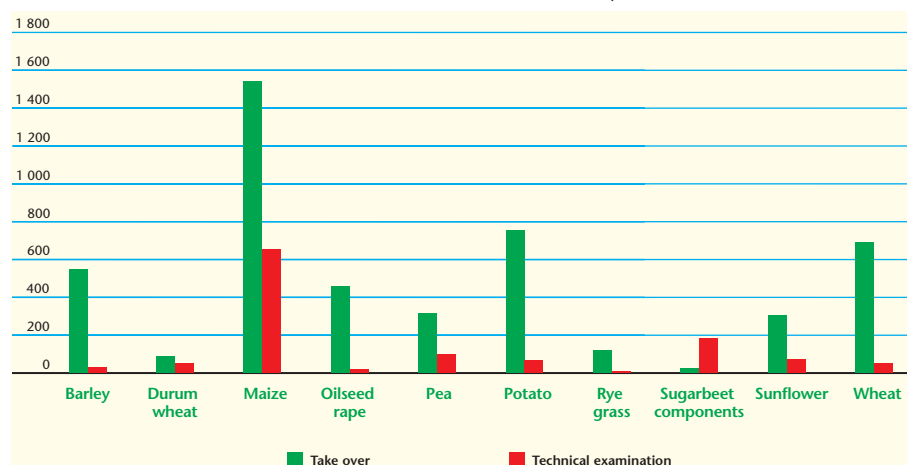


TABLE 2: NUMBER OF APPLICATIONS FOR THE 10 MOST IMPORTANT AGRICULTURAL CROPS

Species	2000	2001	2002	2003	2004	2005	2006	2007	Total
<i>Zea mays</i> L.	186	168	143	184	169	181	212	248	1 987
<i>Triticum aestivum</i> L. emend. Fiori et Paol.	45	31	61	42	75	54	76	85	642
<i>Solanum tuberosum</i> L.	51	44	44	66	50	34	84	50	626
<i>Hordeum vulgare</i> L. sensu lato	31	39	40	52	52	44	45	46	481
<i>Brassica napus</i> L. emend. Metzg.	16	36	29	40	41	29	44	67	403
<i>Helianthus annuus</i> L.	4	31	14	28	27	40	30	37	290
<i>Beta vulgaris</i> L. ssp. vulgaris var. altissima Döll	26	13	12	5	6	3	8	17	161
<i>Pisum sativum</i> L. sensu lato	6	13	12	9	11	21	11	13	145
<i>Triticum durum</i> Desf.	8	14	7	13	13	13	8	13	118
<i>Lolium perenne</i> L.	3	7	3	4	6	16	20	16	95
Total	406	442	417	495	536	499	610	682	5 612

The following graph shows the relation between technical examinations carried out on behalf of the Office and the takeover of DUS reports for the most important species:

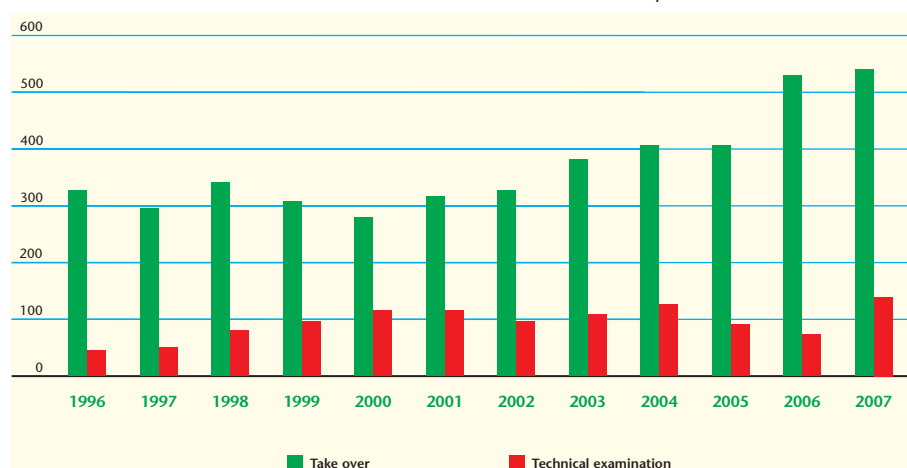
GRAPH 4: RELATION BETWEEN TECHNICAL EXAMINATION AND TAKEOVER FOR AGRICULTURAL SPECIES, 1996–2007



Graph 4 reveals that the number of technical examinations on behalf of the Office is more important for varieties of species with inbred lines, such as maize, sunflower and sugar beet components.

The following graph shows that the overall relation between technical examination and takeover for all agricultural species has remained fairly stable during the past 11 years.

GRAPH 5: RELATION BETWEEN TECHNICAL EXAMINATION AND TAKEOVER FOR ALL AGRICULTURAL SPECIES, 1996–2007





*Grass DUS trials,
Bundessortenamt, Germany*

For the following species, an application for a Community plant variety right for a variety has been filed in 2007 for the first time at the Office:

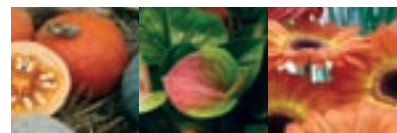
- *Fallopia sachalinensis* — Giant Knotweed;
- *Lotus corniculatus* — Bird's Foot Trefoil;
- *Ornithopus sativus* Brot. — Cultivated Bird's Foot, Serradella;
- *Phacelia tanacetifolia* Benth. — Bluebell, Scorpion Weed;
- *Raphanus sativus* L. var. *oleiformis* — Oil Radish;
- *Sida hermaphrodita* (L.) Rusby — Virginia Mallow.

9.1.3. Vegetable species

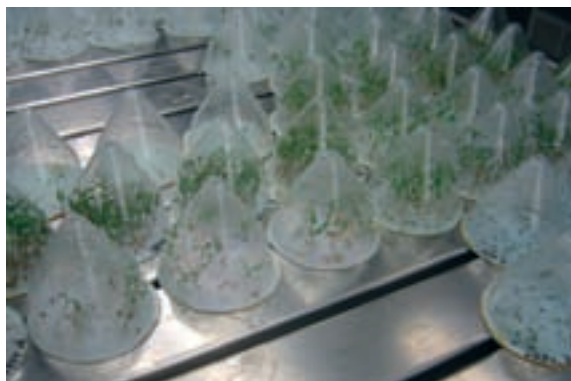
The year 2007 saw a 15 % decrease in vegetable applications in comparison with the previous year (342 applications in 2006 compared with 295 in 2007), which brings it down to similar figures as vegetable applications in 2005. The increasing numbers of tomato applications which had been seen over previous years reversed in trend in 2007, with a sharp drop from 68 tomato applications in 2006 to merely 27 applications for this species in 2007. This may be due to the fact that the threat faced by seed companies earlier in the decade over the vegetative propagation via *in vitro* techniques of their hybrid varieties may be under control now, thus by effective contracts and tougher enforcement of the protected varieties, seed companies are more focused on the varieties which require Community protection. The more than halving of tomato applications together with the dramatic drop in applications for species of *Brassica oleracea* (just 12 applications in 2007, compared with 35 in 2006) which have been in decline for a number of years now, were the principal causes for the decrease in applications for vegetables in 2007.



Lettuce DUS trials, Netherlands



Since the majority of vegetable applications are of Dutch origin, the CPVO first turns to the Raad voor Plantenrassen (Dutch examination office) to organise a technical examination or acquire the technical report (or 'takeover') for a prior application for national plant breeders' rights for candidate vegetable varieties originating from the Netherlands. However, since February 2006 when the Dutch authorities changed their national legislation to allow a dual application for Dutch national listing and



Germination tests, Netherlands

national plant breeders rights at no additional costs and under the same procedure, vegetable seed companies from throughout the EU have altered their way of filing applications, so that the vast majority of applications filed at the CPVO have previously been filed via the abovementioned procedure in the Netherlands. The consequence of this is that the CPVO now undertakes, for vegetable applications, many more takeovers than technical examination with the Raad voor Plantenrassen. This is a reversal of what had been the norm in the sector for just over a decade when the CPVO came into being, and is illustrated by comparing the figures in 2005 and 2007. Two years ago, the CPVO organised 173 vegetable technical examinations with the Raad voor Plantenrassen and requested just 13 takeovers, whereas in the last 12 months, the CPVO organised 60 technical examinations with the Raad voor Plantenrassen, but in contrast requested 179 takeovers.

GRAPH 6: EVOLUTION OF TECHNICAL EXAMINATIONS AND TAKEOVERS IN THE VEGETABLE SECTOR

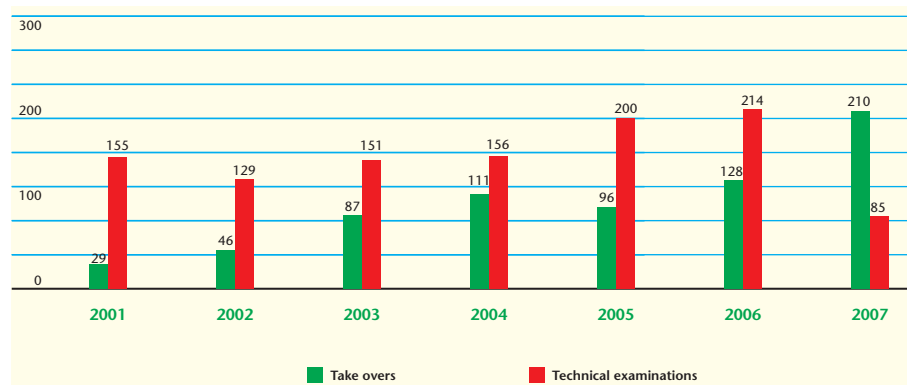


TABLE 3: NUMBER OF APPLICATIONS FOR MAJOR VEGETABLE SPECIES

Species	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	Total
<i>Lactuca sativa</i>	30	46	44	57	62	41	53	80	106	94	93	101	807
<i>Lycopersicon esculentum</i>	8	9	6	6	5	12	11	17	32	30	68	27	231
<i>Capsicum annuum</i>	1	2	7	1	13	8	4	5	8	15	12	23	106
<i>Cucumis sativus</i>	8	0	8	3	4	2	4	10	3	5	4	20	71
<i>Phaseolus vulgaris</i>	16	16	20	20	33	14	20	26	21	28	28	18	260



Strawberry DUS trials, Portugal

9.1.4. Fruit species

The year 2007 saw a 5 % decrease in fruit applications in comparison with the previous year (168 applications in 2006 compared to 162 in 2007), but this is still considerably more than the figures for 2005 (138 applications). The principal reason for the drop is the reduction of applications in peach/nectarine from 53 in 2006 to 33 in 2007, although this species still maintains the top spot for annual applications within the fruit sector. A possible reason for the drop may be due to the fact that examination fees for fruit applications rose substantially on 1 January 2007, meaning that an applicant for a fruit tree variety now has to pay an average of EUR 7 000 in examination costs before a technical report can be concluded; as a consequence, it appears that some major peach applicants are now looking more closely as to which are the most promising varieties before filing for Community plant variety rights.

Representatives of fruit applicants were also in contact with the CPVO in 2007 to see if the financial burden that the technical examination now implies could somehow be made more palatable. One idea which was expressed was the charging of a lower examination fee for the establishment years of the candidate variety, and a higher fee for the observation years when the characteristics of the variety are noted. This scenario would more closely reflect reality at the testing station, and would allow applicants to voluntarily withdraw their application after a couple of years into the technical examination if the variety was not living up to its expected potential. The Office took note of the proposals and will study their feasibility for a possible implementation sometime in the future.



TABLE 4: NUMBER OF APPLICATIONS FOR MAJOR FRUIT SPECIES

Species	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	Total
<i>Prunus persica</i>	5	10	15	13	22	27	35	36	51	32	53	33	332
<i>Prunus armeniaca</i>	0	3	7	4	6	6	10	11	22	8	29	26	132
<i>Fragaria x ananassa</i>	23	24	16	18	15	27	13	26	7	25	21	19	234
<i>Malus domestica</i>	21	12	21	19	17	17	26	18	10	30	18	15	224
<i>Rubus idaeus</i>	1	2	6	2	1	0	3	10	4	1	4	14	48



TABLE 5: THE 10 MOST IMPORTANT COUNTRIES FROM WHERE CPVR APPLICATIONS WERE FILED, 1996–2007

Country of main applicant	Number of applications: absolute numbers (relative numbers)												
	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	Total
Netherlands	479 (34.6)	553 (36.1)	653 (35.6)	731 (38.9)	796 (39.5)	782 (36.2)	775 (34.9)	833 (33.1)	889 (33.5)	853 (31.2)	903 (33.0)	1 015 (34.1)	9 262 (34.5)
Germany	223 (16.1)	241 (15.8)	299 (16.3)	311 (16.5)	289 (14.4)	311 (14.4)	385 (17.3)	320 (12.7)	381 (14.3)	411 (15.0)	401 (14.7)	481 (16.0)	4 054 (15.1)
France	162 (11.7)	210 (13.7)	260 (14.2)	303 (16.1)	242 (12.0)	332 (15.4)	239 (10.8)	302 (12.0)	337 (12.7)	313 (11.5)	332 (12.1)	362 (12.1)	3 394 (12.6)
USA	86 (6.2)	142 (9.3)	191 (10.4)	136 (7.2)	234 (11.6)	233 (10.8)	267 (12.0)	365 (14.5)	358 (13.5)	311 (11.4)	315 (11.5)	372 (12.5)	3 010 (11.2)
UK	126 (9.1)	76 (5.0)	81 (4.4)	81 (4.3)	122 (6.1)	126 (5.8)	82 (3.7)	69 (2.7)	129 (4.9)	152 (5.6)	103 (3.8)	119 (4.0)	1 266 (4.7)
Denmark	87 (6.3)	83 (5.4)	79 (4.3)	107 (5.7)	108 (5.4)	71 (3.3)	97 (4.4)	167 (6.6)	145 (5.5)	105 (3.8)	114 (4.2)	81 (2.7)	1 244 (4.6)
Switzerland	47 (3.4)	48 (3.1)	45 (2.5)	57 (3.0)	51 (2.5)	34 (1.6)	52 (2.3)	108 (4.3)	142 (5.3)	260 (9.5)	230 (8.4)	100 (3.2)	1 174 (4.4)
Italy	34 (2.5)	28 (1.8)	67 (3.7)	37 (2.0)	52 (2.6)	73 (3.4)	65 (2.9)	67 (2.7)	60 (2.3)	61 (2.2)	51 (1.9)	73 (2.4)	668 (2.5)
Belgium	61 (4.4)	20 (1.3)	43 (2.3)	36 (1.9)	41 (2.0)	46 (2.1)	46 (2.1)	63 (2.5)	56 (2.1)	44 (1.6)	77 (2.8)	45 (1.5)	578 (2.2)
Japan	9 (0.7)	35 (2.3)	22 (1.2)	16 (0.9)	13 (0.7)	31 (1.4)	28 (1.3)	51 (2.0)	27 (1.0)	55 (2.0)	58 (2.1)	54 (1.8)	399 (1.5)

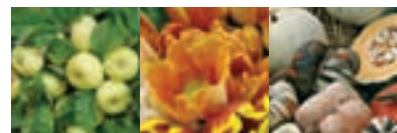
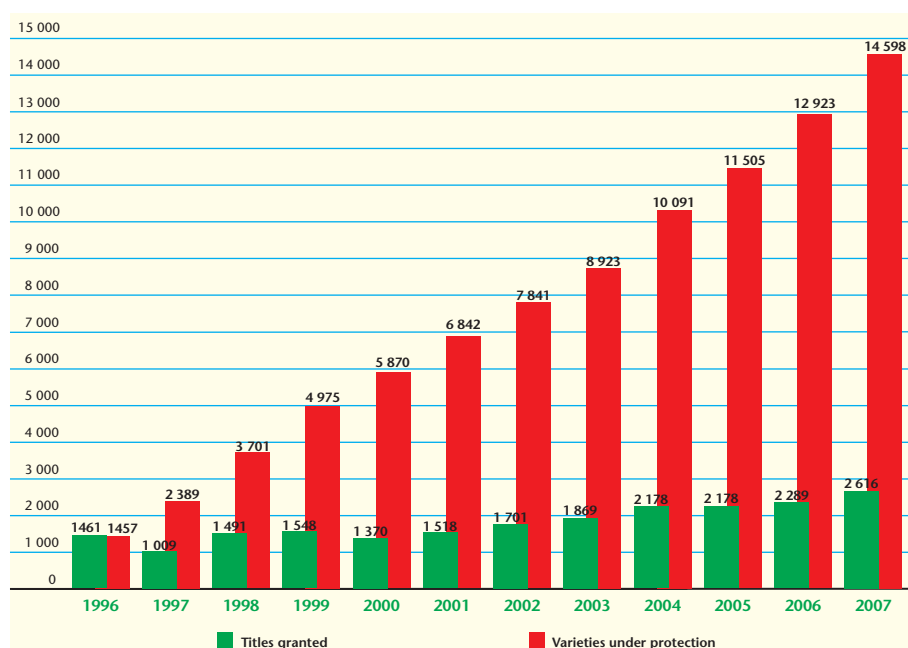
Since the foundation of the Community Plant Variety Office, applications have been received from some 50 countries. In nearly all those years, more than one third of all applications received originated from the Netherlands, underpinning the important role of that country. The Netherlands are followed — at quite some distance — by Germany, France and the United States. In 2007, an important applicant for Community plant variety rights transferred all their applications and rights from the Netherlands to Switzerland. This transfer brought Switzerland into the list of the top 10 countries (Table 5). In 2007, the 10 most important countries counted for 90.8 % of all applications filed at the CPVO. It can furthermore be seen from this table that there are — with the exception of Switzerland — only minor fluctuations in the origin of applications received.

9.2. Grants of protection

In 2007, the Office granted more than 2 600 titles for Community protection. A detailed list of all protected varieties (status as at 31 December 2007) is published in the separate annex to this annual report.

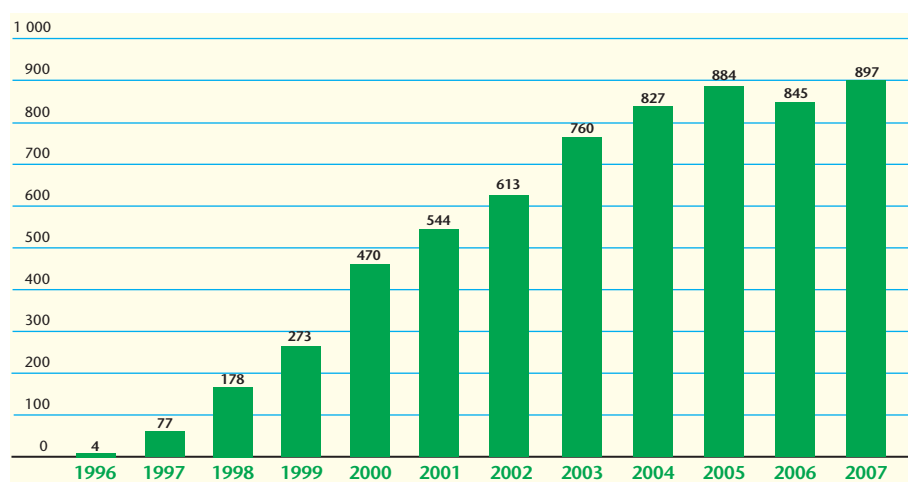
By the end of 2007, there were more than 14 500 Community plant variety rights in force. The graph hereafter shows the number of titles granted for each year from 1996 to 2007 and illustrates the continuous increase of varieties under protection within the Community system.

GRAPH 7: COMMUNITY PLANT VARIETY RIGHTS GRANTED AND RIGHTS IN FORCE, 1996–2007



The development in the number of Community plant variety rights in force must be seen in conjunction with the number of rights surrendered (Graph 8). The number of rights granted still greatly outweighs the number of surrenders.

GRAPH 8: NUMBER OF SURRENDERS OF COMMUNITY PLANT VARIETY RIGHTS, 1996–2007



9.3. Technical examinations

In 2007, the CPVO initiated 2 051 technical examinations which were carried out by the different examination offices working on behalf of the Office.

9.3.1. Sales of reports

Authorities of other countries regularly base their decisions on applications for plant variety rights on technical examinations carried out on behalf of the CPVO (international cooperation, takeover of reports). The graph below illustrates the number of reports which the Office made available to other authorities.

By the end of 2007, the Office had sold 2 050 technical reports to 34 countries. The most important countries are given in the table below.

GRAPH 9: EVOLUTION IN THE NUMBER OF DUS TESTING REPORTS TO OTHER PVR AUTHORITIES

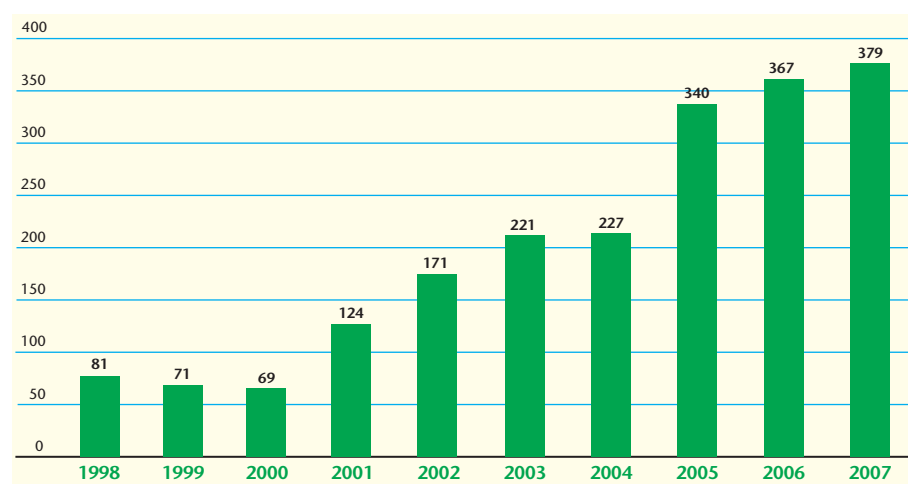


TABLE 6: THE 8 MOST IMPORTANT COUNTRIES HAVING BOUGHT DUS TECHNICAL REPORTS FROM THE CPVO, 1998–2007

Country	Number of reports bought from the CPVO (1998–2007)
Israel	421
Switzerland	229
Ecuador	184
Norway	179
New Zealand	163
Brazil	163
Colombia	117
Kenya	115

9.3.2. Relations with examination offices

a) Eleventh annual meeting with the examination offices

The 2007 meeting of the CPVO with its examination offices, which is also attended by representatives from the European Commission, the UPOV office and the breeders' organisations ESA and CIOPORA had to be postponed until March 2008 (due to a railway strike in France).

b) Preparation of CPVO protocols

In 2007, experts from the Member States' examination offices were invited to participate in elaborating technical protocols for DUS testing which were subsequently approved by the Administrative Council (see Chapter 4). The following meetings were held:

- agricultural experts: a draft protocol was discussed for *Linum* (flax and linseed);
- fruit experts: revisions or drafts of technical protocols were discussed for four species (apricots, blueberries, *Prunus* rootstocks and *Lonicera*);
- ornamental experts: revisions or drafts of technical protocols were discussed for 13 botanical taxa (*Anthurium*, *Dendrobium*, *Impatiens walleriana*, *Phalaenopsis*, *Osteospermum*, *Verbena*, *Clematis*, *Diascia*, *Begonia x hiemalis*, *Gypsophila*, *Sutera* and *Jamesbrittenia* and *Rhododendron simsii*).

c) Further development of the centralised database for variety denominations

In July 2005, the Office released a website to test proposals for variety denominations for similarity. Today, the database contains more than half a million denominations from national listings and plant variety rights registers of the EU and UPOV Member States. Access to the database is no longer restricted to national authorities of the EU Member States, the European Commission and UPOV; in 2007, the Office developed a new version of the website which gives applicants and their procedural representatives based in the EU the possibility to pre-check their denomination proposals for similarity.



Ruberous Begonia DUS trials, Netherlands

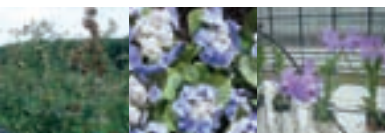


d) Crop expert meetings

Four meetings and telephone conferences with agricultural experts were held throughout the year discussing trial design and uniformity standards in wheat, the revision of the oilseed rape technical protocol and the preparation of technical protocols for *Lolium* and *Festuca* and in a separate meeting, for *Linum*.

One fruit expert meeting was held to discuss: a revision of the CPVO technical protocol for apricot varieties, the development of new test protocols on blueberry, *Prunus* rootstocks, *Lonicera*; phytosanitary documentation; reporting non-observed characteristics and unforeseen stages of expression; photographs together with the variety description of the candidate variety having undergone DUS testing.

One vegetable expert meeting was held to discuss: the revisions of the CPVO technical protocols for broccoli, cornsalad, lettuce, melon, pepper, tomato; the development of new test protocols for parsley, runner bean, watermelon; the CPVO coordination for



UPOV on the value of tomato grouping characteristics; the obligation to observe the totality of characteristics in CPVO technical protocols; discussion of the findings on the R & D project 'Harmonisation of resistance tests to diseases of vegetable crops in the European Union'.

The ornamental experts held one meeting to discuss various technical issues such as the reporting of non-observed characteristics, organisation of technical verifications and possible R & D projects as well as technical protocols for 13 botanical taxa.

e) Collaboration with Japan

In 2006, the Japanese Ministry of Agriculture, Forestry and Fisheries (MAFF) and the CPVO began cooperation in respect of technical examinations. In the framework of this cooperation, Japanese experts visited the CPVO and its examination offices in Denmark, Germany, the Netherlands and the United Kingdom. Members of the CPVO visited the Japanese examination office working



Water lilies DUS trials on behalf of CPVO, Japan

on behalf of MAFF. These technical visits aimed at a harmonisation of the conduct of technical examinations of several ornamental species. As a result, MAFF decided, at the end of 2007, to base its decision on applications for plant variety rights in 18 cases on technical examinations carried out by European examination offices. The Office also plans to base its decision on DUS examinations carried out in Japan for Petunia and Calibrachoa varieties in the coming years.

f) Strategic discussion on the future DUS testing

The strategic discussion was concluded during 2007 following a two-year-long process. The whole exercise revealed that 'quality requirements in DUS testing' should be a leading principle in order to attribute to an examination office the status of 'entrusted examination office'. The application of well-defined quality requirements is therefore necessary, and the verification of these requirements should be carried out by an audit team on a regular basis. Another guiding principle was the acceptance by national listing and national plant breeders' rights authorities of the 'one key, several doors' notion, whereby a single technical report could be accepted for different official variety registration purposes throughout the EU.

A document was subsequently drafted by the Office in order to define quality requirements in an auditable way (using *Brassica napus* as an example). This document was divided into three chapters thus to identify those quality requirements which would be applicable to examination offices wishing to acquire the status of 'entrusted examination office' and/or wishing to retain the status of 'entrusted examination office'.

- Chapter 1: referring to requirements in respect of general and organisational issues;
- Chapter 2: formulating requirements in respect of the use of the technical protocols. In that respect the quality requirements would have to be adhered to either for a particular species or for a group of species which needs to be defined in the individual cases;
- Chapter 3: formulating requirements in respect of the composition and management of variety collections. Also here, the requirements would have to be adhered to either for a particular species or for a group of species.

Following the green light from the Administrative Council in its November meeting, the CPVO will now look to create in 2008 an autonomous audit unit within the Office structure, whose role would be to verify that examination offices adhere to the defined set of quality requirements.

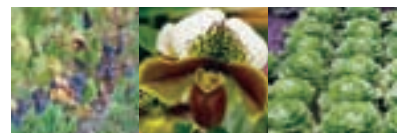
g) New species procedures

In the course of 2007, the CPVO received applications for varieties of 99 botanical taxa not having been subject to Community plant variety rights applications before. Three inquiries, so-called new species procedures, were launched by the CPVO in 2007. As a result of the inquiries, the following 54 taxa could be attributed to examination offices by the Administrative Council.



Sampling for virus test, Netherlands

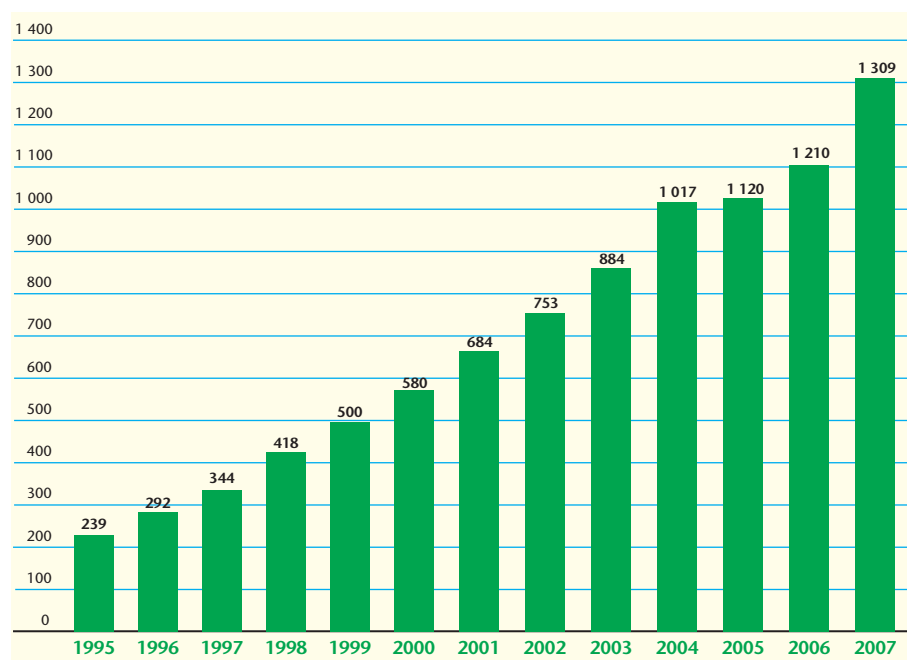
Ananas comosus (L.) Merr.
Ananas lucidus Mill.
Arabis blepharophylla Hook. & Arn.
Arbutus unedo L.
Argyranthemum Webb ex Schultz Bip.
Aronia melanocarpa (Michx.) Elliott
Borago officinalis L.
Chamaecyparis pisifera (Siebold & Zucc.) Endl.
Chirita tamiana B.L.Burt
Choisya Kunth
Cistus × *incanus* L.
Cleome spinosa Jacq.
Corydalis moorcroftiana Wall. ex Hook. f. & Thomson × *C. wilsonii* N. E. Br.
Corydalis shimienensis C.Y.Wu & Z.Y.Su
Crataegus succulenta Schrad. ex Link
Cucurbita moschata Duchesne
Cucurbita pepo var. *styriaca* Greb.
Dianella Lam. ex Juss.
Dianella prunina R. J. F. Hend.
Echinops ritro L.
Eucalyptus gunnii Hook. f.
Griselinia littoralis (Raoul) Raoul
Helianthemum Mill.
Hippophae rhamnoides L.
Isopogon formosus R.Br.
Leucadendron R. Br.
Lotus corniculatus L.
Lythrum L.
Mangifera indica L.
Mentha × *piperita* L.
 ×*Miltonidium hort.*
Musa acuminata Colla (ornamental)
Nymphaea capensis Thunb.
Osteospermum L.



Paulownia elongata S. Y. Hu X
Paulownia elongata S. Y. Hu × *P. fortunei* (Seem.) Hemsl.
Pedilanthus tithymaloides (L.) Poit.
Persea americana Mill.
Phacelia tanacetifolia Benth.
Phormium J.R. Forst. et G. Forst.
Phormium cookianum Le Jol.
Pistia stratiotes L.
Prunus dulcis (Mill.) D.A. Webb
(Prunus persica × *Prunus davidiana*) × *Prunus* × *amygdalopersica* (Weston) Rehder
Raphanus sativus L. var. *oleiformis* Pers.
Rhipsalis ewaldiana Barthlott & N. P. Taylor
Rhipsalis teres (Vell.) Steud.
Sida hermaphrodita (L.) Rusby
Solanum glaucophyllum Desf.
Solanum quitoense Lam.
Stenotaphrum secundatum (Walter) Kuntze
Tacitus bellus Moran & J. Meyran
(syn: *Graptopetalum bellum* (Moran & J. Meyrán) D. R. Hunt)
Tricyrtis Wall.
× *Vuylstekeara hort.*

Graph 10 illustrates the evolution in the number of botanical taxa for which the CPVO received applications. At the end of 2007, applications for varieties belonging to 1 309 taxa were filed with the Office.

GRAPH 10: EVOLUTION OF THE NUMBER OF BOTANICAL TAXA FOR WHICH THE CPVO RECEIVED APPLICATIONS



h) List of examination offices working on behalf of the CPVO

Centre de recherche agronomiques
Département Production Végétale
Rue de Liroux 9
B-5030 Gembloux, Belgium
<http://www.cra.wallonie.be>

Instituut voor Landbouw- en Visserijonderzoek Ilvo Eenheid Plant-teelt en Omgeving
Burgemeester van Gansberghelaan 109
B-9820 Merelbeke, Belgium
<http://www.ilvo.vlaanderen.be>

UKZUZ
Central Institute for Supervising and Testing in Agriculture
Hroznova 2
CZ-656 06 Brno, Czech Republic
<http://www.ukzuz.cz/en/index.php>

Ministry for Food, Agriculture and Fisheries
Plant Directorate Department of Variety Testing
Teglvaerksvej 10, Tystofte
DK-4230 Skælskør, Denmark
<http://eng.agrsci.dk>

Bundessortenamt
Osterfelddamm 80 Postfach 610440
D-30627 Hannover, Germany
<http://www.bundessortenamt.de>

Plant Production Inspectorate
Variety Control Department
Vabaduse plats 4
EE-71020 Viljandi, Estonia
<http://www.plant.agri.ee>

Department of Agriculture and Food
Office of the Controller of Plant Breeders' Rights
Backweston Farm
Leixlip CO. Kildare, Ireland
<http://www.gov.ie/daff>

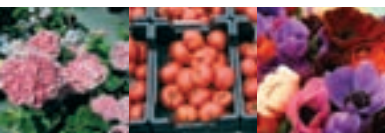
Ministry of Agriculture
Directorate of inputs of Plant Productions Section A
2 Acharnon Street
GR-10167 Athina, Greece
<http://www.varinst.gr>

Oficina Española de Variedades Vegetales
Ministerio de Agricultura, Pesca y Alimentación
Calle Alfonso XII 62
E-28014 Madrid, Spain
<http://www.mapya.es>

GEVES
La Minière
F-78285 Guyancourt Cedex, France
<http://www.geves.fr>

Ente Nazionale Sementi Elette
Via Ugo Bassi 8
I-20159 Milano, Italy
<http://www.ense.it>





CRA – Consiglio per la ricerca e sperimentazione in agricoltura istituto sperimentale per la frutticoltura
Via di Fioranello 52
I-00134 Roma, Italy
<http://frutticoltura.entecra.it>

CRA – Consiglio per la ricerca e sperimentazione in agricoltura istituto sperimentale per la viticoltura
Viale XXVIII Aprile 26
I-31015 Conegliano Veneto (TV), Italy
<http://www.inea.it/isv/index.html>

Ministry of Agriculture of the Republic of Latvia
Plant Variety Testing Department
Lubānas Street 49
LV-1073 Riga, Latvia
<http://www.vaad.gov.lv>

Central Agricultural Office Keleti
Karoly U. 24
H-1024 Budapest, Hungary
<http://www.ommi.hu>

Raad voor Plantenrassen
Bennekomseweg 41
6717 LL Ede, Netherlands
<http://www.plantenrassen.nl>

Bundesamt für Ernährungssicherheit
Spargelfeldstraße 191 Postfach 400
A-1226 Wien, Austria
<http://www.ages.at>

Coboru
Centralny Ośrodek Badania Odmian Roślin Uprawnych
PL-63-022 Słupia Wielka, Poland
<http://www.coboru.pl>

Direcção-Geral de Agricultura e Desenvolvimento Rural (DGADR)
Divisão Sementes, Variedades e Recursos Genéticos
Edifício 2 Tapada de Ajuda
P-1349-018 Lisboa, Portugal
<http://www.dgadr.pt>

UKSUP
Central Controlling and Testing Institute in Agriculture
Variety Testing Department
Matuskova 21
SK-83316 Bratislava, Slovakia
<http://www.uksup.sk>

Statens Jordbruksverk Utsädesenheten
Onsjövägen
S-268 31 Svalöv, Sweden
<http://www.sjv.se>

Plant Variety Rights Office (PVRO)
Department for Environment Food and Rural Affairs (DEFRA)
White House Lane, Huntingdon Road
Cambridge CB3 0LF, United Kingdom
<http://www.defra.gov.uk>

NIAB

Ornamental crops

Huntingdon Road

Cambridge CB3 0LE, United Kingdom

<http://www.niab.com>

Plant Breeder's Rights Office

Discovery House

Phillip ACT 2606, Australia

<http://www.ipaustralia.gov.au/pbr/index.shtml>

Plant Breeders' Rights Testing Unit

The Volcani Center PO Box 6

IL-50250 Beit Dagan, Israel

<http://www.agri.gov.il/PlantProtection.html>

New Zealand Plant Variety Rights Office

205 Victoria Street

NZ-6141 Wellington, New Zealand

<http://www.pvr.govt.nz>

A detailed list of which species are tested by which of the entrusted examination office can be found in the annex to this annual report.



Pepper DUS trials, Netherlands



9.4. Technical liaison officers (TLOs)

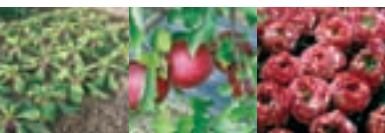
The CPVO tries to have a close and efficient working relationship with its examination offices and the national offices of the Member States. Therefore, in 2002, the Office formalised a network of contact persons on a technical level in the Member States, the so-called 'technical liaison officers'. Technical liaison officers play an important role in the relationship of the Office with its examination offices.

The following principles apply:

- the technical liaison officer is appointed by the relevant member of the Administrative Council;
- there is only one liaison officer per Member State;
- any modification as far as the person is concerned is communicated to the CPVO through the relevant member of the Administrative Council.

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

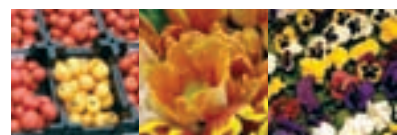
- Invitations for the annual meeting with the examination offices are, in the first place, addressed to that person. If the TLO is not attending himself, he/she should communicate the person who is attending that meeting to the CPVO.
- Invitations for expert groups on a technical level are initially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

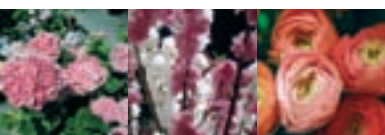


Pea DUS trials, France

The latest version of the list of appointed TLOs (status as at 31 December 2007) is as follows.

John Austin	Ministry of Agriculture and Forestry Executive Agency of Variety Testing, Field Inspection and Seed Control Bulgaria
Bronislava Batorova	UKSUP Central Controlling and Testing Institute in Agriculture Variety Testing Department Slovakia
Julia Borys	Coboru Centralny Ośrodek Badania Odmian Roślin Uprawnych Poland
Maureen Delia	Ministry for Rural Affairs and the Environment Agricultural Services Laboratories Agricultural Services and Rural Development Division Seeds and other Propagation Material Unit Malta
Gerhard Denecken	Ministry for Food Agriculture and Fisheries Plant Directorate Department of Variety Testing Denmark
José Fernandes	Direcção-Geral de Agricultura e Desenvolvimento Rural (DGADR) Divisão Sementes, Variedades e Recursos Genéticos Portugal
Krieno Fikkert	Raad Voor Plantenrassen Netherlands
Bruno Foletto	European Commission Directorate-General for Health and Consumer Protection Belgium
Barbara Fuernweger	Bundesamt für Ernährungssicherheit Austria
Zsuzanna Füstös	Central Agricultural Office Hungary
Joël Guiard	GEVES France
Sigita Juciuvienė	Lithuanian State Plant Varieties Testing Center Lithuania
Sofija Kalinina	Ministry of Agriculture of the Republic of Latvia Plant Variety Testing Department Latvia
Ulf Kjellstrom	Statens Utsädeskontroll Sweden





Angelos Kyratzis	Ministry of Agriculture, Natural Resources and Environment Department of Agriculture Cyprus
David McGilloway	Department of Agriculture and Food Office of the Controller of Plant Breeders' Rights Ireland
Andy Mitchell	Plant Variety Rights Office (PVRO) Department for Environment Food & Rural Affairs (DEFRA) United Kingdom
Kaarina Paavilainen	KTTK — Plant Production Inspection Centre Seed Testing Department Finland
Adriana Paraschiv	State Office for Inventions and Trademarks Romania
Eha Puusild	Plant Production Inspectorate Variety Control Department Estonia
Martina Rogelj-Zupan	Ministry For Agriculture, Forestry and Food Phytosanitary Administration of the Republic of Slovenia Plant Varieties and Seeds Section Slovenia
Beate Ruecker	Bundessortenamt Germany
Radmila Safarikova	UKZUZ Central Institute for Supervising and Testing in Agriculture Czech Republic
Luis Salaices	Oficina Española de Variedades Vegetales Ministerio de Agricultura, Pesca y Alimentación Spain
Achilios Sotiriou	Variety Research Institute of Cultivated Plants Greece
Domenico Strazzulla	MIPAF — Ministero delle Politiche Agricole e Forestali Dipartimento della Qualità dei Prodotti Agroalimentari e dei Servizi Italy
Camille Vanslebrouck	Ministère des Affaires Economiques Belgium
Marc Weyland	Administration des Services Techniques de l'Agriculture Service de la Production Végétale Luxembourg

10. IT DEVELOPMENTS

In 2005, the Community Plant Variety Office decided to create an extranet website dedicated to its clients. The aim of this website was to enable CPVO clients based in the EU (representatives and applicants) to consult information about their files (status of applications, pending fees, debit and credit notes) and retrieve documents (print-outs of the gazette, etc.).

Studies and development took place during 2005 and 2006, and led to an official public release on 1 March 2007. An introductory letter was sent to all clients. New clients also received instructions on how to use the website having registered in the system. The service generally has been very well perceived, and there have already been some suggestions from clients as well as some maintenance updates.

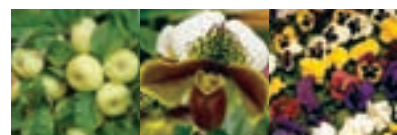
In February 2007, the CPVO made available on its web page a database including PVR case-law. The database includes decisions from national and European courts relating to plant variety rights. The database is updated on a continuous basis. The full text of the decision is published in the language of the case and there is a summary made for each case in English. In order to be aware of new cases, the CPVO works with contributors from each Member State listed on the CPVO website. Contributions from the public are also welcomed.

CPVO web activities are now focused on two directions: firstly, the introduction of an online application system; secondly, to the extension of an extranet dedicated to the technical liaison officers, and, more generally speaking, to the examination offices.

The study for the online applications started in April 2007, and will be carried out until March 2008.

The study for new features to share with the examination offices started in September 2007, and led to the creation of a working group with experts from several examination offices, in order to discuss electronic data exchange matters, as well as electronic application forms. Meanwhile, a set of consultation features had been developed by the end of 2007, targeted for release in March 2008.

New features have been developed in the centralised varieties denominations database to allow testing denominations proposals across all species in the database and to allow running tests by batch: it is the intention of the Office to systematically test denominations proposed by UPOV countries outside the EU when they submit their data for the UPOV CD-ROM.



Client extranet

The existing accounting software programs SI2 for the budgetary accountancy and Exact for the general ledger have been replaced by a fully integrated software PIA5 supplied by the company Ordiges. Web services were developed by Ordiges to integrate PIA5 with the in-house software PVR for the management of the applications and titles. This new fully integrated information system has been running since 1 January 2008.

The study phase for a document management system was also finalised in 2007 with the active participation of IT services. This study was used as a basis to launch a call for tender after a company was selected to implement the project in 2008.

Finally, a new colleague joined the IT team in 2007. She has been dedicating her time to the further development of the internal software PVR where all procedures linked to the processing of applications are computerised.



11. CONTACTS WITH EXTERNAL ORGANISATIONS

11.1. Contacts with ESA and CIOPORA

a) Pre-meetings

Breeders' representatives have an opportunity to comment on the various items included on the agendas of the Administrative Council in regular meetings with the Office. The Office subsequently keeps the Administrative Council informed about the content of these meetings.

b) ESA annual meeting

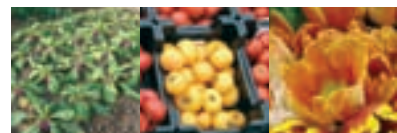
Representatives of the management of the Office attended the ESA General Assembly held in Brussels (15 and 16 October 2007) and several section meetings.

c) CIOPORA annual meeting

The President of the Office attended the annual meeting of CIOPORA held on 23 and 24 April 2007 in Mexico.



Gerbera



11.2. Contacts with UPOV

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

During 2007, as members of the EC delegation, CPVO officials participated in the activities of UPOV and attended the meetings of the following bodies and committees of the international Union:

- UPOV Council;
- Legal and Administrative Committee;
- Technical Committee;
- Technical working parties (agricultural crops, vegetables, fruit crops, ornamental plants and forest trees);
- Specialised subgroups of the Working Group on Biochemical and Molecular Techniques (BMT);
- Enlarged Editorial Committee;
- Advisory Group of the Legal and Administrative Committee.



*UPOV Seminar,
Kenya, June 2007*

The Vice-Secretary-General of UPOV participates in most of the meetings of the CPVO Administrative Council. Senior officials of the UPOV office also regularly attend experts meetings or working groups organised by the CPVO dealing with technical and legal issues of common interest.

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

The CPVO centralised database operates on the basis of a system of codes attributed to botanical names and developed by UPOV. Since its release in July 2005, the Office and UPOV started to exchange data extensively, UPOV collecting data from non-EU UPOV countries and the Office bringing together data from the EU. The CPVO assisted UPOV in the attribution of codes to the species name of varieties of the UPOV-ROM.

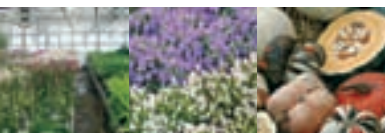
In several regions of the world where countries are members of UPOV, such as Asia, Africa, Latin America and the Caribbean, there is an emergent interest to know the details, cumulated experience and results relating to plant variety rights systems with a regional scope. The CPVO frequently provides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

11.3. Contacts with the African Intellectual Property Organisation (OAPI)

OAPI, an intergovernmental organisation based in Yaoundé (Cameroon), works on the implementation of the Bangui Agreement that has established a regional system of intellectual property rights of which plant breeders' rights form a part. 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. The decision of the Administrative Council of OAPI for the entry into force of the PBR system in 2006 and its implementation will provide multiple opportunities for cooperation in several fields of activity.

A regular exchange of publications is maintained.



11.4. Participation in international fairs

The CPVO considers its participation in international fairs as a useful tool to promote the Community plant variety rights system, to have direct contact with applicants and to provide information to growers. In 2007, the Office participated in six fairs, twice as many as in previous years.

At the end of January, the Office attended the IPM in Essen, Germany, for the fifth time. The stand was shared with German colleagues from the Bundessortenamt. Even though the fair is open to the entire field of horticulture, the focus lies with ornamentals.

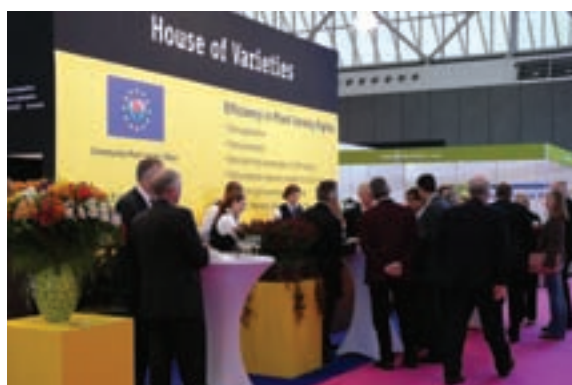
At the beginning of February, the Office (again in collaboration with the Bundessortenamt) had a stand at the Fruit Logistica in Berlin, Germany. It was the first time that the Office had participated in this fair, which focuses on the fruit and vegetable area.

The Salon du Végétal, which takes place at the end of February in Angers, France, is a fair mainly for growers of ornamental plants in which the Office regularly participates together with the French examination office GEVES.

At the beginning of March, the Office participated together with the Croatian Institute for Seed and Seedlings in the Osijek Spring Fair of Agriculture and Food in Osijek, Croatia. Participation in this agricultural fair was organised in the framework of the multi-beneficiary programme of the European Commission on the preparation of Turkey and Croatia for the participation in the Community plant variety right system.



Salon du Végétal, Angers, France, February 2007

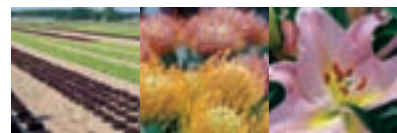


Hortifair, Amsterdam Rai, Netherlands, October 2007

The Dutch Hortifair, which takes place in October in Amsterdam, is another regularly attended event of the ornamental world. Here, the stand was shared with the Raad voor Plantenrassen and Naktuinbouw.

Finally, at the beginning of December, the Office participated for the first time in the Growtech fair in Antalya, Turkey. The Turkish Ministry of Agriculture and Rural Affairs

and the Turkish Seed Certification Center were the Office's partners in the fair which is equally important for the horticultural sectors. This fair participation was also organised in the framework of the multi-beneficiary programme of the European Commission on the preparation of Turkey and Croatia for the participation in the Community plant variety rights system.



11.5. Contacts with the OECD

The CPVO closely follows the activities of OECD in the seed and variety sector. A representative of the CPVO attended the annual OECD meeting in Paris, in July 2007.

11.6. Other contacts

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

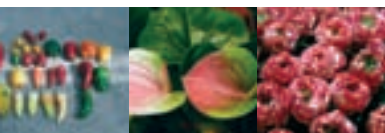
- the Secretariat-General of the European Commission: coordination of EU agencies;
- the Personnel and Administration DG: staff regulations implementation matters;
- the Budget DG: implementation of the new financial regulation and the internal audit function;
- heads of the European seed certification agencies.

In addition, other fields of external activity can be mentioned, such as:

- the Translation Centre Administrative Council;
- the Steering Group of the SI2 Common Support Service;
- coordination of the EU agencies at management level;
- annual coordination meeting of the Publications Office with the EU agencies.



Lettuce DUS trials, Netherlands



12. RELATIONSHIP WITH THE DIRECTORATE-GENERAL FOR HEALTH AND CONSUMER PROTECTION

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

This standing committee meets regularly in Brussels and staff members of the CPVO have attended these meetings when the subject was of relevance for the Community plant variety rights system.

Of particular interest for the CPVO throughout 2007 were the following items:

- Commission activities as regards the cross-references to the CPVO technical protocols for DUS testing;
- Commission activities in respect of the common catalogues for agricultural and vegetable species and in particular the integration of the catalogues from the new Member States;
- programme and technical protocols for the Community comparative trials;
- implementing measures in respect of conservation varieties and plant genetic resources;
- the revision of scientific plant names;
- reflections of the Commission as regards a possible extension of tasks to the CPVO;
- aspects related to variety denominations;
- aspects related to the OECD seed schemes and in particular the OECD reflections as regards variety identity and the creation of synonyms.



Verbena



12.2. Standing Committee on Community plant variety rights

This standing committee meets regularly in Brussels and the CPVO attends its sessions with an observer status.

Of particular interest for the CPVO throughout 2007 were the following items:

- report of the working group on possible extension of the activities of the Community Plant Variety Office;

- discussion on a draft note to UPOV on the 'Contribution of the European Community and its Member States to consider a better organisation of the UPOV bodies and work practices';
- discussion and possible opinion on a draft Commission regulation amending Commission Regulation (EC) No 1239/95 as regards the use of electronic means of communication in proceedings before the Community Plant Variety Office;
- discussion on a draft Commission regulation amending Commission Regulation (EC) No 1238/95 as regards the level of the annual fees and the fees relating to technical examination payable to the Community Plant Variety Office and the manner of payment (SANCO/1751/07).

12.3. Council working parties

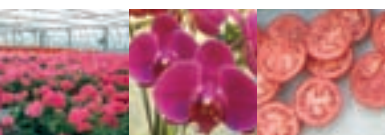
The CPVO has participated in different competent preparatory bodies of the Council, integrating the representation from the EC, pursuant invitation made by Health and Consumer Protection DG.

Of particular interest for the CPVO throughout the year 2007 were the following items:

- Council regulation amending Council Regulation (EC) No 2100/94 as regards the entitlement to file an application for a community plant variety right [2007/0161 (CNS) – COM(2007) 445 final – 12303/07];
- coordination of UPOV meetings (Council, Consultative Committee and Administrative and Legal Committee);
- preparation of forthcoming OECD meetings (schemes for the varietal certification of seed moving in international trade), international trade and use of synonyms in varietal denominations [TAD/CA/S(2007)12];
- possible revision of Council Directive 92/34/EEC of 28 April 1992 on the marketing of fruit plant propagating material and fruit plants intended for fruit production.



Orchid DUS trials, Netherlands



13. PUBLIC ACCESS TO CPVO DOCUMENTS

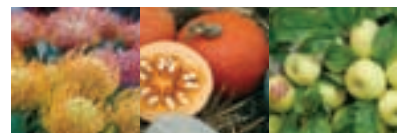
In 2001, specific rules on public access to documents held by the European Parliament, the Council and the Commission were introduced by the adoption of Regulation (EC) No 1049/2001 ⁽²⁾. In order for these rules to apply also to documents held by the Office, a new article, Article 33(a), was introduced to the basic regulation in 2003 by the adoption of Council Regulation (EC) No 1650/2003 ⁽³⁾.

Article 33(a) contains the following elements.

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

Regulation (EC) No 1049/2001 and the rules to be adopted by the Administrative Council are available on the Office website. Information on these rules and forms to use when requesting access to a document are also published on the Office website.

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



Year of receipt	Number of requests for access received	Number of refusals	Reasons for such refusals	Confirmatory applications
2004	30	6 (partial)	Confidential technical questionnaire not sent	
2005	55	2 (partial)	Confidential technical questionnaire not sent	
2006	58	6 (partial)	Confidential technical questionnaire not sent	
2007	55	17 (partial)	Confidential technical questionnaire not sent/ information of commercial interest not sent	2 (successful)

⁽²⁾ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, OJ L 145, 31.5.2001, p. 43.

⁽³⁾ Council Regulation (EC) No 1650/2003 of 18 June 2003 amending Regulation (EC) No 2100/94 on Community plant variety rights, OJ L 245, 29.9.2003, p. 28.

14. REPORT OF THE CPVO DATA PROTECTION OFFICER (DPO)

14.1. Legal background

Regulation (EC) No 45/2001 of the European Parliament and the Council of 18 December 2000 on the protection of individual rights with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data, was adopted for the purpose of complying with Article 286 of the Treaty. Article 286 requires the application to the Community institutions and bodies of the Community acts on the protection of individuals with regard to the processing of personal data and the free movement of such data.

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

14.2. Role and tasks of the data protection officer

Regulation (EC) No 45/2001 requires the nomination of at least one data protection officer in the institutions and bodies who should ensure in an independent manner the internal application of the provisions in the Regulation.

The DPO keeps a register of all personal data processing operations in the institution/body and informs on rights and obligations, provides services and makes recommendations. The DPO notifies cases of risky processing of personal data to the European Data Protection Supervisor (EDPS) and responds to requests from the EDPS.

By decision of the President of 24 April 2007, a new DPO was appointed at the CPVO for a term of two years. He shall be eligible for reappointment up to a maximum of 10 years.



20th meeting Data Protection Officers, Brussels, June 2007

14.3. Report of the CPVO data protection officer for 2007

In 2007, the DPO of the Community Plant Variety Office undertook the following actions.

- He drafted several notifications to the EDPS concerning processing operations likely to present specific risks.
- He drafted a decision of the Administrative Council of the CPVO adopting implementing rules concerning Regulation (EC) No 45/2001 of the European Parliament and the Council.
- He developed, with the help of IT experts, a DPO section on the CPVO intranet with some explanation about Regulation (EC) No 45/2001 and a register of the processing operations.

Moreover, the DPO participated in the 20th DPO meeting held by the EDPS and the DPOs from the other EU institutions and agencies in Brussels on 8 June 2007.





15. THE BOARD OF APPEAL OF THE CPVO

15.1. Composition of the Board of Appeal of the CPVO

15.1.1. Chairman and alternate to the Chairman of the Board of Appeal of the CPVO

The mandate of Ms Gabriele Winkler, who has chaired the Board of Appeal of the Community Plant Variety Office for the last 10 years, came to an end on 16 December 2007.

Following their appointment by the Council on 17 December 2007 (Council Decision 2007/858/EC of 17 December 2007, OJ L 337, 21.12.2007, p. 105), the new Chairman of the Board of Appeal, Mr Paul Van de Kooij, and his alternate Mr Timothy Millett took up their duties for a period of five years.



*Ms Gabriele Winkler,
first Chairman of the Board of Appeal
of the CPVO, 1997–2007*

15.1.2. Qualified members of the Board of Appeal

In accordance with the procedure prescribed by Article 47(2) of Council Regulation (EC) No 2100/94, the Administrative Council of the CPVO, at its meeting on 14 and 15 March 2006, adopted the following list of qualified members of the Board of Appeal of the CPVO for the period of five years from 23 February 2006.

List of 52 qualified members, 2006–11

ANDERSEN Preben Veilstrup	GRETA Fabio
BALZANELLI Sergio	GUIARD Joël
BARENDRECHT Cornelis Joost	GUISSART Alain
BESLIER Stéphane	KÖLLER Michael
BIANCHI Pier Giacomo	KRALIK Andrej
BIANCHI Richard	LAURENS François
BLOUET Françoise	LÓPEZ-ARANDA José Manuel
BONNE Sophia	MARGELLOS Théophile M.
BORRINI Stefano	MENNE Andrea
BOULD Aubrey	MIJS Jan Willem
BRA Maria	MILLETT Timothy
BRAND Richard	OLIVIUSSON Peter
CALVACHE QUESADA David	PATACHO Rosa Hermelinda Vieira Martins
CHANZÁ JORDÁN Dionisio	PAUSE Christof Frank
CHARTIER Philippe	PERRACINO Mauro
CSURÖS Zoltán	PETIT-PIGEARD Roland
DEL RIO PASCUAL Amparo	PINHEIRO DE CARVALHO Miguel Ângelo Almeida

REHEUL Dirk
 RIECHENBERG Kurt
 ROBERTS Timothy Wace
 ROFES I PUJOL Maria Isabel
 ROSA-PEREZ José-Manuel
 ROYON René
 RÜCKER Beate
 RUSSO Pietro
 SANTANGELO Enrico

SCOTT Elizabeth
 SIBONI Eugenio
 TURRISI Rosario Ennio
 ULLRICH Hanns
 VAN DER KOOLJ Paul A.C.E
 VAN MARREWIJK Nico P.A.
 VAN OVERWALLE Geertrui
 VEIGA DA CRUZ DE SOUSA Pedro António
 WIESNER Ivo

15.2. Decisions of the Board of Appeal in 2007

In 2007, the Board of Appeal met on four occasions in September, November and December 2007.

15.2.1. Session of September

a) Appeal A 001/2007 — ‘Cowichan’

By decision R 679 of 6 November 2006, the CPVO rejected the application for a CPVR for a variety of the species *Rubus idaeus* L. with the denomination ‘Cowichan’. The refusal of the CPVO to grant a CPVR was based on Article 10 of the basic regulation, i.e. on the lack of novelty of the ‘Cowichan’ variety at the time of first commercialisation in the USA on 10 April 2002. Indeed, in the application form (point 9a), the applicant mentioned the first disposal of the variety as 10 April 2002 in the USA, which was more than the four-year period allowed for commercialisation outside the EU before the date of application.

The applicant, Agriculture and Agri-food Canada, appealed this decision on 3 January 2007. He alleged that the date of 10 April 2002 given in the application form actually referred to the first trial plantings of the variety in North America and not the first date of commercial sales of the variety which was in April 2003. He produced as evidence a statement from one of his employees confirming this. The applicant also asked to treat the case with leniency since the deadline was missed by just eight days.

The Board of Appeal considered that the applicant did not provide any convincing evidence to substantiate his claim that the date given referred only to trial plantings. As regards the request for leniency, the Board concluded that time limits relating to applications must be applied strictly and rejected the appeal.



59



*Board of Appeal meeting
in 2007*



15.2.2. Session of November

a) Appeal A 003/2007 and A 004/2007 — 'Gala Schnitzer'

On 18 January 1999, Konsortium Südtiroler Baumschulen filed an application regarding an apple of the species *Malus Mill.* 'Gala Schnitzer'. The Office immediately asked the applicant to send plant material to the testing station at Wurzen in Germany. The material was delivered within the time limit but the health certificate was missing. The testing station began examining the variety without waiting for the document to arrive. A few days before 4 May 2001, the applicant informed the examiner responsible at Wurzen that it was impossible to provide the health certificate since it had emerged that the material which was sent for testing purposes was infected by a virus.

The Office thereupon permitted the applicant to submit new material for a new examination. The health document required for this purpose was supplied. As a result of the new examination, it was found that the candidate variety 'Gala Schnitzer' was clearly distinguishable from the reference variety 'Beigent' and moreover was stable and uniform.

During the examination proceedings, the appellants objected to the application on 5 May 2006. But by Decision EU 18759 of 26 February 2007, the applicant was granted a CPVR for 'Gala Schnitzer' and the two objections were dismissed by Decisions OBJ 06-021 and OBJ 06-022 on the same date.

The appellants filed a notice of appeal on 11 April 2007. They argued that the Office should not have permitted the applicant to submit new plant material and was obliged to refuse the application in accordance with Article 61(1)(b) in conjunction with Article 55(4) of the basic regulation. Moreover, the candidate variety was, in the opinion of appellants, not distinct from the reference variety 'Beigent'.

The Office asserted that it was authorised to permit the applicant to supply new virus-free material for a new examination since the wording of the letters and the wording 'health certificate' in the reminder letter, were perhaps liable to be misunderstood. The Office confirmed that it was the Office's standard practice to request the health certificate in all cases. Such a certificate could now be obtained quickly, whereas at the time of the contested application it still took more time. For this reason, the examination had been started before the certificate was received, since in comparable cases the certificate had always been submitted subsequently.

The Board of Appeal stated that under the given circumstances, the Office was not authorised to permit the applicant to submit new material for a new examination since there was no legal basis for doing so. Consequently, it cancelled decisions EU 18759, OBJ 06-021 and OBJ 06-022 and rejected the 'Gala Schnitzer' application.

15.2.3. Session of December

a) Appeal A005/2007 — 'Sumost 01'

By Decision R701 of 19 February 2007, the Office rejected an application for a variety of the species *Osteospermum ecklonis* (DC.) Norl. with the denomination 'Sumost 01' on the basis that it was not distinct according to Article 7 of the basic regulation and upheld the objection lodged by the holder of the CPVR for 'Lemon Symphony'. The

applicant, Ralf Schröder, appealed the two decisions on 10 May 2007. He alleged that a CPVR should be granted in respect of his candidate variety because the closest reference variety, 'Lemon Symphony', no longer corresponded to its own variety description. He further claimed that 'Lemon Symphony' no longer existed. In this respect, the appellant claimed that the plant material used for testing had been tested with a growth regulator and did not comply with the requirements of the guideline.

The holder joined the proceedings.

The Office claimed that it had no reason not to rely on the DUS report of the examination office (Bundesortenamt) in which the variety 'Sumost 01' was declared not to be distinct from the variety 'Lemon Symphony'. Moreover, the Office and the holder claimed that even if the variety description of 'Lemon Symphony' is not the same as in 1997, the material of the variety submitted by the holder in the DUS test was of common knowledge since it was on the market.

Firstly, the Board of Appeal found that the appellant (who was not present at the hearing) had been summoned in due form and proceeded with the oral hearing.

The Board of Appeal found the appeal admissible because the appellant may appeal a decision addressed to him. However the Board established that the appeal was not well-founded and rejected the appeal.

The Board of Appeal considered that there was no doubt that the material of the submitted comparative variety was indeed 'Lemon Symphony'. It also stated that the growth regulator treatment used in this case did not affect the test result because the plant characteristics had been assessed several weeks after its influence had disappeared. Finally, the Board expressed no doubt that 'Lemon Symphony' was stable and had not deviated from the original description.

b) Appeal A 006/2007 — 'Lemon Symphony'

On 6 April 1999, CPVR EU 4282 was granted to Mr Jörn Hansson for his *Osteospermum ecklonis* (DC.) Norl. variety 'Lemon Symphony'.

On 26 October 2004, the appellant applied for cancellation of the plant variety right for 'Lemon Symphony'. The appellant claimed, in essence, that the variety was no longer stable.

After examining his request, the Office informed the appellant that it did not intend to cancel the CPVR. By letter dated 10 May 2007, the Office confirmed that it did not accept to issue a formal decision since there was no legal basis for issuing a decision that the CPVR would not be cancelled.

On 11 October 2007, the appellant appealed against the letter of 10 May 2007 of the Office which constituted a decision denying the appellant an appealable decision. Additionally, the appellant requested that the oral proceedings be postponed until a later date because the pending nullity proceedings were prejudicial, the case was not yet ripe for judgment, infringement proceedings were pending, he had received a summons to oral proceedings before a German court before and he had not been summoned in due form according to the proceedings regulation.





The holder joined the proceedings.

Firstly, the Board of Appeal found that the appellant had been summoned in due form and proceeded with the oral hearing.

The Board of Appeal found the appeal admissible because the contested letter could be seen as a decision taken within the scope of Article 21 of the basic regulation. Decisions taken pursuant to Article 21 of the basic regulation may be appealed. However the Board established that the appeal was not well-founded and rejected the appeal.

The Board of Appeal considered that the appellant was not party to proceedings before the Office. A person requesting a title to be cancelled is not entitled to a decision addressed to him if the request is not successful. As a third party, the basic regulation did not provide the possibility for him to become party to cancellation proceedings.

Furthermore, the Board of Appeal concluded that the Office had no obligation under Article 21 of the basic regulation to issue a decision *not* to cancel a CPVR.

c) Appeal A 007/2007 — ‘Lemon Symphony’

On 6 April 1999, CPVR EU 4282 was granted to Mr Jørn Hansson for his *Osteospermum ecklonis* (DC.) Norl. variety ‘Lemon Symphony’.

In the framework of a technical verification, the CPVO amended the variety description of Lemon Symphony in accordance with Article 87(4) of the basic regulation. On 21 May 2007, the Office informed the appellant, the breeder of another *Osteospermum ecklonis* (DC.) Norl. variety, that it had adapted the said variety description.

On 12 July 2007, the appellant appealed against this decision of the Office. Additionally, the appellant requested the oral proceedings to be postponed until a later date because there was a pending prejudicial nullity proceedings, the case was not yet ripe for judgment, infringement proceedings were pending, he had received a summons to oral proceedings before a German court before and he had not been summoned in due form according to the proceedings regulation.

The holder joined the proceedings.

Firstly, the Board of Appeal found that the appellant had been summoned in due form and proceeded with the oral hearing.

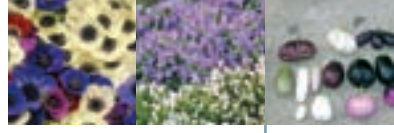
Secondly, the Board of Appeal found the appeal not admissible and rejected the appeal. The Board of Appeal stated that since the appellant was *not* the addressee of any decision but had only been informed of a decision addressed to the holder of the right, he was not entitled to appeal in a capacity as addressee of a decision. Moreover, the Board of Appeal was of the opinion that the appellant was not directly and individually concerned of the decision to change the variety description within the meaning of Article 68 of the basic regulation.

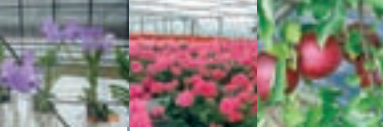
The complete decisions are available in English on the CPVO website or on written request to the CPVO.

15.3. Appeals received by the CPVO and decisions reached by the Board of Appeal since its inception

Number of notices of appeal lodged with the CPVO	Reasons for appeal	Number of decisions reached by the Board of Appeal	Number and date of the decision	Date of publication in the Official Gazette of the CPVO
1996				
0	Not applicable (n/a)	0	n/a	n/a
1997				
2	– Variety denomination (1) – Novelty (1)	0	n/a	n/a
1998				
2	– Variety denomination (1) – Novelty (1)	0	n/a	n/a
1999				
2	– Distinctness (1) – Novelty (1)	1	A 2/98 of 14/09/1999	15/04/2000
2000				
8	– Distinctness (1) – Article 55(4) BR* (3) – Non-payment of annual fees (4)	2	A 1/99 of 25/01/2000	15/04/2000
			A 2/99 of 19/05/2000 (interim decision)	15/04/2000

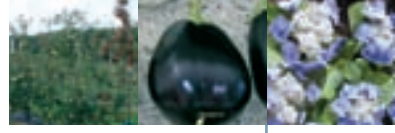
(*) BR: Basic regulation [Council Regulation (EC) No 2100/94].





Number of notices of appeal lodged with the CPVO	Reasons for appeal	Number of decisions reached by the Board of Appeal	Number and date of the decision	Date of publication in the Official Gazette of the CPVO
2001				
1	Article 8 BR (1)	2	A 2/00 of 27/03/2001	15/06/2001
			A 4/00 of 06/12/2001	15/04/2002
2002				
35	<ul style="list-style-type: none"> – Non-payment of annual fees (25) – Distinctness (8) – Article 11 BR (1) – Article 55 BR (1) 	1	A5/00 of 28/05/2002	15/08/2002
2003				
6	<ul style="list-style-type: none"> – Article 7 BR (3) – Article 8 BR (2) – Article 55 BR (1) 	15	A 5/02 of 02/04/2003 A 1/02-2/02-3/02 of 01/04/2003 A018/2002 of 14/05/2003 A 8/02-9/02-10/02-11/02-12/02-13/02 of 15/05/2003 A017/2002 of 03/04/2003 A023/2002 of 08/10/2003 A031/2002 of 08/12/2003 A021/2002 of 09/12/2003	15/06/2003 15/06/2003 15/08/2003 15/08/2003 15/06/2003 15/12/2003 15/02/2004 15/02/2004

Number of notices of appeal lodged with the CPVO	Reasons for appeal	Number of decisions reached by the Board of Appeal	Number and date of the decision	Date of publication in the Official Gazette of the CPVO
2004				
8	<ul style="list-style-type: none"> - Article 20 (1) - Non-payment of annual fees (1) - Distinctness (3) - Variety denomination (1) - Uniformity (1) - Novelty (1) 	5	A 003/03 of 04/06/2004 A 004/03 of 04/06/2004 A005/03-006/03 of 28/09/2004 A 001/2004 of 16/12/2004	15/08/2004 15/08/2004 15/12/2004 15/02/2005
2005				
4	<ul style="list-style-type: none"> - Article 11 BR (1) - Distinctness (2) - Article 10 (1) 	4	A 006/2004 of 15/06/2005 A 005/2004 of 16/06/2005 A 004/2004 of 18/07/2005 A 001/2005 of 08/11/2005	15/08/2005 15/08/2005 15/10/2005 15/01/2006
2006				
1	Non-payment of annual fees (1)	3	A 003/2004 of 02/05/2006 A004/2005 of 13/10/2006 A007/2005 of 07/07/2006	15/08/2006 15/12/2006 15/10/2006





Number of notices of appeal lodged with the CPVO	Reasons for appeal	Number of decisions reached by the Board of Appeal	Number and date of the decision	Date of publication in the Official Gazette of the CPVO
2007				
7	<ul style="list-style-type: none"> – Non-payment of annual fees (1) – Article 55(4) BR (1) – Distinctness (2) – Article 21 (1) – Article 87 (1) – Non-payment of annual fees (1) 	6	<p>A 003/2007-004/2007 of 21/11/2007</p> <p>A005/2007 of 04/12/2007</p> <p>A006/2007 of 04/12/2007</p> <p>A007/2007 of 04/12/2007</p>	<p>15/02/2008</p> <p>15/02/2008</p> <p>15/02/2008</p> <p>15/02/2008</p>

Community Plant Variety Office

Annual report 2007

Luxembourg: Office for Official Publications of the European Communities

2008 — 66 pp. — 21 × 29.7 cm

ISBN 978-92-9152-132-6

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Oficiul Comunitar pentru Soiuri de Plante

Urad Skupnosti za rastlinske sorte

Gemenskapens växtsortsmyndighet

TG-AC-08-001-EN-C

ISSN 1680-2845



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ISBN 978-92-9152-132-6



9 789291 521326