



CPVO

Community Plant Variety Office

Newsletter

Issue 10, Winter 2015-2016

General news > Focus on > International cooperation > Legal affairs > Technical news > IT news > To be noted > In practice > Publication



Welcome to the 10th edition of the CPVO newsletter!

As always, the CPVO is bustling with activity, news and events which I look forward to sharing with you.

We begin 2016 by introducing a reduction to our online application fees from €650 to €450. The system for online CPVO applications was introduced in March 2010; this has proven hugely popular among clients — in 2015 just under 80 % of all CPVO applications were submitted online. The increase in online applications has allowed the CPVO to reduce processing times for applications. The decline in paper applications has

also allowed the CPVO to streamline some administrative work, instead focusing on improving our client service. To that end, the CPVO will launch new features to the online application system for clients in 2016. Clients can follow all such developments on the CPVO extranet.

You'll see from the newsletter that we've been busier than ever implementing our R & D strategy and working on the international stage to increase the protection of plant varieties globally.

Finally, I'd like to wish you a very healthy and happy New Year from all at the CPVO.

Warm regards,

*Martin Ekvad
President of the CPVO*

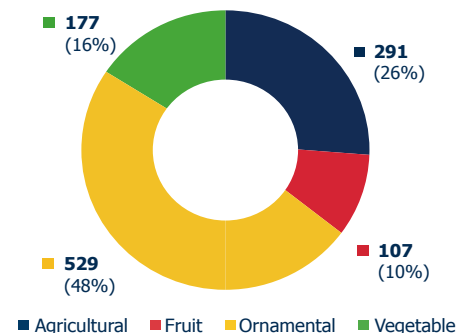
> GENERAL NEWS

Number of applications for CPVR remained fairly strong in 2015

During the 4-month period of September to December 2015, the CPVO received in total 1 104 applications. This is 403 applications (or 26.7 %) less as compared to the same period of 2015. After the record numbers in 2014, a certain decrease was expected in 2015 but the overall figure still remained high (3 111 applications). The decrease in number of applications was particularly significant at the end of the year and it remains to be seen as to whether this phenomenon can be

attributed to the decrease in fees for online applications that became effective in January 2016. The decrease in application numbers was observed in all but one crop sector. The figures for the crop sectors are as follows: 291 agricultural applications (– 86; – 22.8 %); 177 vegetable applications (+ 17; + 10.6 %); 107 fruit applications (– 27; – 20.2 %) and 529 ornamental applications (– 307; – 36.7 %). More statistics are available on the [CPVO website](#).

Shares in application numbers per crop sector from 1/9/2015 to 31/12/2015



1995-2015: 20 years of existence

The CPVO hosted a special seminar to mark its 20th anniversary in October 2015. This celebratory occasion allowed the CPVO to reflect on past accomplishments, none of which would have been possible without the constant cooperation and support of the breeders, plant producing and agricultural industry, partner organisations in the Member States, the Administrative Council, the European Commission and the European Parliament. The CPVO wishes to thank the above, once again, for the journey of progress undertaken together. Photos are available on [flickr](#).

In these 20 short years, the CPVO has achieved a lot — becoming the largest

PVR system in the world, inspiring other international organisations. The 20th anniversary also afforded the CPVO the opportunity to look to the future. The CPVO has invested in research and development in order to further benefit from advances in technology. It is the CPVO's job, not just to embrace new technology but to vet and support developments and reform of such technology so that it enhances EU PVR.

Whatever the future holds, you can be assured that the CPVO will work hard to build on the success of the past and to ensure that the next 20 years will be just as fruitful as the past 20.



Focus on...

MyCPVO

The CPVO plans to launch in 2016 a new project called MyCPVO, consisting of a collection of secured web pages requiring identification, providing users access to files-related information and enabling them to communicate with the CPVO in relation to ongoing procedures. A Beta version will be available at the beginning of 2016 to a few clients willing to test the system. If you are an applicant or procedural representative interested in participating in testing the system, please approach the CPVO (mycpvo@cpvo.europa.eu).



> INTERNATIONAL COOPERATION

Several CPVO experts 'trainers' in UPOV e-learning course

The International Union for the Protection of New Varieties of Plants (UPOV) regularly offers distance learning courses on the UPOV system of plant variety protection under the UPOV

Convention, administration of plant breeders' rights, DUS examination and examination of applications for plant breeders' rights. The CPVO supports these courses by providing

trainers acting as tutors. The individual assignments of students to tutors allow the specific needs of each participant in the training course to be met.

Updates from the October 2015 UPOV meetings

As always there is much to report from the October UPOV meetings. It was announced that Montenegro and the United Republic of Tanzania would become the 73rd and 74th members of UPOV in September and November of 2015. The CPVO offers its congratulations to Montenegro and the United Republic of Tanzania and looks forward to working together to broaden international cooperation in the field of PVR.

Canada, already a member of UPOV, ratified the 1991 Act of the International Convention for the Protection of New Varieties of Plants on 19 June 2015. Canada is the 53rd country to be bound by the UPOV convention.

The UPOV Administrative and Legal Council (CAJ), chaired by the President of the CPVO,

decided to limit its meetings to one meeting per year. It is the intention of the CAJ that this will drive efficiency, while economising on resources.

The UPOV Council announced that it would examine the conformity of the 'Act of Plant Varieties Registration, Control and Certification of Seeds and Plant Materials of 2003' of the Islamic Republic of Iran with the 1991 Act of the UPOV Convention.

The UPOV Council also elected Luis Salaices Sánchez, Spain, as President, and Raimundo Lavignolle, Argentina, as Vice-President of the Council for a term of 3 years. The CPVO offers its congratulations to both candidates and looks forward to working together in the future.



UPOV 'Train the trainer' course for Iberoamerican countries, Santa Cruz de la Sierra, Bolivia (16 to 20 November 2015)

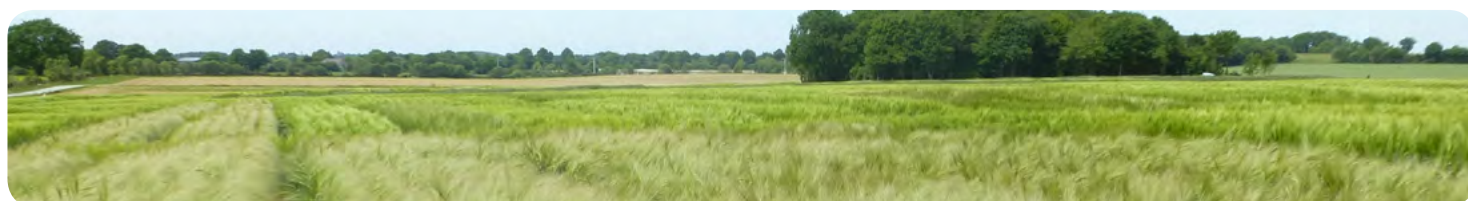
As every year, the Vice-President participated as a speaker in the course organised by UPOV with the assistance of the Spanish Agency for International Development Cooperation (AECID), the Spanish Ministry of Agriculture and the World Intellectual Property Organisation (WIPO). He was invited to give presentations on the advantages of a regional system of PVP (CPVR system) and about variety denominations.

UPOV workshops on PVP, Brunei and Laos (5 and 7 December 2015)

The Vice-President was invited by UPOV to participate as a speaker in two workshops on the basic principles of Plant Variety Protection (PVP) under the UPOV Convention and the impact on agriculture in member countries. The Vice-President gave presentations on the structures and benefits of the EU PVP system.

Working group on the revision of the UPOV *Agaricus* mushroom guideline

On 11 December, the CPVO as leading expert for the revision of the UPOV *Agaricus* guideline, met with the other interested experts for this crop in the Netherlands, in order to make substantial progress in the improvement of the guideline before a new draft is prepared and discussed at the 50th session of the UPOV Technical Working Party for Vegetables (TWV) at the end of June 2016.



> LEGAL AFFAIRS

Report of the ad hoc Legal Working Group on legislative matters

The ad hoc Legal Working Group on legislative matters ('LWG') ended its activity in January 2015. It was created in March 2012 by the CPVO Administrative Council (AC) due to the Final Report on the Evaluation of the CPVR Acquis of April 2011. The LWG was composed of experts appointed by the AC, breeders' organisations and representatives of the European Commission participating in their personal capacity as experts not representing the Member State or organisation they work for.

Twenty items were identified and discussed, six of which are the object of a proposal for change in the legislation, four with proposed follow-up to the AC, three put on hold with future follow-up needed, two for which no legislative follow-up is foreseen unless UPOV changes and five items closed with no legislative follow-up needed. A final report was presented to the AC, the purpose of which is to provide AC members with the state of play on each item and a proposed way forward.

The full report is available upon request and a link to the summary is available in the [CPVO website](#).

Case-law: 'Gala Schnitzer' judgment

By judgment of 10 September 2015 in joined cases No T-91/14 and T-92/14, the General Court (GC) dismissed the action lodged by Schniga (applicant for the apple variety 'Gala Schnitzer'). In doing so the GC has confirmed in essence the reasoning of the CPVO Board of Appeal (BoA) that has cancelled the decision of the CPVO granting protection to the apple variety 'Gala Schnitzer'.

According to the BoA, the procedure followed by the examination office (the Bundessortenamt) and the decision of the President of the CPVO to authorise the use of an additional characteristic in order to establish distinctness of the candidate variety from the closest reference variety, breached the procedural rules established by the applicable CPVO technical protocol. At the time when the technical examination started there was no adopted CPVO technical protocol. Therefore, the technical examination was conducted on the basis of UPOV Guidelines TG/14/8 of 20 October 1995. The full text of the judgment is available in the [CPVO case-law database](#).

A further appeal has been lodged before the Court of Justice by Schniga on 23 November 2015, pending case No C-625/15 P.

Denominations of plant varieties and absolute grounds for refusal of CTM applications

With decisions of 15 October 2015 the First Board of Appeal of the OHIM (OHIM BoA) has dealt with six cases, namely R 279/2014-1, Silverado, R 280/2014-1, Goldrush, R 528/2014-1, Geisha, R 691/2014-1, Wasabi, R 94/2014-1, Skyfire; R 895/2014-1, Ice Tea (CPVO case-law database).

With these decisions, the OHIM BoA has clarified its approach regarding the refusal of applications for CTMs due to their identity with already registered denominations of plant varieties.

In preparation of the decisions, on 27 April 2015 the OHIM BoA had a public oral hearing with the applicant's representative and experts from the CPVO and two breeders' organisations, in order to find out more about the commercial background of the cases.

Among the different grounds to refuse an application for CTM (the so-called absolute grounds for refusal), the OHIM BoA concluded that if a trademark is applied to cover varieties that do not belong to closely related species, the trademark can be registered. In doing so, the OHIM BoA aligns the interpretation of closely related species to UPOV classes.

Since the applicant had specifically excluded the varieties of the same botanical genus as the plant variety denomination that was registered, the obstacle for the applied-for CTM not being distinctive for closely related species under the CTM regulation, in particular, was removed and the CTM registrations granted.

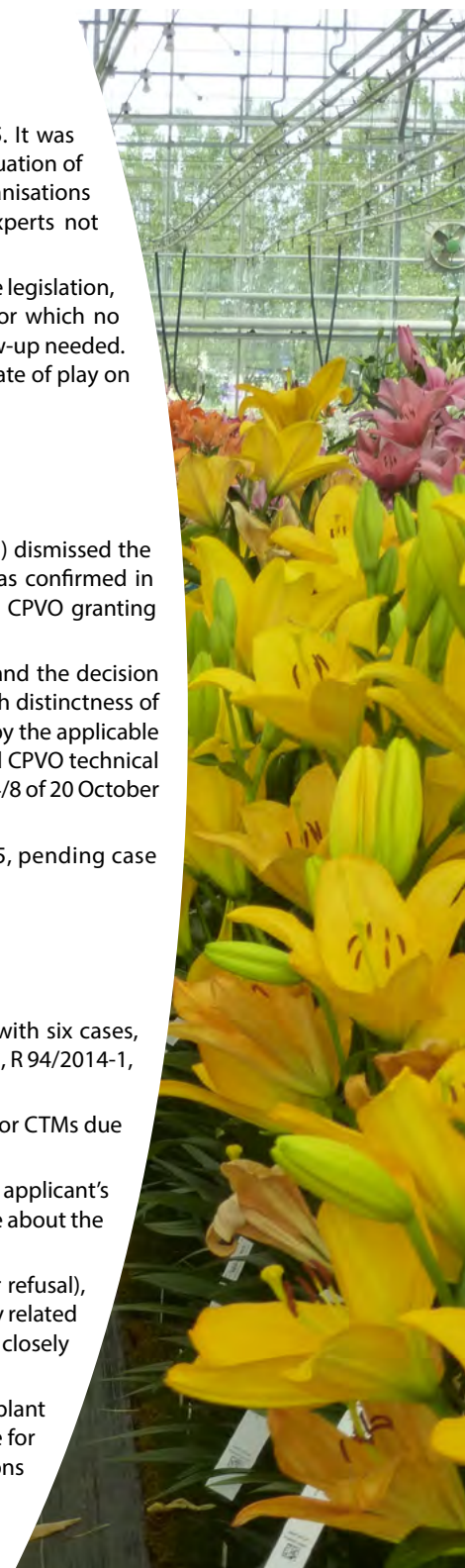
> TECHNICAL NEWS

Revised entrustment requirements for examination offices

Since 2010, examination offices (EOs) carrying out DUS examinations on behalf of the CPVO have to fulfil specific requirements in order to be entrusted by the CPVO Administrative Council (AC) for DUS testing. EOs are audited by the CPVO Quality Audit Service (QAS) on the basis of this document. In the period 2010-2015, all EOs underwent twice such an audit by QAS. The revised

requirements have been developed based on the experience of the first 6 years of operation in close cooperation with the EOs and the breeders' organisations. The document was approved by the CPVO's AC in October 2015 and will become applicable for the third audit cycle which will start in January 2016. Major changes were made in the 'definition chapter' where the notion of

external experts has become more precise. A more specific text has been introduced in respect of the use of technical protocols in the absence of CPVO protocols as well as a list of fruit species for which a living reference collection should be mandatory. The new entrustment requirements are available on the [CPVO website](#).



Technical protocols adopted by the AC

At its last meeting in October 2015, the AC adopted new or revised versions of protocols for the conduct of the technical examination for the following crops: *Avena sativa* L., *Avena nuda* L., *Buddelja* L., *Dianthus* L., *Festuca pratensis* Huds, *Festuca arundinacea* Schreb., *Hordeum vulgare* L.

sensu lato, *Oryza sativa* L. and *Pelargonium grandiflorum* (Andrews) Willd. For *Avena*, *Hordeum* and *Oryza*, the technical protocol entered into force with retroactive effect as from 1 August 2015; the other protocols became applicable as from 1 October 2015.

Rules on the appointment of TLOs amended

The so-called Technical Liaison Officers (TLO) shall ensure communication at technical level between the CPVO and its examination offices as well as with the European Commission. The AC approved at its last meeting in October 2015 new rules for their appointment. According to the new rules, there is no longer one TLO per

EU Member State but one for each examination office. The appointment of the TLO is made by the examination office. Countries with no examination office will remain represented by a TLO appointed by the AC. Also breeders' organisations such as Ciopora, ESA and Plantum will be entitled to appoint their TLO.

ECO-PB granted observer status in technical meetings

The European Consortium for Organic Plant Breeding (ECO-PB) expressed its interest in attending the CPVO annual examination offices and technical crop experts meetings (agricultural and vegetable). This request was discussed in the AC meeting of 30

September-1 October 2015. The AC decided to accept the participation of ECO-PB and adopted a decision on admission of observers to the CPVO annual examination offices and technical experts meetings.

Use of disease resistance characteristics in vegetable TPs

The AC approved on 1 October the principle of a 'phasing-in period' for new obligatory (asterisked) disease resistance characteristics in CPVO vegetable technical protocols (TPs). This means that once such a characteristic is adopted in a new/revised CPVO protocol, its implementation is gradual during an agreed time period (e.g. 5 years) for the entrusted examination offices testing that species as well

as to new varieties being created by breeders. This allows sufficient time for examination offices and breeders to develop their expertise and facilities on the future obligatory disease resistance characteristic. This principle will first be implemented for the partially revised lettuce and spinach protocols to be adopted by the AC in April 2016.

Revision of the guidelines and explanatory notes on variety denominations

The CPVO assesses the suitability of variety denominations on the basis of guidelines on Article 63 of Council Regulation (EC) 2100/94. New cases always arise over time and the guidelines need to be further elaborated in order to address such situations. The AC agreed to the establishment of a working group to discuss amendments to the guidelines and to consider whether such amendments would have an impact on the Commission Regulation

(EC) No 637/2009 of 22 July 2009 establishing implementing rules as to the suitability of the denominations of varieties of agricultural plant species and vegetable species. The working group consists of members of the AC, the European Commission and the Observer organisations and will meet for the first time in Brussels on 30 March 2016.

CPVO Variety Finder database: working group on 31 March 2016

Maintained by the CPVO, the web-based database CPVO Variety Finder includes a similarity search tool to test the suitability of denominations for similarity and a general searching tool. It contains information on registers of more than 60 countries and is accessible from the home page of the CPVO website. Over a period of 10 years, the number of users of the Variety Finder has constantly increased, users being national authorities and applicants for EU plant variety rights and the general public. The database contains nearly 1 million records. The AC agreed at

the occasion of its last meeting in October 2015 to the CPVO's proposal to launch a working group in order to reflect on new developments to be made in respect of the Variety Finder. The group will be composed of representatives from the CPVO, the European Commission, examination offices, CPVO clients and breeders' organisations.

Ideas linked to the extent of content of the database to better match users' needs will be discussed. The update procedure and data exchange process could also be reviewed.

Out and about meeting the CPVO entrusted examination offices

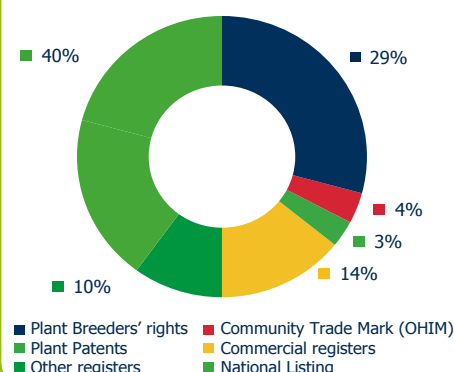
'As President of the CPVO, it is a great pleasure to regularly visit all CPVO entrusted examination offices (EOs). This allows me to keep abreast of the latest developments, whilst meeting colleagues and enhancing cooperation between the CPVO and EOs.'

'Due to time constraints it is not possible to visit all the EOs in any given year. However it is my policy to visit as many as possible. I am most grateful for the warm welcome and the opportunity to witness first-hand the operation of the effective and efficient network of entrusted EOs, which made every visit in 2015 a success. I look forward to further highly informative visits in 2016.'

CPVO agenda

- > **30 March 2016**
Variety Denominations Working Group, Brussels, BE
- > **31 March 2016**
Variety Finder Working Group, Brussels, BE
- > **19-20 April 2016**
Administrative Council meeting, Angers, FR
- > **26 April 2016**
IMODDUS 1st meeting, Paris, FR
- > **21-22 June 2016**
Fruit experts meeting, Angers, FR
- > **28-29 June 2016**
Ornamental experts meeting, COBORU, PL
- > **27-28 September 2016**
Agricultural experts meeting, Angers, FR
- > **4-5 October 2016**
Administrative Council meeting, Angers, FR
- > **8-9 November 2016**
Vegetable experts meeting, Angers, FR
- > **7-8 December 2016**
20th annual meeting with the EOs, Angers, FR

Shares in numbers of records per type of register on 1/1/2016



Experts meeting review

> From 13-14 October 2015, the CPVO held at its premises in Angers a meeting with fruit experts from the EU examination offices (EOs). Subject of discussion were the partial revision of the test guideline for mandarin varieties as well as a number of technical and procedural questions related to the conduct of the DUS test and R & D projects in that field.

> From 30 November-1 December 2015, the CPVO held its meeting with vegetable experts from the EOs. Technical protocols for rhubarb, butternut squash, lettuce, spinach, vegetable marrow as well as tomato and tomato rootstock varieties were agreed. In addition, participants discussed 'Aberrant plants in Brassica oleracea', 'Possibilities for earlier closing and closing dates', the outcomes of the R & D projects on 'Harmores 2' and 'The effect of seed priming of vegetable DUS tests', as well as the proposed 'Harmores 3' project.

> From 2-3 December 2015, the annual meeting between the CPVO and its examination offices was held in Angers. During this meeting, subjects such as the entry into force of technical protocols, postponement of testing rules, publication of variety descriptions of parent lines of hybrid varieties, the reporting of similar varieties as well as various legal, financial and IT matters and R & D projects were discussed.



RESEARCH & DEVELOPMENT projects

'Case study on minimum distances between vegetatively reproduced varieties in the ornamental and fruit sectors'

This project was approved in November 2015, it will focus on the possible effects of the introduction of minimum distances according to the Ciopora position on minimum distance for three vegetative reproduced species: apple (fruit), rose (cut flower and outdoor roses) and Pelargonium (pot plant). The new project is coordinated by Naktuinbouw (NL), with the following project partners: Bundessortenamt (DE), GEVES (FR), UKZUZ (Czech Republic),

NIAB (UK) and Ciopora. The final report is expected to be ready in November 2016 and the total cost is €29 372.

The Ciopora position paper on minimum distance wishes to introduce the change from the present botanical-driven definition of the requirement of a variety to be clearly distinguishable into a system that takes into account only those characteristics that represent a certain agreed commercial

importance for the species concerned. This project aims to test if it is feasible to apply this approach and identify possible problems in doing so. The kickoff meeting took place on 1 December 2015.

The analysis will be given in draft reports per examination office that will be discussed in a joint meeting with the participants, Ciopora and CPVO. A final report will be made.

First IMODDUS meeting to be held on 26 April 2016

As one of the three objectives of the revised R & D strategy of the CPVO, the Administrative Council (AC) has voted for the creation of a CPVO ad hoc working group on biomolecular techniques. This working group is named Imoddus which stands for Integration of Molecular Data into DUS testing. The aim of the group is to work on projects in the different crop sectors which would allow for the application of biomolecular techniques in DUS tests where these techniques can contribute to efficiency and quality.

The group is composed of BMT experts from interested examination offices and breeders' organisations. The participation will be limited to experts that can actively contribute in terms of preparing documents and presentations. Experts from laboratories universities, the industry, etc. can also be invited by the Chairman of the group. The Imoddus group is chaired by the CPVO, the President of the CPVO reports to the AC and to TLOs and documents of the group will be made available to all AC Members and TLOs. The first meeting of Imoddus will be held on 26 April 2016.

> IT NEWS

Sharing online applications system

The CPVO has a project to share its online application system with national authorities in the EU. The objective is to investigate under what conditions it would be possible to transfer the CPVO online application system to a website (<http://www.plantvarieties.eu>) where it would be possible to apply for national listing or national plant breeders' rights in the participating countries. The principle will be that, once a variety has been applied in any procedure in the EU, it is possible to reuse the information in order to

file another application for another procedure for that same variety. A pilot project has been set up with the Groupe d'Etude et de contrôle des Variétés Et des Semences (GEVES) in France and Naktuinbouw in the Netherlands. An agreement has been signed at the end of 2015 and it should be possible, in the beginning of 2016, to use the system to apply for French or Dutch national listing and plant variety rights for a range of species.

Participation in forthcoming events

- > **26 to 29 January 2016**
IPM Essen, Germany
- > **28 to 30 January 2016**
Annual EIPIN Congress, Strasbourg, France
- > **8 to 13 February 2016**
Made in Angers, France
- > **16 to 18 February 2016**
Salon du Végétal, Angers, France
- > **18 February 2016**
Heads of EU agencies' meeting, Brussels, Belgium
- > **14 to 18 March 2016**
UPOV week of meetings, Geneva, Switzerland
- > **24 to 27 May 2016**
BMT, Moscow, Russia
- > **25 May 2016**
Heads of EU agencies' meeting, Brussels, Belgium
- > **13 to 17 June 2016**
UPOV TWO, Gimcheon City, Republic of Korea
- > **27 June to 1 July 2016**
UPOV TWV, Brno, Czech Republic
- > **11 to 15 July 2016**
UPOV TWA, Queretaro, Mexico
- > **24 to 27 October 2016**
UPOV week of meetings, Geneva, Switzerland
- > **14 to 18 November 2016**
UPOV TWF, Angers, France (hosted by the CPVO)

> IN PRACTICE

Procedural changes in the CPVO Register when filing requests for recordals of withdrawals of applications and surrenders of rights

The CPVO accepts electronically sent requests for such recordals provided that a withdrawal or surrender declaration is sent as an attachment to the electronic communication.

Such a declaration, in case of surrenders, must be signed by the holder of the CPVR. The holder can designate a procedural representative provided that the submitted credentials

explicitly contain a reference to surrendering the right.

For pledged applications or rights, the recordal request for a withdrawal or surrender must be accompanied by the Bank's consent. It's for the applicant or holder to consult their bank before filing their recordal request.

Reduced fees for online applications as from 1 January 2016

Following the positive opinion of the CPVO Administrative Council to reduce the application fee to €450 for CPVR applications filed online, the Standing Committee on Community Plant Variety Rights voted in favour of the proposal. With Commission Implementing Regulation (EU) 2015/2206 of 30 November 2015 published in the [Official Journal of the European Union No L 314/22 of 1.12.2015](#), Commission Regulation (EC) No

1238/95 of 31 May 1995 ('the Fees Regulation') has been amended as regards the fees payable to the CPVO.

The application fee for CPVR applications filed on paper will remain unchanged at €650. The fee of €450 for CPVR applications filed by electronic means through the CPVO online application system shall apply for applications with an arrival date as from 1 January 2016.

TO BE NOTED

Traineeships in the CPVO

As part of the 2015-2016 traineeship procedure, the CPVO is currently hosting three traineeships from 1 September 2015 until 29 February 2016. It will host a further three traineeships from 1 March until 31 August 2016. Offering this opportunity aims at providing university graduates with a unique and first-hand experience of the role and work of the CPVO in an international, multilingual and multicultural environment. In return, the trainees also benefit the CPVO by putting into practice the latest up to date skills and knowledge acquired during their studies. Each year, traineeship advertisements are published in April and September on the [CPVO website](#).

For further information on traineeships, please contact traineeships@cpvo.europa.eu

> PUBLICATION

'European Union Plant Variety Protection' second edition just published



This new edition is an up-to-date and authoritative guide to the European Union plant variety protection system and an essential resource for practitioners in this field. The book was co-authored by Martin Ekvad, President of the CPVO, Bart Kiewiet, former President of the CPVO, Paul Van Der Kooij, Chair of the CPVO Board of Appeal and Gert Würtenberger, a German solicitor and renowned plant variety rights expert, the initiator of this project.

Originally published in 2006, the 2015 edition has been fully revised and updated with all recent jurisprudence from the CPVO Board of Appeal and the EU Courts relating to the processing of applications as well as case-law from other bodies and courts in areas such as the differentiation of patents and plant variety rights, enforcement of rights and infringement proceedings.

The 2015 edition builds on earlier efforts to explain how the EU plant variety system works by offering practical guidance and analysis of the field of plant variety rights. The new edition is available at the [Oxford University Press](#).



> CONGRATULATIONS TO...



The President of the CPVO congratulates Dirk Theobald, Head of the Technical Unit, and Roseline Fagel, Internal Audit and Control Officer, who have accomplished 20 years of European public service. He expresses his recognition for services rendered to the CPVO and to European integration and wishes them all the best for the future.



CPVO • OCVV

Community Plant Variety Office
Office Communautaire des Variétés Végétales

3 boulevard Maréchal Foch • CS 10121
49101 ANGERS CEDEX 2 • FRANCE
cpvo@cpvo.europa.eu • www.cpvo.europa.eu

To subscribe to our Newsletter, go to the [CPVO website](#).

© European Union, 2016
Reproduction is authorised provided that the source is acknowledged.

Follow us on [Twitter](#) @CPVOTweets

Join us on [LinkedIn](#)

Watch CPVO videos on [YouTube](#)

Special thanks from the President to the contributors to this newsletter (Alejandra Aluja, Carole Bonneau, Anne Gardener, Carlos Godinho, Ghislaine Guilbert, Jean Maison, Francesco Mattina, Sergio Semon, Dirk Theobald and Anne Weitz) and to the editorial team for their valuable work.

Editorial Team

Cyrille Antoine, Roseline Fagel, Deirdre Killeen, Marc Rouillard, Fabienne Santoire, Marleen Van de Meulebroeke and Jens Wegner.

