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## DIMENSIONS

# CPVO: 25+ YEARS OF HARMONIZATION AND COLLABORATION

By Martin Ekvad

The Community Plant Variety Office (CPVO) turned 25 last year and one thing is sure: the creation of the EU Plant Variety Right (PVR) system was a good decision for Europe. One application, one procedure, one technical examination and one decision for an EU-wide PVR valid in all EU Member States.

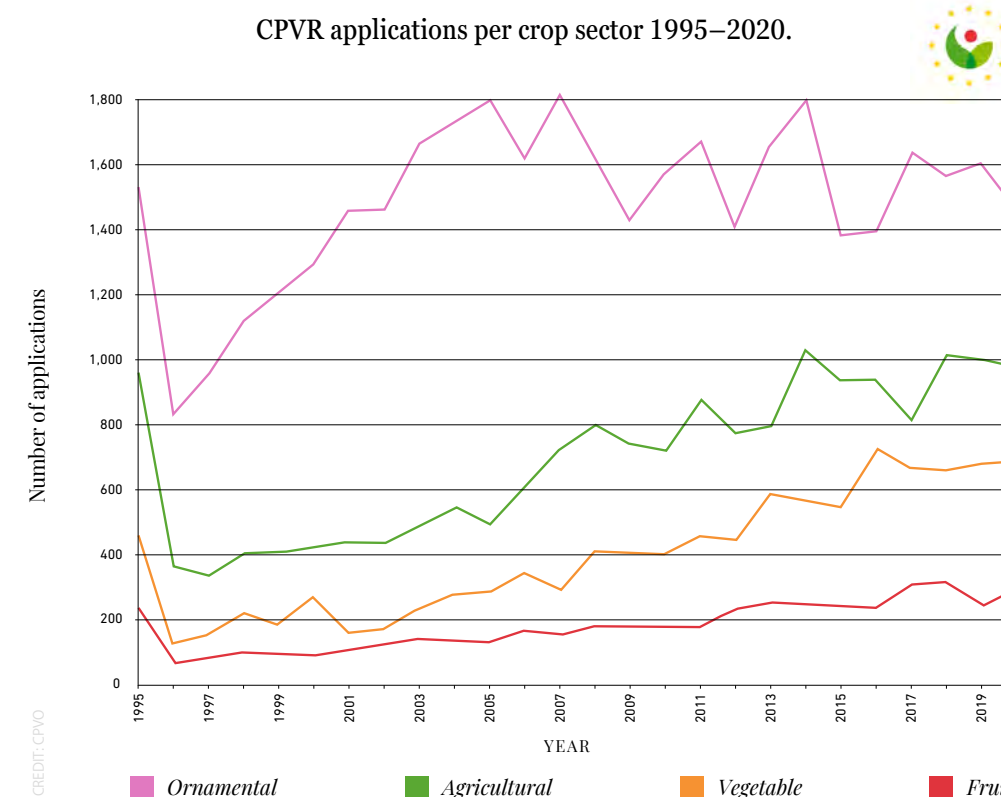
Over the past 25 years, the CPVO processed 72,000 applications and granted over 56,500 titles. Today, 29,000 new plant varieties are protected by a CPVR. On average, more than 3,000 applications are processed each year with 20% from applicants from outside the European Union. In practice, the high number of new varieties means that the EU farmers and producers have a large array to select from for their production.

## Harmonization and collaboration

As with every European success story, the advantages of the EU PVR system rely on harmonization and collaboration. The CPVO has received applications for varieties belonging to more than 2,200 botanical taxa. More than 200 technical protocols have been drafted in cooperation with national experts and adopted by the CPVO's Administrative Council. The protocols are mandatory for the EU PVR, and for both national PVRs and listing purposes in the EU Member States. This led to a significant harmonization in variety testing and, as a consequence, has contributed to transparency and improved legal certainty. Digitalization has improved the quality of processing applications both for applicants and the CPVO staff. Since 2010, applicants can file their applications online using CPVO's web-based platform [MyPVR](#). Over 27,000 online applications have been received and today 98% of all applications are filed online. Besides, MyPVR is now connected to the [UPOV PRISMA system](#).

## UPOV 1991 System and Horticulture

The UPOV 1991 model guarantees a fair return on investment to breeders, unleashing their innovative potential and encouraging investments in R&D for more improved varieties with a better cost-benefit ratio. The EU-based breeders can bring their new varieties to the non-EU UPOV Members, knowing that the level of protection in these jurisdictions is adequate.



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Martin Ekvad has been President of the CPVO since 2011. Before this office, he served as the Head of the CPVO Legal Unit and worked as a lawyer at Linklaters in Brussels and Magnusson Wahlén Advokatyria in Stockholm, specializing in IP protection and competition law. He has a law degree from the University of Lund and an LL.M. from King's College London.

The high number of applications received by CPVO in horticultural varieties is a clear sign that a UPOV 1991-based PVR system is an important asset to breeders' business model. In comparison to other crops, ornamental breeders have made most use of the EU PVR system as applications for ornamental varieties represent nearly 54% of the total received since 1995. The number of applications in the fruit sector is increasing at a slow but steady pace.

Applications for ornamentals have been consistently high and, in recent years, the numbers have stabilized. There is probably a limit on new varieties that can co-exist in a competitive marketplace and the number of applications cannot increase indefinitely. Experience shows that the ornamental sector is more sensitive to market fluctuations. Following the economic crisis and the austerity measures in 2008, the number of applications decreased whilst the situation in other crops remained stable. Another drop took place in 2020 that, although still early to assess, may be traced back to the pandemic.

On the other hand, applications in the fruit sector continue to increase – a sign of the rising demand for new and better-performing fruit varieties from the EU and the global markets. Fierce competition in the fruit market is reflected in a higher ratio of appeals and infringement procedures. Additionally, there are particular challenges for testing fruits, especially apple mutants. Also, fruit breeders must ensure that the plant material they send for DUS examination is virus-free, and breeders from third countries must be acquainted with the EU phytosanitary procedures before submitting their plant material. 25 years of experience shows that cooperation with breeders' organizations, such as CIOFORA, has been instrumental.

## Challenges and Opportunities Ahead

Following a request by the CPVO Administrative Council, the European Commission has proposed to the legislator to extend

the term of protection for some species, such as asparagus, flower bulbs, woody small fruits and woody ornamentals from 25 to 30 years. An amendment to the legislation is expected in 2021.

The CPVO will continue to raise awareness about the strengths and challenges of the EU PVR system. In the coming years, international outreach activities will intensify and the CPVO will establish the EU PVP Academy to promote how a well-functioning PVR system, in accordance with UPOV 1991, is set up.

In a broader policy context, the CPVO follows all relevant initiatives of the European Commission, in particular, the new SME-focused IP strategy released in November 2020. The CPVO also plans to analyze how the EU PVR system can further contribute to more sustainable policies and is keen to have a good understanding of the market dynamics.

In this context, a sectorial study will be carried out by the European Observatory on Infringements of IP Rights to assess the positive impact of the EU PVR system on the EU economy, both at the Member State and the regional levels. The study, to be published by the end of 2021, will also examine how the EU PVR system can leverage sustainability in agriculture and horticulture in the context of the EU Green Deal and the UN Sustainable Development Goals.

More importantly, the European Commission has indicated its intention [to reevaluate the legislation governing the EU PVR system in 2022](#). This may be a perfect opportunity to reflect on any possible shortcomings and to propose targeted adjustment to meet the innovation, digital and environmental challenges of the 21st century.