



CPVO

Community Plant Variety Office



Newsletter

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EDITORIAL

As you will see in this issue of the CPVO Newsletter a number of interesting activities were carried out in the first half of this year. As regards statistics, the increase in applications this year was until now

substantial compared to last year. If the same pace continues until the year end, we will have a similar number or even more applications than the record year of 2011. The year started with a decrease in the application fee from €900 to €650 and the annual fee will be decreased from €300 to €250 as from 1 January 2014 if the proposal of the Administrative Council to the Commission is adopted. These measures show that the costs of the Office are kept at a reasonable level. A cost calculation exercise to determine the remunerations to be paid to the examination offices for the services they provide to the Office is ongoing and new amounts to be paid to the examination office should come into effect as of 1 January 2014. Following that exercise, the fees to be paid by breeders for technical examinations

need to be established and it is estimated that new fees for technical examinations will come into force by 1 January 2015.

The legislative procedure for the adoption of a regulation on Plant Reproductive Material has started and I have followed the first Council Working Group meetings in which the proposal is discussed. In principle, I am in favour of the proposal and the proposed new tasks for the CPVO but, as many decisions will be made in implementing and delegated acts, it is too early to give a more detailed opinion on all the aspects of the proposal. Following this brief introduction, I would like to wish all the readers of our newsletter a pleasant summer.

Martin Ekvad
CPVO President

> GENERAL NEWS

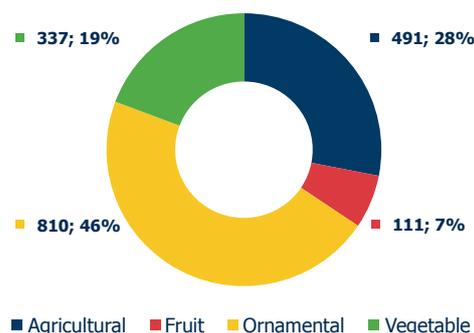
Important increase in application numbers

During the first six months of 2013, the Office received in total 1,749 applications out of which 810 were filed for ornamentals, 491 for agricultural crops, 337 for vegetables and 111 for fruit varieties. This corresponds to an increase of 19% (+283 applications) as compared to the same time period of 2012. The change is particularly important for vegetables with an increase by 36% (+90 applications), followed by ornamentals with +16% (+112 applications) and agricultural crops with +15% (+67 applications). For fruit

varieties, an increase of 14% (+14 applications) was observed.

It may be assumed that the remarkable increase in application numbers is – especially for ornamentals – due to the lowered application fee as from 1 January 2013. The increased numbers make up for the drop in application numbers seen in 2012.

Shares in application numbers per crop sector from 1/1/2013 to 30/6/2013



Enforcement seminar in Rome, 30 May 2013

On 30 May 2013 the CPVO, in cooperation with the Italian Ministry of Economic Development, the Italian Patent and Trademark Office and the breeders' organisations ESA, CIOFORA and Plantum, organized a seminar on the enforcement of plant variety rights. This seminar aimed at sharing information and experience relating to the enforcement of plant variety rights in Italy and possibly other EU Member States. More than 130 persons from more than 15 countries participated

in the event which was held at the beautiful premises of the Chamber of Commerce in Rome.

The aim of the seminar was to raise awareness. Different stakeholders, including authorities, indicated that they will take on board the experiences shared in the seminar in coming dialogues, dialogues that the CPVO would support.



Seminar on the Commission proposal on the 'PRM Regulation'

On 13 June 2013, Martin Ekvad, President of the CPVO, made a presentation in Brussels on his initial views of the proposed regulation on Plant Reproductive Material (PRM) at a seminar organized by the Commission. Commissioner

Borg gave an introductory speech on not only the PRM regulation but the whole animal, plant and control package proposed by the Commission under the slogan 'Smarter Rules for Safer Food'.

Arnaud Deltour, new Director of GEVES visited the CPVO

On 28 January 2013, the Director of the French organization GEVES visited the CPVO. Amongst many other activities, GEVES carries out DUS tests on behalf of the CPVO for applications for Community plant variety rights. Mr Deltour gave his vision on

the mission of GEVES and a discussion took place on the good cooperation between GEVES and CPVO in general and certain common projects in particular.

New Administrative Council member as from 1 July 2013

After 10 years of negotiations (application for EU membership in 2003), Croatia is set to become the 28th Member State of the European Union on 1 July 2013.

28th member. The ratification process was concluded on 21 June 2013 and the accession of Croatia to the EU will take place on 1 July 2013.

Croatia finished accession negotiations on 30 June 2011 and, on 9 December 2011, signed the Treaty of Accession to become the bloc's

For the first time in October 2013, the Administrative Council of the CPVO will count a new member as representative of Croatia.

CIOPORA members visited the CPVO

On 25 April 2013, the CPVO welcomed a delegation of 50 CIOPORA members having their annual general meeting week in Angers. It was an opportunity for CIOPORA members to get an overview of the organisation of the CPVO and to meet CPVO staff members. The Organisation of Breeders of Asexually Reproduced Ornamental and Fruit Plants (CIOPORA) has regular and close contact with the CPVO, it participates as an observer in the CPVO Administrative Council and in all relevant meetings of technical experts organised by the CPVO.



Focus on...

Cooperation in denomination testing, towards harmonised decisions as to the suitability of variety denominations in the EU

After 3 years of existence, the enhanced cooperation in denomination testing has been included on a routine basis in the checking procedures of most of the EU Member States. This web-based service allows EU Member States to request the CPVO for advice on the suitability of a proposed denomination in the CPVO Variety Finder before its official publication in the plant variety rights or national listing procedure. The decision to accept or not a denomination remains with the national authorities.

Denomination proposals subject to a request for advice are stored in the Reference List (QZ REF) of the CPVO Variety Finder database and are taken into account in the test results of subsequent proposals. This procedure prevents two similar denominations proposed within a short period for the same species from being positively assessed ignoring the other since none of them have been published and entered in the CPVO Variety Finder.

In 2012, the number of requests for advice increased by 14% in comparison to the previous year; the first semester of 2013 confirms this positive trend, with further increase of 5% in comparison with the same period in 2012. Although all EU Member States still not use the service on a regular basis, the active participation of the main users of the service contributes to reach a greater harmonization of decisions as to the suitability of proposals for variety denominations in national plant variety rights, national listing procedures and at the level of the CPVO.

EU Member States are regularly expressing their satisfaction with the service, which does not delay their internal procedures: more than 80% of the advice requested have been rendered within 24 hours during the first semester 2013. The service triggers regular exchanges of information with Member States as well as point of views as regard to the interpretation of the denomination rules.

After the development of the CPVO Variety Finder freely accessible to anybody and detailed rules as to the suitability of variety denominations harmonized between Community plant variety right and national listing procedures, this service is an additional step in the harmonization of decisions as to the suitability of variety denominations in the EU. It is for the moment optional but the future Plant Reproductive Material legislation foresees that national authorities will, in the future, have the obligation to ask the CPVO for a recommendation as to the suitability of variety denominations.



> INTERNATIONAL COOPERATION

Visit of an Egyptian delegation, 16-17 January 2013

The CPVO received the visit of a delegation from the Egyptian Plant Variety Protection Office. Several staff members were involved to present the EU Plant Variety Protection system (legal, technical and financial aspects). Interesting discussions took place on subjects of interest for both parties, relating to PVR and testing of new varieties.



Contacts with the OECD

Mr Michael Ryan, Head of the Organisation for Economic Cooperation and Development (OECD) Codes & Schemes and Mrs Ira Matuschke, Administrator for the OECD Seed Schemes visited the CPVO on 11/4/13. Discussions took place on possible matters for future cooperation between the CPVO and the OECD Seed Schemes (e.g. variety denominations and use of biochemical and molecular techniques in variety testing). Furthermore, the President and the Vice-President of the CPVO attended the Annual Meeting of the OECD Seed Schemes in Paris on 5-6/6/13. The Vice-President also attended the Standing Working Group Meeting on varietal identity and purity on 4/6/13.



Participation to a TAIEX seminar in Baku (Azerbaijan), 15-16 June 2013

The Vice-President of the CPVO was invited to participate as a speaker in a workshop on plant variety rights organized by TAIEX, in cooperation with the Ministry of Agriculture of Azerbaijan. The workshop took place in Baku, on 15-16/5/13. The Vice-President made presentations on the EU plant variety rights system, the organization of DUS testing and the CPVO variety denomination database (Variety Finder).

> LEGAL AFFAIRS

Outstanding Board of Appeals and Court of Justice cases

Since 1996, 119 appeals have been lodged with the Board of Appeal of the CPVO and published in its Official Gazette. Some 66% of the appeal cases concern ornamentals. In June 2012, six appeals were ongoing. Further information on the Board of Appeal is available on the [CPVO website](#).

One ruling on 'Southern Splendour' (Case T-367/11) is expected from the General Court before the end of 2013. One ruling from the Court of Justice on 'Lemon symphony' (C-546.12) is expected in 2014. The rulings already issued by both the General Court and the Court of Justice are available from the case-law database on the [CPVO website](#).

Report on the work of the ad hoc working group of legal experts at the CPVO

Created in 2012, the ad hoc working group of legal experts is currently meeting twice a year to discuss issues of a legal nature that have been raised by stakeholders. Some 18 items have been identified and dealt with so far, of which 10 are still ongoing. The group will present its first conclusions and proposals to the next AC in October 2013.

European Observatory on infringements of intellectual property rights

The Office for Harmonization in the Internal Market (OHIM) was entrusted with the task of animating the European Observatory on infringements of intellectual property rights by Regulation (EU) 386/2012 which became effective in June 2012. The Observatory has set up five working groups, dealing respectively with public awareness, enforcement, legal issues, statistics and economics, and IP in the digital era. The CPVO participated in the legal working group, which met in Brussels in February 2013.

During that meeting, a report on best enforcement practices (in France, Hungary, Poland, Romania and the United Kingdom) was presented and discussed. It should in the future cover all remaining EU Member States, including a part on storage and destruction of seized goods and another one on goods in transit, small consignments and export of counterfeit products, comprising fruit and plants.

A methodology for best practices review was also designed, in relation to the following three practices: interagency cooperation, calculation of damages and costs, and storage and destruction of seized goods.

A project of copyright analysis report was also debated, which should analyse existing copyright laws of Members States, including exceptions, private copying levies, licensing and enforcement measures.

Finally, five country profiles, describing the legislative and administrative framework for IP law will be drawn up for Brazil, China, India, Turkey and Russia. Other countries were proposed for future work, such as an African country, Hong Kong, the United Arab Emirates or the USA. A template for these country reports has to be designed. The next meeting has not been called yet.



> TECHNICAL NEWS

Symposium breeding and protecting “about patents for plant varieties”, Rijswijk (NL), 11 June 2013

The Office attended this seminar organised by the Dutch patent office and the Dutch office for plant varieties and Plantum in Rijswijk (NL). Presentations were made on ‘Criteria and limitations for plant related patents’, ‘Evaluation of some legal cases in the field of plant related patents’ and ‘Development of plant related patents: consequences for a seed company’. It was revealed during these presentations that recent judgments delivered by the Board of Appeal of the European Patent Office need to be clarified as to which processes in plant breeding can be protected or not. This was illustrated by legal cases where patent owners failed to enforce their rights because of the interpretation of their scope by the court. It appeared in the discussions that it was dangerous for small companies to apply for patents in the plant sector. A bigger seed company claimed in its presentation that patents were necessary as plant variety protection is insufficient to protect single traits, which can easily be used up once the variety has been introduced on the market. Finally, attention was given to the attempts of the industry via ESA to build a database of patented traits with open licensing for anyone (www.euroseeds.org/patent-database).

Preparing candidate countries for their accession to the EU

Since 2006, the CPVO participates in the so-called Multi-beneficiary Program of the European Commission aiming at the preparation of candidate countries for their accession to the EU. Croatian experts have been trained over the last six years in all aspects of the Community plant variety rights system. It is believed that the Croatian plant variety rights’ authorities are now well-prepared to join the network of examination offices working on behalf of the CPVO. Furthermore, special seminars were held for breeders and for growers not only explaining the applications system but also the consequences Croatia’s accession to the EU will have for them.

Also for the other EU candidate countries participating in this program (Albania, Bosnia & Herzegovina, the former Yugoslav Republic of Macedonia, Serbia and Turkey), pre-accession activities have been conducted such as the participation in all crop experts’ meetings, the seminar on the enforcement of Community plant variety rights in Rome (30 May 2013) and practical training in DUS testing for specific crops. The current multi-beneficiary program will run until 2014.

R & D projects – State of play

Since January 2013, the CPVO received two new applications for co-financing of R&D projects:

- ‘Creation of a Common Maize Database for DUS studies through a partnership between Czech Republic, Hungary, Slovakia and the Community Plant Variety Office’, coordinated by the Central Institute for Supervision and Testing in Agriculture (ÚKZÚZ), the national plant variety office, Czech Republic;

- ‘Reducing the costs of distinctness assessment through effective selection of reference varieties’, coordinated by Biomathematics & Statistics Scotland (BioSS).

In the recent past, three new R&D projects have been launched:

- ‘Reducing the number of obligatory observation periods in DUS testing for candidate varieties in the fruit sector’

This project is coordinated by the CPVO, with the following project partners: Bundessortenamt (DE), GEVES (FR), COBORU (PL), OEUV (SP), CRA-FRU (Italy), NPVO (CZ), National Food Chain Safety Office (HU), CIOPORA and Plantum.

The aim of the project is to determine (i) whether there is indeed technical justification for two satisfactory crops of fruit in order to

make a conclusion on DUS and (ii) to draw up a subsequent reliable variety description. Five species will be considered: peach, strawberry, apple, raspberry and grapevine. Varieties where the CPVO technical protocol has been implemented and which have been registered (National Listing, National Plant Variety Rights, Community Plant Variety Rights) in the past five years should be considered.

The project was approved by the President of the CPVO in December 2012. It is expected that this project will have a duration of six months. The outcome may lead to a reduction of the number of obligatory DUS cycles for candidate varieties with the consequent reduction of the DUS costs for applicants.

- ‘Modification of the cultivation scheme and the plant material requirements for *Helleborus*’

Currently, the DUS testing of *Helleborus* varieties in the frame of an application for Community plant variety rights is centralised at Naktuinbouw, where plants are cultivated outdoor in the full ground, this cultivation scheme seems not to be optimal. The purpose of the project is to investigate the suitability of cultivation in pots and its implementation. The duration foreseen for this project is of 18 months. This project is coordinated by the CPVO, with Naktuinbouw as the technical coordinator.

New and revised technical protocols adopted by the Administrative Council



In its February meeting, the Administrative Council of the CPVO adopted new or revised protocols for the conduct of the technical examination for French beans, tomatoes, spinach, radish & black radish, artichoke, parsnip and Calibrachoa varieties. There are now in total 45 technical protocols for vegetables, 18 for agricultural crops, 28 for fruit and 61 for ornamental species available. These protocols are publicly accessible on the [CPVO website](http://www.cpvo.europa.eu).



- ‘Development of an improved Combined-Over-Years Uniformity (COYU) method’

This project is coordinated by Biomathematics and Statistics Scotland (BioSS) in collaboration with Aarhus University (Denmark). The project investigates how the COYU procedure could be improved by replacing the moving average adjustment method with a spline method. The COYU method is a statistical procedure for assessing the uniformity of candidate varieties entered for DUS tests. It is widely used, being applicable to measured characteristics typically, but not exclusively, for cross-pollinated varieties. The properties of the new method will be tested during the project to ensure that it fits the requirements. An algorithm for the new method would be described, paving the way for implementation in software. The project is expected to be concluded in 2013.

The International Workshop on DUS Test Technical Cooperation of PVP in Taiwan, 3-6 June 2013

The Council of Agriculture in Taiwan organized the International Workshop with participation of delegations from Japan, the Netherlands and the CPVO. The workshop was organized in Tainan, the main area of *Phalaenopsis* production. The PVP systems and DUS testing for orchids in Taiwan, Japan, the Netherlands and the EU were presented to the Taiwan Orchid Growers' Association, the Taiwan Orchid Breeders' Society, breeders, growers, and lawyers active in the PVP field, students and the general public. The workshop included visits to the Taiwan Seed Improvement and Propagation Station, Plant Breeding and Protection Section, DUS trials for *Phalaenopsis/Doritaenopsis* varieties, as well as to growers and breeders: Chain Xen Biotechnology and King Car Group.



UPOV week of meetings in Geneva (CH), 18-22 March 2013

In March, the CPVO participated in the following UPOV meetings as part of the EU delegation: the Technical Committee, the Administrative and Legal Committee, the Consultative Committee and the Council. The CPVO delegation took an active part in the discussions and made two presentations, one on the use of DUS reports in the CPVR system and another on the testing of

variety denominations, in particular on the denomination similarity search tool (Variety Finder). The next session of UPOV meetings will take place from 21 to 25 October 2013 (Administrative and Legal Committee + Advisory Group, Consultative Committee, and a one day seminar on essentially derived varieties).

CPVO participated in the UPOV technical working parties

In the first half of the year UPOV held their annual meetings with crop experts from the ornamental, fruit, vegetable and agricultural sectors. The CPVO participated in all four meetings. During these meetings a number of technical documents were discussed including the 'Revision of document TGP/7: Source of Propagating Material' prepared by the CPVO. In addition, a number of guidelines for the conduct of the DUS technical examination were revised or newly developed:

- The Technical Working party for Ornamentals (TWO) was held from 22 to 26 April in Melbourne, Australia; test guidelines of abelia, aglaonema, aloe, camplanula, carnation, China aster, cordyline, cosmos, grivellea, hosta, lilac, mandevilla, regal pelargonium, salvia and zinnia were discussed. The guidelines of China aster, carnation, hosta, lilac and mandevilla will be presented to the UPOV Technical Committee for adoption.
- The Technical Working party for Fruit crops (TWF) was held from 29 April to 3 May in Napier, New Zealand; test guidelines of acca, coconut, litchi, pecan nut, vanilla, walnut, apple rootstock, peach, mandarin, prunus rootstock and papaya were discussed.

The guidelines of apple rootstocks, litchi, peach, prunus rootstock and vanilla will be presented to the UPOV Technical Committee for adoption. Furthermore, experts from Spain, Morocco and South Africa reported on the situation of the ring test coordinated by the CPVO in respect of the partial revision of the mandarin test guidelines.

- The Technical Working party for Vegetables (TWV) was held from 20 to 24 May in Nagasaki, Japan; several guidelines updating methodologies on disease resistance characteristics were discussed. The guidelines of chives, cucumber, pea, melon, seed poppy, and sweet pepper will be presented to the UPOV Technical Committee for adoption. In addition, discussions on assessing uniformity by off-types on the basis of more than one sample or sub-sample took place.
- The Technical Working party for Agricultural crops (TWA) was held from 17 to 21 June in Kiev, Ukraine, where test guidelines of wheat and Kentucky bluegrass were discussed. The latter will be presented as a final draft to the Technical Committee of UPOV for adoption.

> IT NEWS

Video conference facilities now available at the CPVO

The CPVO has set up a dedicated room for video conferencing implementing state-of-the-art point-to-point technology. This facility will allow five people to participate at the same time in meetings in remote locations, whilst enhancing efficiency by reducing the time spent travelling as well as the general costs for missions.

Participation in forthcoming events

> 3-5 July 2013

Sixth East Asia Plant Variety Protection Forum Meeting, Kuching, Sarawak (Malaysia)

> 22-25 July 2013

Regional Workshop on the ARIPO Legal Framework for the Protection of New Varieties of Plants, Lilongwe (Malawi)

> 28-31 January 2014

IPM, Essen, DE

> 18-20 February 2014

Salon du Végétal, Angers, FR

Agenda

> 26 June 2013

Working Group on legislative matters, Paris, FR

> 16-18 September 2013

Quality audit experts' meeting, Paris, FR

> 2 October 2013

CPVO Administrative Council, Brussels, BE

> 8-9 October 2013

Agricultural experts' meeting, Angers, FR

> 9-10 October 2013

Fruit experts' meeting, Angers, FR

> 2-3 December 2013

Vegetable experts' meeting, Angers, FR

> 4-5 December 2013

17th annual meeting with the examination offices, Angers, FR

> 18 December 2013

Apple open day, Angers, FR

> PUBLICATIONS

The list of entrusted examination offices - S3

Since spring 2013, the Office is proposing a new search tool on its web site. The so-called S3-list shows the current status of entrustment by species and examination office at a given date. Entrustment means the agreement given by the Administrative Council of the CPVO to an examination office to conduct the DUS test of a candidate variety on behalf of the CPVO or, where a DUS test has been conducted already, to allow the CPVO to take-over the DUS test as a possible basis for a decision on a Community Plant Variety Right.

Since examination offices have to undergo audits on a regular basis, the entrustment status can change. In cases where e.g. certain quality requirements are not fulfilled anymore, the species in question will be deleted from this list whereas if an examination office qualifies for a new species, this species will be inserted into the list.

The website is set up in a way that it allows for searches as regards species, countries, examination offices and the different entrustment situations. The list is updated each time a modification has taken place; previous versions can also be consulted. The S3 list of the current entrustment status is available on the [CPVO website](#).

> IN BRIEF...

Business process review launched at the CPVO

In the frame of its annual internal audit programme, the CPVO decided to launch a business process review. The aim of this exercise will be to inventory, rationalise and improve the work processes and will be the basis for future IT developments. This project is managed by the company Ernst & Young, with the participation of most of the CPVO staff members.

Welcome to...



A new assistant for the Technical Unit, Francesca Rampazzi from Italy, who joined the CPVO on 1 June 2013:

"I was very happy at having been offered the opportunity to work at the CPVO and after three weeks here I can confirm my initial impression of a very professional and pleasant environment. I look forward to becoming thoroughly familiar with CPVO's work and I hope that colleagues will soon be able to count on my contribution. During the last five years, I worked at the DG for interpretation of the European Commission, dealing mainly with languages and training. Working in the new field of protection for new plant varieties is a welcome change, both stimulating and very interesting as it will imply learning a lot of new things."



New Head of the Legal Unit of the CPVO

Following an increase of work in the legal field, Francesco Mattina from Italy has been recruited and he will join the CPVO on 1 September 2013. For many years, he was a managing partner of an international law firm based in Rome, where he was heading the law firm's intellectual property team. Last year, he joined the Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM) where he was dealing with trade mark litigation. His vast experience in intellectual property law and litigation will complement the existing competencies in plant variety law in the Legal Unit of the CPVO.

Annual report 2012

The English version of the CPVO annual report 2012 is now available on the [CPVO website](#). The French version will be released in August and made available in the same place. To get a printed version of CPVO annual report free of charge, please go to the [EU Bookshop website](#). The annex to the Annual report 2012, which is only published electronically, is available on the [CPVO website](#).



Internal reorganization of the CPVO

Goodbye to Thomas Wollersen from Germany, former Head of the Administrative and Financial Unit (FAU) of the CPVO since 1 September 2002. Thomas Wollersen left the CPVO for retirement on 31 January 2013 and we wish him all the best. Following his departure, the FAU unit was reorganized and it now includes the IT Service. It has been renamed as the Administration Unit and its new Head is James Moran from Ireland, who has been working within the CPVO as Accounting Officer since 1 November 2008. We wish him the best of luck in his new job.

Farewell to Ioana Piscoi

Goodbye to Ioana Piscoi who left the CPVO on 31 March 2013. She returned to her original birth place Cluj-Napoca in Romania, where she had previously worked as a translator for a multinational insurance company. We wish her all the best in her future career.



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