



CPVO

Community Plant Variety Office

Annual Report — 2020 —





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Annual Report

2020

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CONTENTS

1. Welcome message from Martin Ekvad, President of the CPVO	5
2. Foreword by Marien Valstar, Chair of the CPVO Administrative Council	7
3. The Community plant variety rights system	8
4. The Administrative Council	10
5. Organisation of the CPVO	14
6. Quality Audit Service	19
6.1. Assessment of examination offices	19
6.2. Audit programme	19
7. Research and development projects	22
7.1. Revision of the CPVO research and development procedure	22
7.2. Situation as regards candidate R & D projects	23
7.3. Situation as regards ongoing projects	23
7.4. Finalised research and development projects	26
7.5. The CPVO as a partner in the Horizon 2020 Invite project	29
8. Budget	31
8.1. Out-turn	31
8.2. Revenue	31
8.3. Expenditure	32
8.4. Conclusion	32
9. Developments in the system	33
9.1. Regulatory	33
9.2. Technical	33
10. Variety denominations	58
10.1. The CPVO Variety Finder	58
10.2. Cooperation in denomination testing	59
11. Information technology (IT)	61
11.1. E-services	61
11.2. Operational improvements	61
11.3. Communication tools	61
11.4. Infrastructure and support	61

12. Cooperation with the Directorate-General for Health and Food Safety	62
12.1. Standing Committee on Community Plant Variety Rights	62
12.2. Standing Committee on Plants, Animals, Food and Feed	62
12.3. Council working parties	64
13. External relations	65
13.1. Cooperation with external organisations	65
13.2. Training and promotion of the Community plant variety rights system	70
14. Public access to documents	74
15. Report of the data protection officer	76
15.1. Legal background	76
15.2. Role and tasks of the data protection officer	76
15.3. Report of the data protection officer for 2020	76
16. Appeal procedures	79
16.1. Composition of the Board of Appeal of the CPVO	79
16.2. Decisions of the Board of Appeal in 2020	79
16.3. Further actions to the Court of Justice in 2020	80
16.4. Appeals received by the CPVO and decisions reached by the Board of Appeal since its inception (statistics)	82
17. Conflicts of interest	86
Main acronyms, initialisms, and abbreviations	87

1. WELCOME MESSAGE FROM MARTIN EKVAD, PRESIDENT OF THE CPVO



Martin Ekvad

Welcome to all readers of the Community Plant Variety Office's (CPVO) 2020 Annual Report!

The CPVO turned 25 years in 2020. Plans had been made to celebrate the anniversary with a series of social events, but then the COVID-19 pandemic broke out and 2020 became a very challenging year.

On the positive side, staff members remained healthy, and we managed to embrace new ways of working where fulfilling our tasks from home and participating in video-conference meetings have become daily routine.

In March 2020, I established a business continuity team tasked to monitor the evolution of the situation and to propose adequate measures to alleviate unnecessary pressure on plant breeders who were directly hit by the COVID-19 disruption.

In April 2020, I took the extraordinary decision to extend by 3 months the deadlines for payment of annual and examination fees, it proved to be helpful for breeders to maintain their plant variety rights (PVR) in force and to continue to innovate and produce new plant varieties for the benefit of society.

Our internal auditors assessed the decision ex-post and gave us a positive assessment. Looking backward, we can say that the COVID-19 pandemic did not generate extraordinary delays nor major disruption in CPVO's core business activities except for the Quality Audit Service (QAS), which had to postpone most of the planned audits of Examination Offices (EOs).

In this respect CPVO's yearly statistics are very encouraging, as the CPVO received nearly 3 500 applications and granted approximately 3 000 titles. This brings 2020 to one of the top years in terms of processing applications and granting titles, and it shows that the breeding community kept innovating in difficult times. However, the number of surrenders is increasing and this should be monitored.

The CPVO also continued to take an active role in several international outreach activities aiming to promote the benefits of a well-functioning PVR system in accordance with the Union for the Protection of New Varieties of Plants (UPOV) 1991 Convention.

We continued our exchanges with the African Intellectual Property Organisation (OAPI) in Africa as well as our participation in the IP Key projects in Latin America, South-East-Asia, and China. And even though most of these activities were carried out virtually, we managed to organise an online IP Key China session attended by over 100 participants. In this respect, the administrative arrangement between the CPVO and China expired at the end of 2020, and we expect that a new one will be signed in the first half of 2021.

In a broader policy context, the CPVO has followed with attention all relevant policy initiatives of the European Commission with a potential impact on plant breeding; in particular the European Union (EU) Green Deal, the Farm to Fork strategy, and the new small and medium-sized enterprise (SME)-focused intellectual property (IP) action plan in which the Commission indicated its intention to re-evaluate the legislation governing the EU PVR system in 2022.

The CPVO is keen to have a good understanding of the market dynamics and the preparation for a sectorial study with the European Union Intellectual Property Office (EUIPO) Observatory on Infringements of IP Rights to assess the impact of the EU PVR system on the EU economy, both at the Member State and the regional levels, was initiated in 2020. 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 in the UN Sustainable Development Goals.

2020 also introduced a couple of changes in the functioning of the CPVO.

Firstly, the digitalisation of the CPVO and the continuous improvement of the MyPVR applications remains high on our list of priorities. In 2020, 97 % of all applications in 2020 were received online. We released an improved version of the Variety Finder database. We have initiated the recruitment of an experienced information technology (IT) manager which has led to the reorganisation of the CPVO with the creation of an IT unit. Whilst the development of IT tools is rewarding and necessary, it is very resource-demanding. Before IT developments even start, a detailed business analysis and a thorough description of the project from the users/business side are needed. In addition, with the new personal data protection rules, the controllers of the CPVO, the data protection officer (DPO), and the president must undertake a detailed analysis on the possible ensuing data protection consequences.

Secondly, we have continued to enhance our outreach and public relations capabilities, modernising our communication actions with a steep increase in online engagement and social media activities, the creation of a webinar section on the CPVO website, and the launch of a monthly digital newsletter.

Finally, we have developed the decision-making process of the Administrative Council (AC). We organised one procedure in spring 2020 whereby all of the reporting and decision-making was made through a written procedure and, in autumn, a video-conference meeting, which included elections by secret ballot of a new chair and a new vice chair, was conducted successfully.

At the request of the AC of the CPVO, the European Commission proposed to the legislator to extend the term of protection for asparagus species asparagus, flower bulbs, woody small fruits, and woody ornamentals from 25 to 30 years. An amendment to the legislation is expected in 2021.

At a time when my second and last mandate is about to come to an end, I look back at the multiannual strategic plan 2017-2021. I am confident that the 2020 Annual Report testifies that the CPVO ship keeps heading in the right direction, and that we have been implementing successfully the four strategic goals of (i) achieving excellence through people, (ii) supporting breeders with a robust and reliable IP right, (iii) making the CPVO strong in a strong IP network, and (iv) promoting PVR both in the EU, and internationally.

2. FOREWORD BY MARIEN VALSTAR, CHAIR OF THE CPVO ADMINISTRATIVE COUNCIL



Marien Valstar

The president of the CPVO presented the Annual Activity Report for the year 2020 to the AC on 14 April 2021.

It was noted that the CPVO adapted very well to teleworking and that no backlogs were accumulated due to the COVID-19 pandemic except for QAS audits. It was also noted that the CPVO took decisions to postpone payments of fees with the aim to assist applicants in dealing with cash flow problems when the COVID-19 pandemic started, without jeopardising the finances of the CPVO.

Community plant variety rights (CPVR) applications remained high in 2020, with 3427 applications in total. The processing of more than 72000 applications since 1995 underlines the stability and sustainability of the system. The number of applications continues to be at a high level and the finances of the CPVO are robust. This shows that entrusting a self-financed agency to implement a well-defined EU policy area is a winning concept.

In 2020, the free reserve continued to increase as planned. The CPVO appears on course to attain its long-term goal of maintaining stable application and annual fees, whilst the fees for technical examinations must be adjusted to the costs of performing the distinctness, uniformity and stability (DUS) tests. This development further underlines the CPVO's commitment to providing PVR at an affordable cost.

It was noted that a reorganisation was initiated by creating an IT unit to face the challenges related to digital transformation.

The EUIPO Observatory responded positively to a CPVO request to make a study on the impact of the EU PVR system on the EU economy. This study will be carried out in 2021.

The indicators, provided in this report, show that the objectives set in the 2020 work programme were satisfactorily achieved.

The AC takes note of the management report, and especially the part related to Budget and Financial Management. It also takes note of the Assessment by the Management and the Declaration of Assurance.

The AC is satisfied with the declaration of the authorising officer, that the report gives a true reflection of the situation on the ground and that reasonable assurance can be had that the resources assigned to the activities described in the report have been used for their intended purpose. The AC also accepts that such activities were carried out in accordance with the principles of sound financial management. The AC is satisfied that the control procedures in place provide an adequate guarantee as to the legality and regularity of the affairs of the CPVO.

The AC is satisfied that the president of the CPVO is unaware of any matter not reported which could harm the interests of the CPVO.

3. THE COMMUNITY PLANT VARIETY RIGHTS SYSTEM



From its foundation and over its 25 years of functioning the CPVO has managed the CPVR system by granting an intellectual property rights (IPRs) for protecting new plant varieties with unitary effect throughout the whole territory of the EU via a single application to the CPVO.

The CPVR system is not intended to replace or even to harmonise national systems but rather to exist alongside them as an alternative. Indeed, it is not possible for the owner of a plant variety to simultaneously exploit a CPVR and a national right granted in relation to that variety. Where a CPVR is granted in relation to a plant 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 CPVR system is found in Council Regulation (EC) No 2100/94 on CPVR (the Basic regulation (BR)). On receipt of an application for a CPVR, the CPVO must establish that the variety is novel, that it satisfies the DUS criteria, and that a suitable variety denomination has been registered. Following the fulfilment of the formal and substantive examinations of applications, the CPVO arranges for a technical examination to determine DUS, to be carried out by the entrusted EOs in the Member States or by other appropriate authorities outside the EU. 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 CPVO may, subject to certain conditions, accept the results of that examination by taking over the report concerned.

Anyone may lodge an objection to the granting of a CPVR with the CPVO 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 BR are not met (DUS, novelty or entitlement) or that the proposed variety denomination is unsuitable due to one of the impediments listed in Article 63 of the BR. Objectors become parties to the application proceedings and are entitled to access relevant documents. After the grant, a CPVR may be declared null and void ex officio by the CPVO or further to a request from a third party on one of the conditions laid down in Article 20 of the BR. A third party seeking annulment of a CPVR must adduce evidence and facts of sufficient substance to raise serious doubts as to the legality of the grant of a CPVR following the examination provided for in Articles 54 and 55 of the BR. A CPVR can also be cancelled on one of the grounds established under Article 21 of the BR.

Except in two specific instances where a direct action against a decision of the CPVO may be brought before the Court of Justice of the European Union, a right of appeal against such a decision lies with the CPVO Board of Appeal consisting of a chair appointed by the Council of the European Union and two other members selected by the chair from a list adopted by the AC. The addressee of a decision, or any person who is directly and individually concerned by the decision, may appeal against it. After examining the appeal, the Board of Appeal may exercise any power that lies within the competence of the CPVO or refer the case back to the CPVO, which is bound by the decisions of the Board of Appeal. Actions against decisions of the Board of Appeal may be brought before

the Court of Justice of the European Union, based in Luxembourg. Decisions of the Board of Appeal and of the Court of Justice of the European Union are published in the CPVO case-law database on the CPVO website. Section 16 of this document provides a recap of all Board of Appeal decisions, the actions brought against the CPVO Board of Appeal decisions before the General Court, and the further legal proceedings brought before the Court of Justice of the EU, against the General Court judgments.

Figures 16 and 17 in Section 16 show the number of notices of appeal lodged with the CPVO Board of Appeal and the number of decisions reached by the Board of Appeal sorted out by references to the legal basis of the contested decisions.

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 5 years in relation to specific genera or species. The effect of a CPVR is that certain specified activities in relation to variety constituents or the harvested material of the newly protected variety require the prior authorisation of the titleholder. Such authorisation may be granted subject to conditions and limitations. Infringement of a CPVR entitles the titleholder to commence civil or penal proceedings in the courts of the Member States against the perpetrator of the infringement.

Registers, which are open to public inspection, contain details of all applications received, all CPVR granted by the CPVO, and appeal documents held in the Board of Appeal register. The *Official Gazette of the Community Plant Variety Office* is published every 2 months and contains the information entered in the registers. Information on applications and titles in force is accessible via the CPVO website.

4. THE ADMINISTRATIVE COUNCIL

The CPVO is supervised by an AC comprising representatives of the Member States and the European Commission, and their alternates. The AC monitors the activities of the CPVO. In particular, it is responsible for examining the president's management report, adopting the budget of the CPVO, and granting a discharge to the president in respect of its implementation. In addition, it can provide advice, establish rules on working methods within the CPVO, and issue guidelines on technical examinations, committees of the CPVO, and general matters.

2020 has been a very peculiar year, the CPVO and its AC had to reinvent themselves.

Due to the COVID-19 pandemic, France, where the CPVO has its seat, was under a general lockdown from 17 March 2020 onwards that was two weeks before the planned AC meeting of 1 and 2 April 2020. This situation forced the president of the CPVO to cancel the AC meeting, and to make arrangements for all prepared decisions to be adopted by the AC through written procedure.

For the second meeting of the year, the AC decided to meet virtually for the first time on 30 September 2020. All the Member States were represented during that meeting, which was considered a great success.

During the meeting, elections by secret ballot to elect the chair and the vice chair took place. Mr Marien Valstar was appointed Chair of the AC and Mr Sobrino Maté Vice Chair of the AC, both for a term of 3 years starting on 5 October 2020.

The AC members acknowledged that the CPVO had adapted well to teleworking and that no backlogs had accumulated due to the COVID-19 pandemic except for QAS audits for which they approved the prolongation of the current audit cycle as well as the mandate of the 36 QAS technical experts by 1 year until the end of 2022.

The AC members adopted the following.

- The 2021 draft budget of the CPVO.
- The list of members of the Board of Appeal as proposed by the CPVO nominated from 23 February 2021 for 5 years, available on the CPVO website (<https://cpvo.europa.eu/en/about-us/law-and-practice/board-appeal#2>).
- The Commission decisions on "Administrative inquiries", "Maximum duration of non-permanent staff", "Drivers" and "Leave" by analogy.
- The creation of a Users Working Group on IT projects with updated terms of reference including comments made by Sweden.

The AC members took note of the following items.

- A structured approach proposed by the CPVO to hold at least one seminar per year, mainly on enforcement of PVR (but not only) from 2022 onwards.
- The draft CPVO Research and Development (R&D) strategy 2021-2025 for R&D activities.

- The upcoming sectorial study of the European Observatory on infringements of IPRs on “The benefits of the EU PVP system in 2021”. They recalled the importance of that study for the PVP system, and insisted that the methodology of the study shall allow an analysis of the impact of Plant Varieties Rights on the EU Green Deal, on the Farm to Fork (or F2F) strategy, and on the 17 United Nations Sustainable Development Goals (or the UN SDG) as well.
- The 2019 CPVO final accounts, audited by the European Court of Auditors, without any changes to the explanatory texts as compared to the version presented in March 2020.
- An update on the EU IP strategy. They stressed that the PVP system should be one of the IP rights to be considered in the IP strategy of the EU. They also insisted on giving the timeframe for the revision of the BR a higher priority.
- The update on the requested extension of the duration of CPVR protection of certain species.
- The reports on the following projects: R & D, INnovation in plant Variety Testing in Europe (Invite), EU Plant Variety Portal (PLAVARLIS), and all CPVO IT projects.
- The update on the CPVO cooperation with European Patent Office (EPO) and EUIPO.
- The update on the implementation of the International Activities of the CPVO. The annual work programme had to be adapted into virtual activities where possible since March 2020 due to the COVID-19 pandemic, and the other activities had to be put on hold. The CPVO acknowledged the importance of a good coordination, in particular with breeders organisations, for information to be channelled correctly.
- No limitation of liability for gross negligence and wilful misconduct can be granted to EOs in the current Designation Agreements.

Table 1

Chair of the Administrative Council	
M. Valstar since 5 October 2020	
Vice Chair of the Administrative Council	
M. José Antonio Sobrino Maté since 5 October 2020	
Members of the Administrative Council	
Belgium	S. Boens (member)
	G. Bailleux (alternate)
Bulgaria	B. Pavlovska (member)
	T. Gadev (alternate)
Czechia	D. Jurecka (member)
	R. Šafářiková (alternate)
Denmark	K. Riskaer (member)
	K. Bech Klindt (alternate)
Germany	E. Pfuelb (member)
	C. Farr (alternate)

Members of the Administrative Council

Estonia	A. Nemvalts (member) (alternate vacant)
Ireland	D. Coleman (member) E. Hyland (alternate)
Greece	E. Pilatos (member) A. Georgoula (alternate)
Spain	J. A. Sobrino Maté (member) B. Rodriguez Sendon (alternate)
France	A. C. Cotillon (member) M. Omrani (alternate)
Croatia	I. Delic (member) Z. Cegur (alternate)
Italy	I. Pugliese (member) (alternate vacant)
Cyprus	C. Christou (member) A. Georgiadou (alternate)
Latvia	I. Ovsjannika (member) (alternate vacant)
Lithuania	S. Juciuvienė (member) (alternate vacant)
Luxembourg	M. Weyland (member) F. Kraus (alternate)
Hungary	Z. Csurös (member) K. Miklo (alternate)
Malta	M. Delia (member) M. Cardona (alternate)
Netherlands	M. Valstar (member) B. Scholte (alternate)
Austria	K. Mechtler (member) (Alternate vacant)
Poland	E. Gacek (member) M. Behnke (alternate)
Portugal	A. P. Cruz de Carvalho (member) T. Afonso (alternate)
Romania	M. Popescu (member) M. Ciora (alternate)
Slovenia	J. Ilersic (member) J. Cvelbar (alternate)
Slovakia	K. Hanzelyova (member) L. Gasparova (alternate)

Members of the Administrative Council

Finland	T. Hietaranta (member)
	H. Kortemaa (alternate)
Sweden	J. Weibull (member)
	C. Knorpp (alternate)
European Commission	B. Van Goethem (member)
	D. André (alternate)

5. ORGANISATION OF THE CPVO



CPVO headquarters, Angers, France

In December 2020, the CPVO employed 48 persons, assisted by the vice president, the CPVO is organised internally into three units, and QAS is responsible for the quality auditing of EOs. This service is under the administrative responsibility of the president while being independent with regard to its audit operations. A senior adviser on technical matters and R & D projects is also reporting directly to the president.

The technical unit has the following principal tasks: general coordination of the various technical sectors of the CPVR system; reception and checking of applications for protection; organisation of technical examinations or takeover reports; organisation of variety denomination examinations; preparation for the granting of rights; maintenance of the CPVO registers of applications and granted rights; 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 analysis and studies intended to improve the system (namely CPVO R & D projects). Moreover, advice is given to the Member States in relation to variety denomination proposals received within the framework of national listings and national plant breeders' rights (PBR).

The administration unit consists of the following four sectors.

- The administrative sector, which deals with the reporting of the activities of the CPVO to the European Commission.
- The accounting sector, which deals with the management of financial transactions; treasury management; maintenance of the budgetary and general accounts; preparation of budgets and financial documents; and the management of the fees system.
- The IT sector, which ensures that the CPVO runs smoothly in terms of computing. Its tasks include the analysis of the CPVO's hardware and software requirements; design, development and installation of new programmes specific to the CPVO; development and maintenance of the CPVO's websites; installation of standard programmes; maintenance of computer installations and their administration; ensuring the security of the computer system; running the helpdesk; and inter-institutional cooperation in computing.
- The human resources sector, which deals with the administration and management of the CPVO's human resources in compliance with the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the EU (hereinafter referred to as the staff regulations).

The Legal Unit provides legal advice to the president and other staff members of the CPVO, in principle on matters related to the CPVR system, but also on questions of an administrative nature; provides legal interpretations and opinions and also draws up draft legislation; participates in various CPVO committees, thus ensuring that EU procedures and legislation are respected; manages the administration of objections to applications for CPVR; and provides the secretariat of the CPVO's Board of Appeal. The legal unit is also responsible for the public procurement and the administration, management and monitoring of the CPVO's inventory of movable property and buildings, and the administration of logistical and operational resources with a view to ensuring the smooth functioning of the CPVO.

A communication sector, which was integrated to the presidency in 2020, is responsible for communication and outreach activities, including media and public relations, publications and events.

The DPO role, which used to be filled internally in the CPVO, is now outsourced and managed through a service-level agreement with EUIPO, with the help of a CPVO coordinator.

The QAS is responsible for verifying that EOs meet the quality standards required for providing services to the CPVO in the area of testing the compliance of candidate varieties with the DUS criteria, and their novelty.

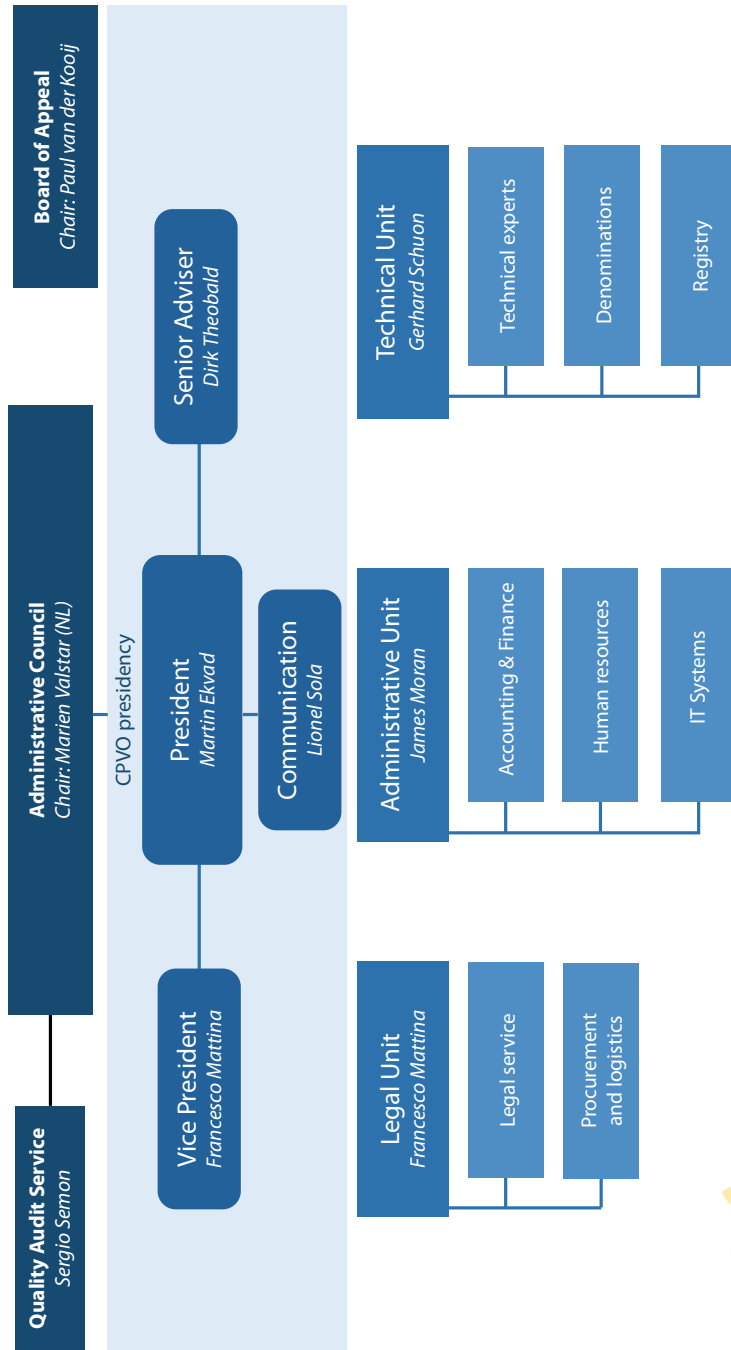
In 2020, nine trainees joined the CPVO under the traineeship procedure which allows university graduates to gain experience in the CPVO for a period of 12 months. As of 31 December 2020, seven of them were still present. The CPVO also employed an interim agent (contract for a limited period of time through a temping agency) in the legal unit, and an IT external consultant employed by a subcontractor was present at the CPVO (on a half-time basis).

Trainees at the CPVO in 2020

Name	Title	Unit
Giulio Serafino	Trainee	Legal Unit/Registry
Marta Vidal	Trainee	Legal Unit
Alessandro Zavatteri	Trainee	Legal Unit
Eduardo Lauro	Trainee	Legal Unit
Federico de Faria	Trainee	Legal Unit
Liam Finn Halloran	Trainee	Legal Unit
Meenakshi Prasad	Trainee	Legal Unit
Sara Piva	Trainee	Legal Unit
Selena Travaglio	Trainee	Legal Unit/Registry
External staff at the CPVO in 2020		
Maël Godar (half-time)	External consultant	Administration Unit (IT sector)
Delphine Lamat	Interim agent	Legal Unit/Technical Unit

In 2020, the CPVO prepared a social report with information concerning the staff turnover, work environment and social aspects of the CPVO. The different headings covered in the report were employment (staff members, recruitment procedures, staff joining or leaving the CPVO, promotions, absenteeism, gender balance), working conditions (hours worked, part-time work, parental leave, teleworking), training (language training, IT training, other training), and professional relations (Staff Committee). The CPVO social reports from 2006 to 2016 can be consulted on the CPVO website ('About us/What we do/Reports/ Social Report'). Since 2017, the social report has been integrated as a chapter in the 'Consolidated Annual Activity Report' included in the reports section on the CPVO website.

ORGANISATION CHART OF THE CPVO



CPVO organisation chart December 2020

CPVO STAFF MEMBERS

PRESIDENCY	
President	Martin Ekvad
Vice President/Head of LU	Francesco Mattina
Senior Adviser	Dirk Theobald
Communication	Lionel Sola
Assistant to the Presidency	Laurence Dumont
QUALITY AUDIT SERVICE	
Quality Audit Team Leader	Sergio Semón
LEGAL UNIT (LU)	
Assistant to the LU	Marleen van de Meulebroeke
Secretariat Board of Appeal	Anne Gardener
Legal Affairs	Montserrat García-Moncó Fuente
Legal Affairs	Orsola Lamberti
Procurement and Logistics	Thierry Cluzeau
Procurement and Logistics	Véronique Doreau
Procurement and Logistics/Communication	Isabelle Lanteri
Procurement and Logistics	Manuel Teixeira
Procurement and Logistics	Fabienne Santoire
ADMINISTRATION UNIT (AU)	
Head of the AU	James Moran
Accounting & Finance	Paul Boderó
Accounting & Finance	Anne-Marie Fernandez
Accounting & Finance	Ekaterina Mantziaris
Accounting & Finance	Christophe Yakovleff
Evaluation/Internal Audit and Control	Anna Verdini
Human resources	Cyrille Antoine
Human resources	Valérie De Caestecker
Human resources/Training	Roseline Fagel
Human resources	Deirdre Killeen
Information technology	Sébastien Beugnier
Information technology	Alexandru Mihai
Information technology	Laura Naie
Information technology	Marc Rouillard
Information technology	Juan Manuel Sanchez Navas

TECHNICAL UNIT (TU)	
Head of the TU	Gerhard Schuon
Deputy Head of the TU	Jean Maison
Assistant to the Head of the TU	Aline Noguès
Agricultural species	Anne Weitz
Agricultural and vegetables species	Bronislava Bátorová
Biomolecular techniques	Cécile Collonnier
Denominations	Carole Bonneau
Denominations and Registry	Rudi Caes
Denominations	Bénédicte Legrand
Fruit and ornamental species	Urszula Braun-Młodecka
Ornamental species	Laetitia Denécheau
Ornamental species	Jens Wegner
Vegetable species	Céline Morineau
Registry	Pierre-Emmanuel Fouillé
Registry	Nadège Grantham
Registry	Giulio Serafino
Technical Unit assistant	Ghislaine Guilbert
Technical Unit assistant	Laurence Théodore

NB: The above list comprises the staff of the CPVO employed as officials, temporary, and contract agents on 31 December 2020.

6. QUALITY AUDIT SERVICE

The QAS implements the CPVO's quality audit programme. It carries out regular assessments at EOs to check whether they fulfil the entrustment requirements when testing candidate varieties against the DUS criteria. The assessments relate to any work in relation to DUS activities for species within the scope of entrustment of the EOs.

6.1. Assessment of examination offices

QAS activities were heavily impacted by the COVID-19 pandemic in 2020, and in collaboration with the pertinent EOs, attempts were made throughout spring and summer, to adjust the dates of the 10 programmed assessments for the year. Nevertheless, due to the travel restrictions imposed by the COVID-19 pandemic from March onwards, only two "priority" assessments finally materialised in September 2020, when there was an easing of travel restrictions in the EU. As a consequence of the irremediable situation, the remaining eight assessment exercises were postponed until 2021.

The assessment exercises were based on the latest version (3.0) of the entrustment requirements that were adopted at the end of 2015. The two assessments carried out in 2020 saw a total of four non-conformities being raised, these being mostly related to the constitution of variety collections and the notification to the CPVO of the use of subcontractors for part of the DUS test of certain species for which they were entrusted. Based upon the corrective actions subsequently undertaken by the two pertinent EOs, recommendations will be made to the AC in April 2021.

There were two positive entrustment recommendations made to the members of the AC in April 2020 based on completed assessments from autumn 2019. Since no assessment exercises could be done on site in 2020 until September, there were no recommendations for entrustment at the AC meeting at the end of September 2020.

6.2. Audit programme

Taking into account the severe impact the COVID-19 pandemic was having on the annual QAS assessment schedule, a formal request was made by QAS to the AC in September 2020 to prolong the current assessment cycle by 1 year, until the end of 2022. The AC agreed to this request as well as the prolongation of the terms of reference of all the QAS technical experts, so the current assessment cycle will be finalised in 2022 instead of 2021. The eight EOs whose assessments were planned in 2020, have been postponed in 2021.

As the COVID-19 pandemic and travel restrictions will remain in the early part of 2021, most of the rescheduled QAS are due to take place in late spring and summer 2021, by which time the COVID-19 pandemic situation should have improved with the vaccination campaigns around the EU. Consequently, QAS is hopeful that travelling in the Member States will be possible, thereby allowing on-site assessments. To avoid a repeat of the

2020 situation, whereby many assessments had to be postponed, QAS assessments could be conducted via teleconferencing and sophisticated live-video techniques. Once the latter alternative is in place, all the scheduled assessments for 2021 will be guaranteed to take place, whether it be on-site (preferred) or virtual, thereby preventing any further extensions to the 2019-22 assessment cycle.

One beneficial consequence of the extension of the current assessment cycle was that the procedure for the revision of the entrustment requirements could also be extended by 1 year, allowing for greater thought and reflection on the areas in need of improvements or clarifications. Initial exchanges on the matter were undertaken with the CPVO stakeholders in the later part of 2020, and the in-depth revision process will continue throughout 2021, with the aim of having the revised entrustment requirements approved by the AC in spring 2022.

Finally, in the framework of CPVO's International Relations Strategy and following the expressed interest by PVP authorities, CPVO's entrustment programme and related audit scheme was presented at various occasions. Following the involvement of QAS in the evaluation exercises of OAPI EOs in Cameroon, Senegal, Ivory Coast and Burkina Faso in October 2019 and February 2020, a review of the progress made in the four institutes was made by QAS at the end of 2020. Further recommendations for improvements were made by QAS to OAPI during the course of this latest review. In late November 2020, QAS participated in a virtual workshop under the IP Key Latin America programme on how to perform DUS testing in an independent manner, to representatives of PVR and examination authorities from most Latin American countries. QAS outlined its experiences in the EU to provide guidance to participants on how to establish neutral and objective DUS testing principles in the region, bearing in mind possible conflicts of interest.

Table 2: List of QAS qualified technical experts for the 2019-2022 cycle

Technical expert		Organisation	Member State	Crop sector	Already a technical expert in 2015-2018
Bašta	Ľubomír	Central Controlling and Testing Institute in Agriculture (UKSUP)	SK	agricultural	Yes
Bimova	Pavla	Central Institute for Supervising and Testing in Agriculture (ÚKZÚZ)	CZ	agricultural	No
Bonthuis	Henk		NL	agricultural	Yes
Bravi	Romana	CREA - Plant Protection and Certification (DC) Research Centre	IT	vegetable	No
Cechova	Lydie	ÚKZÚZ	CZ	agricultural	No
Chatzigeorgiou	Alexandra	Ministry of Rural Development and Food	EL	agricultural, vegetable	Yes
Christien	Stéphanie	GEVES	FR	ornamental, vegetable	No
Corbel	Anne-Lise	GEVES	FR	agricultural	Yes
Corsi	Giovanni	CREA-DC	IT	agricultural	No

Technical expert		Organisation	Member State	Crop sector	Already a technical expert in 2015-2018
de Greef	Henk		NL	ornamental, vegetable	Yes
De Salvador	Flavio Roberto		IT	fruit	No
Diaz Morant	Miguel	Spanish Plant Variety Office (OEW)	ES	agricultural	Yes
Dimitrov	Diliyan	Executive Agency for Variety Testing, Field Inspection and Seed Control	BG	agricultural, vegetable	No
Escolano García	Antonio	OEW	ES	agricultural, vegetable	Yes
Giulini	Anna	CREA-DC	IT	agricultural	No
Haegens	Raoul	Naktuinbouw	NL	ornamental, vegetable	No
Hoffman	Marco	Naktuinbouw	NL	fruit, ornamental	No
Kowalczyk	Bogna	Coboru	PL	agricultural, vegetable	Yes
Lawaetz	Erik	Tystofte Foundation	DK	agricultural	No
Leclair	Clarisse	GEVES	FR	agricultural	Yes
Márkné Déak	Szilvia	NÉBIH	HU	fruit, ornamental	No
Menne	Andrea	BSA	DE	ornamental	Yes
Miceli	Claudia	CREA-DC	IT	agricultural	No
Papworth	Hilary	National Institute of Agricultural Botany (NIAB)	UK	ornamental	Yes
Rierner	Karin	BSA	DE	agricultural, ornamental	Yes
Rukavina	Ivana	Croatian Centre for Agriculture, Food and Rural Affairs	HR	agricultural	Yes
Schulte	Erik	BSA	DE	fruit	Yes
Scott	Elizabeth	NIAB	UK	agricultural, ornamental	Yes
Sicard	Georges	GEVES	FR	agricultural, vegetable	No
Szani	Zsolt	NÉBIH	HU	agricultural, fruit	Yes
Taferner-Kriegl	Jutta	AGES	AT	agricultural	Yes
Tams	Swenja	BSA	DE	agricultural, fruit, ornamental, vegetable	Yes
Titone	Patrizia	CREA-DC	IT	agricultural	No
Urquia Fernandez	Nuria	OEW	ES	fruit	No
van Dijk	Amanda	Naktuinbouw	NL	ornamental, vegetable	No
van Leeuwen	Marian	Naktuinbouw	NL	vegetable	No

7. RESEARCH AND DEVELOPMENT PROJECTS

In this section, the CPVO provides updated information on its R & D activities; on new candidate projects, projects underway, and follow-up measures taken in 2019 on projects already concluded.

7.1. Revision of the CPVO research and development procedure

The revised R & D procedure includes a revised timeline for the receipt, the assessment and the decision on R & D project proposals. The procedure became applicable in 2021 for funding in 2022. To apply for co-funding in a given year, the final project proposal must have reached the CPVO on 1 May of the previous year.

Table 3

Timeline		
1	Date for reception of project proposal	R = 1 March
2	Confirmation of reception	R + 1 week
3	Request to applicant to answer questions and/or complete information or decision on refusal	R + 3 weeks
4	Final proposal or early refusal	F = 1 May
5	Advice of Imoddis and/or expert group	F + 6 weeks
6	Conclusion of Advisory group	F + 12 weeks
7	Draft decision to be provided to the president*)	Beginning August
8	Decision of the AC on the R & D budget	End September/ Beginning October
9	Decision of the president	D = week following 15 October
10	Information provided to project coordinator	D + 1 week
11	Agreement of the project coordinator on the decision of the president + start date of the project	D + 2 weeks
12	Financial commitments and contract drafted	D + 4 weeks
13	Signed contract	D + 6 weeks
14	Start of the project	From 1 January

All applications must be filed using the template available on the CPVO website.



Durum wheat

7.2. Situation as regards candidate R & D projects

In 2020 one new project was approved for co-funding and will start in 2021.

‘DURDUS tools - Integration of molecular data into DUS testing in durum wheat.’

The project is coordinated by the Austrian Agency for Health and Food Safety (AGES) and partners in the project are: National Institute for Agricultural and Food Research and Technology (INIA), Spanish Plant Variety Office (OEVV) (Spain), CREA-DC (Italy), National Food Chain Safety Office (NÉBIH) (Hungary), as well as Euroseeds.

The DURDUS project was a first step for the durum wheat EO network to harmonise the use of molecular data information to optimise the management of the durum reference collection. The reliable use of the genetic distance in the frame of the UPOV model will increase the quality of DUS tests for all durum wheat entrusted EOs. In the present follow-up project, the cooperation between EOs will be further consolidated with the setting-up of a common online molecular database and an associated genetic distance calculation tool for the benefit of all durum wheat entrusted EOs.

It is a 2-year project and the final report is expected in January 2023.

7.3. Situation as regards ongoing projects

‘Cannabis sativa L.’

Naktuinbouw is coordinator of the project called “Development of a single-nucleotide polymorphism (SNP) marker set in *Cannabis sativa L.* to support DUS testing” with NÉBIH, Hungary, as project partner.

Applications for *Cannabis sativa L.* varieties bred for pharmaceutical use are increasing steadily. It is particularly demanding both in terms of time and money to import plant material for DUS testing of pharmaceutical varieties, which creates reluctance of titleholders to submit reference varieties. This project aims at continuing research work already undertaken by Naktuinbouw by identifying an SNP marker set for *Cannabis*. Subsequently to this work, in a follow-up project, a database will be set up which will broaden and maintain a reference collection for the use of selection of reference varieties in the growing trial under UPOV model 2. Potentially similar varieties will then be included into the growing trial for a side by side comparison on the phenotype. The project started in 2020 with a 24 months duration.

‘Harmorescoll’

Harmorescoll is aimed at setting up, at European level, a coordinated system to give information to interested parties on access to reference material for performing disease tests for DUS purposes according to the CPVO protocols and UPOV guidelines. The reference material is constituted of isolates, controls and differentials. The project covers disease resistances which are part of the DUS protocols. Previous R & D projects showed that harmonisation is one aspect that helps to improve the system and efficiency of the DUS testing.

Co-working amongst EOs and seed companies affiliated with Euroseeds is key in this project. After the end of the project, funding and sustainable maintenance is planned on a self-financing basis.

The project is coordinated by the Groupe d’Étude et de contrôle des Variétés et des Semences (GEVES) and Naktuinbouw. It started in 2020 and is scheduled for 3 years.

‘Durum wheat’

This project was already mentioned under 8.2, as it was a candidate project in 2020, it is repeated here as it is since an ongoing project. The project on the ‘Integration of molecular data into DUS testing in *Durum wheat*’, aims to combine genotypic and phenotypic data in order to optimise reference collection management by investigating the use of SNP markers for DUS testing as a tool for the management of reference collections. The project has been granted co-financing in December 2017. The coordinator is the Austrian examination office AGES. Project partners are INIA (ES), GEVES (FR), CREA-SCS (IT), and NÉBIH (HU).

‘Apple’

The project “Developing molecular markers allowing the distinction of apple mutants (sports)” aims at increasing the efficiency and reliability of DUS testing of apple mutants, by identifying markers allowing the molecular characterisation of mutants. The project is coordinated by INRA with GEVES as partner. In the frame of a 3-year project, the assessment of the genetic and epigenetic changes that occur in Gala mutants is analysed with the objective to link them to the phenotype. Phenotyping is also an important part of this project which aims at describing and identifying varieties on the basis of images of fruits recorded automatically from conveyer machines.

‘Melon’

This project was approved in December 2017 and had an initial duration of 2 years, it started in mid-2018. The coordinator requested a postponement of 1 year, sliding the end of the project to March 2021.



Tomato



Apple

The objective is to set up a common database containing variety descriptions and photos held by all the CPVO's entrusted EOs for melon. As the data will not be harmonised between EOs, the database will not be directly used to select reference varieties to compare the candidates but will facilitate the identification of the available reference materials and their maintainers. So far, progress has been made in the design and feeding of the database. The loading of the data in the database aimed to be finalised by the end of 2020 and the tool would be tested in real conditions beginning of 2021.

Naktuinbouw (NL) is the project coordinator with as partners: GEVES (FR), INIA/OEVI (ES), the Central Controlling and Testing Institute in Agriculture (UKSUP) (SK), and the Portuguese National Authority for Animal Health (DGAV) (PT). The final report is expected in 2021.

‘Tomato’

The project entitled “International validation of an SNP set to determine genetic distances for the management of tomato reference collection” was agreed for co-funding in February 2019. It should last 30 months. The project aims at validating between all EOs entrusted for tomato (Naktuinbouw, GEVES, Research Centre for Cultivar Testing (Coboru), NÉBIH, INIA, DGAV, and CREA) a set of markers adapted to the management of the reference collections in the framework of UPOV model 2, following the “French Bean” approach. If successful, a follow-up project could be built for the characterisation of the whole collections. Naktuinbouw is the coordinator. The Beijing Sub-Center for DUS testing (Chinese Academy of Agricultural Sciences (CAAS)) in China as well as the Korean Seed & Variety Service from the Republic of Korea and the Center for Seeds and Seedlings, National Agriculture and Food Research Organisation (NARO), Center for Seeds and Seedlings (NCSS) in Japan are involved and will each participate on their own funding. Euroseeds is also a project partner.

All European and Asian partners will test the selected SNP markers on a common set of varieties and on a set of varieties from their own country. For the common set, seeds will be sent by each partner to Naktuinbouw that will then send back deoxyribonucleic acid (DNA) extracts to all partners. A specific agreement defining the conditions of access to these materials have been signed by the consortium of partners and consents are requested from the owners of all the varieties concerned. Results are expected to be available in 2021.

‘Oilseed rape’

Based on a first project called “Test of the potential use of SNP markers on oilseed rape varieties” a follow-up project called “Developing a strategy to apply SNP molecular markers in the framework of winter oil seed rape DUS testing” has been submitted in September 2018 and approved in March 2019 for a duration of 24 months.

As a result of the first project, in collaboration with GEVES and the National Institute of Agricultural Botany (NIAB), 500 SNPs were selected and tested on different matrices. The follow up project continues the work and aims to produce large and consistent molecular data on a wide number of winter oilseed rape varieties in order to reach an optimised SNP set. A method will be developed to use genetic data by testing existing UPOV models and by developing new ones well adapted for this species, both from historical and field data.

The approaches will be tested on the two different testing systems GAIA in France and Combined over year (COY) in Germany. The final results will be presented and discussed with experts from all entrusted EOs which were also partners in the pre-project. If the results of that project are successful, a second follow-up project could extend the genotyping to the whole collection to validate and to apply the model chosen in the field. That implementation phase would include all entrusted EOs.

7.4. Finalised research and development projects

‘Strawberry’ (Ring-test)

This project with a duration of 4 years was finalised in December 2019. It was coordinated by the CPVO and involved all the entrusted EOs for the species: Bundessortenamt (BSA) (DE), Coforu (PL), DGAV (PT), and OEVI (ES), as well as International Community of Breeders of Asexually Reproduced Ornamental and Fruit Varieties (Ciopora).

A set of eight varieties were observed at four testing places over two growing cycles. Four meetings at testing stations were organised and a great majority of characteristics of the TP was reviewed. Meetings in all testing sites were organised.



The group made numerous recommendations as regards the revision of the UPOV TG/CPVO TP concerning the method of observation, example varieties, states of expression, range of expression, interpretation of characteristics; the recommendations are summarised in the final report.

The project partners looked at the submission requirements and agreed on further harmonisation. Some potential additional characteristics were verified within the project. Additions or deletions of characteristics and states of expression were proposed.

‘Various vegetable species’ (Harmores 3)

This project aimed at the “Harmonisation of resistance tests to diseases for DUS testing -3” (Harmores 3). It was composed of two parts with a total duration of 3 years: Part 1 (duration of 1 year) was approved in June 2016 and the final report was delivered to the CPVO in November 2017. Part 2 (duration of 2 years) was approved in October 2016 and formally started in November 2017 straight after the finalisation of Part 1 of the project. Both parts had to be slightly modified further to the withdrawal from the project of one of the partners, Palacky University (CZ). The final report was received in September 2019.

GEVES (FR) coordinated the project, with as partners Naktuinbouw (NL), INIA (ES), Central Institute for Supervising and Testing in Agriculture (ÚKZÚZ) (CZ), NÉBIH (HU), CREA (IT), SASA (UK), CTIFL (FR), and Euroseeds.

The project allowed to harmonise the resistance test protocols (TPs) for seven vegetable diseases, especially in terms of reference material (isolates, control varieties and differential hosts), test conditions, and notation scales (with a special focus on intermediate resistances in certain cases).

Six resistance test protocols (one protocol covers the testing of 2 diseases Fol race 0 and 1 in tomato) have been implemented in the CPVO TPs following the vegetable experts meeting 2019. These TPs were proposed for adoption by the AC in 2020.

The CPVO and European experts, that were partners to this project, proposed to implement the adjustments made in these resistance test protocols into the corresponding UPOV technical guidelines under revision in the coming years.

The project contributed to enhance cooperation between EOs, which should continue also after the end of the project. Indeed, several partners decided to continue to collaborate on their own funding on the organisation of a ring test on the markers of the Fol1 - l2 gene that confers resistance to Fol: 0 and 1, in order to confirm the results obtained in the framework of the project.

‘Case study on minimum distances between selected Pelargonium varieties’

The initial project on minimum distances was approved in November 2015, it focused on the possible effects of the introduction of minimum distances according to the Ciopora position on minimum distance for three vegetatively reproduced species: apple (fruit), rose (cut flower and outdoor roses), and Pelargonium (pot plant). The project had a duration of 1 year and its final report was provided to the CPVO in July 2017.

The proposed practical case study aimed at a re-evaluation of the distinctness of Pelargonium varieties, which have been declared distinct by an EO in the past, on the basis of the Minimum Distance position of Ciopora, and the mock protocol for Pelargonium as developed in the initial project.

The project coordinator was Ciopora partnered with the BSA (DE).



Pelargonium

The final report of this case study was provided in December 2019.

- The practical case study – comprising an on the spot assessment by Pelargonium breeders – demonstrated that TP CPVO/TP-028/2 allows to take transparent decisions on the compliance with the distinctness requirement set out in Article 7 of Council Regulation (EC) 2100/94. The Pelargonium breeders involved in the project were satisfied with the current protocol as it allows them to create and protect new varieties.
- There is thus no immediate need for a revision of the TP or for any follow-up.
- The discussions within the project showed that there can be differences in opinions as regards where the border should be set when applying the concept of “clearly distinct” within the meaning of the BR. The project partner and the CPVO agreed that the CPVO-TPs are the basis to assess distinctness against, and Ciopora committed to continue to provide input to CPVO expert meetings where the protocols are discussed.

7.5. The CPVO as a partner in the Horizon 2020 Invite project

New developments

Despite the confinement imposed by the COVID-19 pandemic, Invite’s partners managed to make progress in their collaborative work. Whereas some physical activities (setting of some trials, lab analyses) were delayed; many other tasks were in a preparatory phase and partners efficiently exchanged by electronic means so as to meet many of the set milestones. For the delayed tasks, the Commission offered some flexibility in the deadlines, and even some financial support if necessary.

In 2020, the CPVO contributed to the following actions:

- access to data.

In addition to participating in the tasks of the project, the CPVO is in charge of managing all issues related to access to historical data and reference materials held by the EOs. In collaboration with Euroseeds, the Work Package (WP) leaders and the participating EOs, the CPVO designed an agreement to frame the access to these data and materials by the partners of the Invite Econsortium. This agreement describes some procedures for:

- getting individual consents from the breeders owning the varieties (including a template consent letter);
- encoding variety names;
- managing validated data on a data sharing system;
- exchanging samples of reference material (with a template of material transfer agreement (MTA)). After long negotiations and partial revisions, this agreement was signed by partners on 19 June 2020.

Setting up these procedures required to deploy significant communication efforts (meetings and specific documents) on the Invite stakeholders to explain the expected outputs of the project. CPVO also played a key role in the communication between the academic partners and the EOs.

CPVO supported the implementation of these procedures by monitoring and coordinating its different steps, as well as by drafting the necessary technical documents to ensure harmonisation, and to facilitate interactions between partners.

CPVO contributed to the work of the different WPs:

- WP1 New criteria for sustainability: the CPVO co-organised a meeting with the task leader on tomato to plan the work with the partners involved and coordinate it with the CPVO project on tomato.
- WP2 Phenotyping: the CPVO contributed to the writing of a review article on low-cost imaging systems for new approaches in plant variety testing protocols coordinated by David Rousseau (Institut National de Recherche pour l'Agriculture, l'Alimentation et l'Environnement (INRAE) Angers).
- WP4 modelling: the CPVO organised and/or participated in several meetings aimed at finalising the lists of characteristics and varieties, and the type of data needed by the scientists and available at the EOs/ Post-Registration Offices (PROs) for maize, wheat, PRG, and sunflower.
- WP5 Implementation of new methods and tools: the CPVO, as co-leader of WP5, followed and contributed to the discussions on the preparation of the testing of all the new tools and protocols to come from WP1, 2, 3 and 4. In cooperation with Euroseeds, CPVO supported FiBL for the organisation of Invite – Boosting organic seed and plant breeding (Liveseed project) Stakeholder workshop on the impacts of the new Organic Regulation EU 2018/848 on variety testing in the EU on 4 February 2020 in Brussels.
- WP7 Database: the CPVO supported the WP leaders in the definition of their work plan by checking its compatibility with the procedure set in the agreement on access to data and materials. The CPVO played an active role in the preparation of data encoding.

The collaboration with Next generation variety testing for improved cropping on European farmland project (InnoVar) continued. The CPVO provided support on the issue of access to data and materials through bilateral meetings and by participating in InnoVar's annual meeting as a member of the stakeholder platform. The CPVO provided advice on the way to interact with the EOs, and, with the consent of Invite's coordinator, sent to InnoVar a copy of the Invite agreement on access to historical data and reference material.

8. BUDGET

8.1. Out-turn

The net out-turn for the year was approximately EUR 0.21 million negative, a significant decrease compared to the previous year showing a net out-turn of EUR 1.4 million positive.

The budget out-turn for 2020 significantly decreased compare to 2019. Receipts slightly increased in 2020, however, there was quite a significant movement in expenditure. Much of the increase in expenditure is accounted for by the change in approach to invoicing and payment with an EO which availed of the “upfront payment” option agreed in the AC.

Table 4

Net out-turn for the year 2020 (million EUR)	
Budgetary revenue (a)	18.20
Budgetary expenses (b)	18.53
Budgetary out-turn (c) = (a) – (b)	- 0.33
Non-budgetary receipts (d)	0.12
Net out-turn for the budgetary year 2019 (e) = (c) + (d)	- 0.21

8.2. Revenue

The CPVO’s revenue comprises various fees paid by applicants for CPVR and holders of CPVR, other revenue (administrative operations), and income from interest on bank accounts. The total revenue collected in 2020 was EUR 18.20 million.

Table 5

	Variation (%)	2020 (million EUR)	2019 (million EUR)
Fees	+ 2.72	18.15	17.67
Bank interest	- 33.33	0.02	0.03
Other revenue	+ 50.00	0.03	0.02
Total revenue	+ 2.71	18.20	17.72

The total fees received in 2020 amounted to EUR 18.15 million, representing a small increase of 2.72 % in comparison to the previous year. Most fees remained stable, with the exception of examination fees, which were increased from 1 April 2020 to allow “full recovery” of costs. The increase of 50 % in the other revenue comes from one reimbursement received from a losing party on a court case. Bank interest continued to fall with rates at an extremely low level; furthermore, the CPVO does not accept negative interests. It is worth noting that a change in CPVO’s fees regulation, published in the Official Journal of the European Union (OJ) on 29 November 2019, became effective on 1 April 2020. The most significant update concerned examination fees, which are linked

to the costs the CPVO pays examination offices for technical examinations. These fees were adjusted to match the real costs of the technical examinations per group category.

8.3. Expenditure

In 2020, the total amount of recorded expenditure and commitments carried over was EUR 18.54 million, compared with EUR 16.37 million in 2019.

Table 6

	Variation (%)	2020 (million EUR)	2019 (million EUR)
Staff expenditure	+ 1.33	7.62	7.52
Administrative expenditure	– 3.10	1.25	1.29
Operational expenditure	+ 27.91	9.67	7.56
Total expenditure	+ 13.26	18.54	16.37

The salary grid for the staff of the CPVO, being governed by the levels set by the Council of the EU, is also subject to changes in line with inflation and career progression.

The administrative expenditure slightly decreased by 3.10% in 2020 compared to 2019. The decrease is mainly due to the decrease on meeting expenses and audit costs. Some activities were not allowed with the sanitary situation.

Operational expenditure consists mainly of remuneration for EOs. The significant increase of 27.91 % in payments for examination fees has already been mentioned above: for one major EO (Naktuinbouw). The year 2020 saw a shift in payments upfront (instead of at the end of growing periods). This caused a once-off increase in payments.

8.4. Conclusion

The net result decreased in 2020 as expected in line with the new up-front payment option that the EOs can exercise.

9. DEVELOPMENTS IN THE SYSTEM

9.1. Regulatory

9.1.1. The European Union IP Action Plan

On 25 November 2020, the Commission adopted the [Communication 'Making the most of the EU's innovative potential – An IP action plan to support the EU's recovery and resilience'](#) (COM (2020) 760 final). The IP Action Plan aims to help companies, in particular SMEs, make the most of their innovations. The CPVR legislation was last evaluated in 2011.

It was concluded that the system functions well overall, albeit with some carefully targeted adjustments. Recently identified shortcomings need to be addressed after an evaluation, in a targeted revision of the legislation in the medium term. The IP Action Plan foresees to carry out the process of evaluating the CPVR legislation in the fourth quarter of 2022.

9.2. Technical

9.2.1. Applications for Community plant variety rights

In 2020 the CPVO received 3 427 applications for CPVRs, which represents a decrease of 2.8 % compared to the previous year. Figure 1 shows the evolution of the number of applications received by the CPVO (all figures are based on the date of arrival of the application documents at the CPVO). During the first 10 years, the CPVO observed a growing number of applications each year (figures not shown). Since then, the application numbers seem to have stabilised; the annual changes are probably not to be understood as a trend but rather as random fluctuations.

Figure 1

Evolution of the annual number of applications for CPVR (2011-2020)

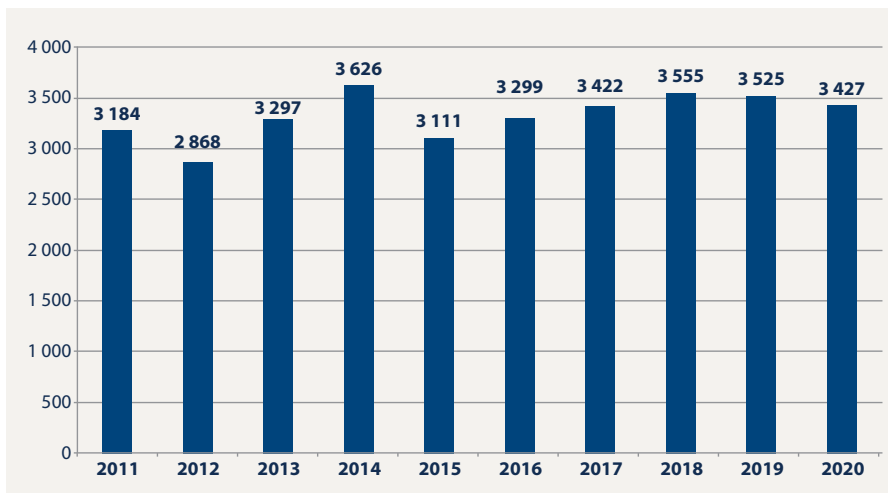


Figure 2 represents the crop sector shares in relation to the number of applications received in 2020.

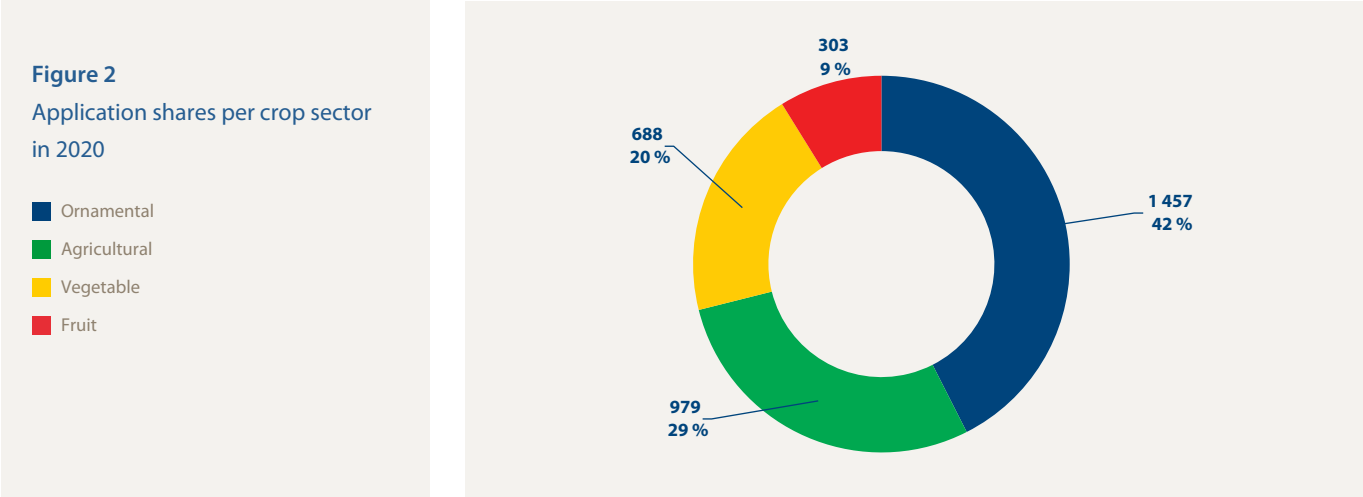
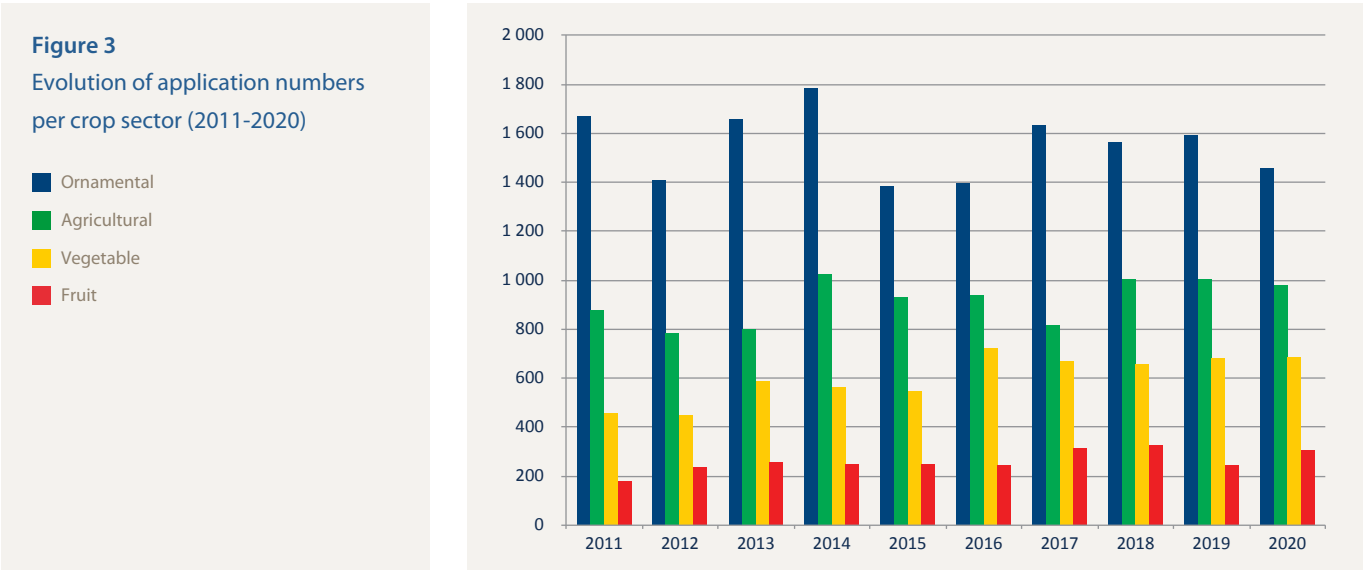


Figure 3 shows the evolution of the number of applications per crop sector since 2011. Despite the fact that the total number of applications shows only minor variation from year to year, the variation within the four crop sectors may be more important. In 2020, the CPVO observed a decrease in application numbers in the ornamental sector with - 135 applications (- 8.4 %) and in the agricultural sector with - 25 applications (- 2.5 %). The other sectors showed an increase: in the fruit sector + 57 applications (+ 23.1 %) and in the vegetable sector + 5 applications (+ 0.7 %).



Applicants

In 2020, 651 applicants filed applications for CPVRs, 32 less than in 2019. The following tables list, for each crop sector, the 15 most frequent users of the Community system and their respective numbers of applications filed in 2020. These top 15 applicants have a relative share of applications ranging, similarly to last year, from 91 % for vegetables, 58 % for agricultural and 45 % for fruit species, to as little as 38 % for ornamental species. This range not only reflects the degree of concentration in breeding, which is particularly advanced in the vegetable sector, but also shows that, in the case of ornamentals, a great number of 'small' breeders are in business and seeking protection for their varieties. The figures do not take into account possible controlling agreements between companies; the actual level of concentration may thus be higher.

Table 7: Agricultural sector

Top 15 applicants	Country	Number of applications in 2020
KWS SAAT SE & Co. KGaA	Germany	77
Limagrain Europe S.A.S.	France	76
RAGT 2n S.A.S.	France	58
Pioneer Overseas Corporation	United States	54
Monsanto Technology LLC	United States	41
Deutsche Saatveredelung AG	Germany	38
Euralis Semences S.A.S.	France	35
Marcel de Wit	Netherlands	34
Soltis S.A.S.	France	28
Syngenta Participations AG	Switzerland	27
Norddeutsche Pflanzenzucht Hans-Georg Lembke KG	Germany	23
KWS Momont Recherche S.A.R.L.	France	22
Nordsaat Saatzucht GmbH	Germany	18
Mas Seeds S.A.	France	16
Secobra Recherches S.A.S.	France	16
Total		563

Table 8: Vegetable sector

Top 15 applicants	Country	Number of applications in 2020
Monsanto Vegetable IP Management B.V.	Netherlands	108
Rijk Zwaan Zaadteelt en Zaadhandel B.V.	Netherlands	106
Enza Zaden Beheer B.V.	Netherlands	100
Syngenta Crop Protection AG	Switzerland	89
Nunhems B.V.	Netherlands	56
Vilmorin-Mikado S.A.	France	32
Bejo Zaden B.V.	Netherlands	32
Syngenta Participations AG	Switzerland	26
HM.Clause S.A.	France	18
De Groot en Slot Allium B.V.	Netherlands	15
Semillas Fitó S.A.	Spain	12
Gautier Semences S.A.S.	France	10
van Waveren Saaten GmbH	Germany	8
Takii & Co. Ltd.	Japan	8
Sakata Vegetables Europe S.A.S.	France	7
Total		627

Table 9: Fruit sector

Top 15 applicants	Country	Number of applications in 2020
Driscoll's Inc.	United States	22
PSB Produccion Vegetal S.L.	Spain	20
Agro Selections Fruits S.A.S.	France	12
Plantas de Navarra S.A. (PLANASA) - Sociedad Unipersonal	Spain	9
International Fruit Genetics LLC	United States	9
Rústicas del Guadalquivir S.L.	Spain	8
Institut de Recerca i Tecnologia Agroalimentàries (IRTA)	Spain	7
FV B.V.	Netherlands	7
Fondazione Edmund Mach	Italy	7
Marionnet S.A.S	France	6
Star Fruits Diffusion S.A.S.	France	6
Frutaria Comercial de Frutas y Hortalizas S.L.	Spain	6
Todolivo S.L.	Spain	6
The Regents of the University of California	United States	5
IFO S.A.R.L.	France	5
Total		135

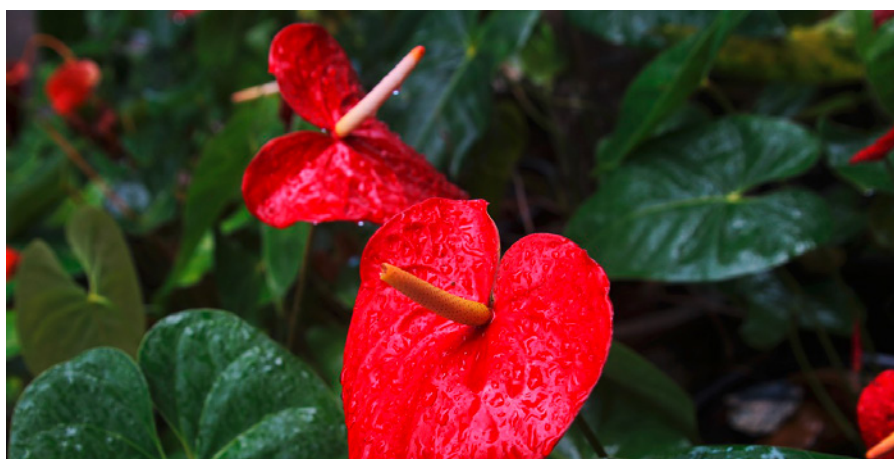
Table 10: Ornamental sector

Top 15 applicants	Country	Number of applications in 2020
Dümmen Group B.V.	Netherlands	148
Anthura B.V.	Netherlands	75
Klemm + Sohn GmbH & Co. KG	Germany	37
Floricultura B.V.	Netherlands	32
Deliflor Royalties B.V.	Netherlands	30
Poulsen Roser A/S	Denmark	29
Walters Gardens Inc.	United States	28
Syngenta Crop Protection AG	Switzerland	28
Knud Jepsen A/S	Denmark	23
Ball Horticultural Company	United States	22
W. Kordes' Söhne Rosenschulen GmbH & Co KG	Germany	22
De Ruiter Intellectual Property B.V.	Netherlands	22
Piet Schreurs Holding B.V.	Netherlands	20
Josef Heuger	Germany	17
G. Geerlings & Zonen B.V.	Netherlands	17
Total		550

Applicants from outside the EU must appoint a representative with a registered office or domicile within the EU to become a party to the proceedings before the CPVO. Sometimes, mother companies located outside the EU appoint a daughter company in the EU; this is the case for Pioneer or Syngenta. EU applicants do not have such an obligation; however, some of them prefer to outsource the application procedure to an external agent. In 2020, 1 491 applications (43.5 %) were filed by 153 procedural representatives. The following table lists the 15 most active procedural representatives for 2020, having submitted 854 applications.



Dianthus



Anthurium

Table 11

Name of procedural representative	Country	Number of applications in 2020
Royalty Administration International C.V.	Netherlands	213
Syngenta Seeds B.V.	Netherlands	147
Pioneer Génétique S.A.R.L.	France	70
Hortis Holland B.V.	Netherlands	67
Ronald Houtman Sortimentsadvies	Netherlands	57
Hans-Gerd Seifert	Germany	43
Limagrain Nederland B.V.	Netherlands	38
Plantipp B.V.	Netherlands	37
Bayer Seeds S.A.S.	France	31
Deutsche Saatgutgesellschaft m.b.H. Berlin	Germany	29
Syngenta France S.A.S.	France	29
Elzaburu S.L.P.	Spain	26
Andreas Gertz	Germany	23
Württembergischer Rechtsanwälte	Germany	23
Limagrain Europe S.A.S.	France	21
Total		854

9.2.1.1. Ornamental species

With 42.6 % of the applications received in 2020, ornamentals continue to represent the largest group of applications filed for CPVR, despite the drop of 135 applications compared to the previous year.

Ornamentals have a great diversity of species. In all years, there were for many of them a rather low number of applications per species.

Table 12: Number of applications received per year for all ornamental species since 2016, with a total covering 1995-2020

	2016	2017	2018	2019	2020	Total (1995-2020)
All ornamental species	1396	1 629	1564	1 592	1 457	38 631

Table 13 shows the 10 most important ornamental crops over the last 5 years (the term 'importance' is always used in this text to refer to the number of applications received). Changes in the most important crops seem to be rather accidental. Roses and chrysanthemums remained by far the most important species in 2020. The application numbers for *Phalaenopsis* varieties have dropped noticeably.

Table 13: Number of applications received for the 10 most important ornamental species groups from 2016 to 2020, with a total covering 1995-2020

Species	2016	2017	2018	2019	2020	Total (1995-2020)
<i>Rosa</i> L.	185	169	242	175	174	4 802
<i>Chrysanthemum</i> L.	117	148	140	121	78	3 823
<i>Pelargonium</i> L'Hér. ex Aiton	43	33	53	56	79	1 758
<i>Calibrachoa</i> Llave & Lex. and <i>Petunia</i> Juss.	50	104	78	50	78	1 647
<i>Phalaenopsis</i> Blume and <i>x Doritaenopsis</i> hort.	51	134	112	153	108	1 484
<i>Lilium</i> L.	50	36	35	21	14	1 335
<i>Gerbera</i> L.	30	30	54	44	18	1 212
<i>Dianthus</i> L. and hybrids	35	60	35	40	48	1 103
<i>Impatiens</i> L. and hybrids	10	12	12	16	12	1 006
<i>Anthurium</i> Schott	30	25	15	30	22	861
Total	601	751	776	706	631	

The CPVO may base its decision to grant CPVRs on a technical examination carried out under a previous application for either national PBR or national listing provided the DUS examination was carried out at an entrusted EO. Such a takeover of reports concerns less than 5 % of ornamentals, which is a considerably lower percentage than for the vegetable or agricultural sectors and is due to the absence of any requirement for listing before commercialising ornamental varieties.

9.2.1.2. Agricultural species

The year 2020 showed a slight decrease in applications in comparison with 2019, the fourth highest ever. In 2020, agricultural varieties represented 28.6 % of all applications.



Wheat



Rapeseed

Table 14 shows the number of applications received per year for all agricultural species since 2016, as well as the total figure for the years 1995-2020.

Table 14: Number of applications received per year for all agricultural species since 2016, with a total covering 1995-2020

	2016	2017	2018	2019	2020	Total (1995-2020)
All agricultural species	939	816	1 007	1 004	979	18 094

Table 15 shows the number of applications for the 10 most important agricultural species over the last 5 years.

Table 15: Number of applications for the 10 most important agricultural species from 2016 to 2020, with a total covering 1995-2020

Species	2016	2017	2018	2019	2020	Total (1995-2020)
<i>Zea mays</i> L.	201	177	262	229	173	5183
<i>Triticum aestivum</i> L. emend. Fiori & Paol.	153	124	152	150	133	2307
<i>Brassica napus</i> L. emend. Metzg.	126	94	103	120	149	1829
<i>Solanum tuberosum</i> L.	79	71	84	68	72	1805
<i>Hordeum vulgare</i> L.	69	72	93	100	75	1541
<i>Helianthus annuus</i> L.	86	53	59	40	56	1165
<i>Lolium perenne</i> L.	14	20	19	46	19	423
<i>Triticum turgidum</i> L. subsp. <i>durum</i> (Desf.) Husn.	26	16	22	13	25	377
<i>Beta vulgaris</i> L. ssp. <i>vulgaris</i> var. <i>saccharifera</i> Alef. (syn. <i>Beta vulgaris</i> L. ssp. <i>vulgaris</i> var. <i>altissima</i> Döll)	21	9	19		11	375
x <i>Triticosecale</i> Witt.	19	17	20	21	16	287
Total	794	653	833	787	729	

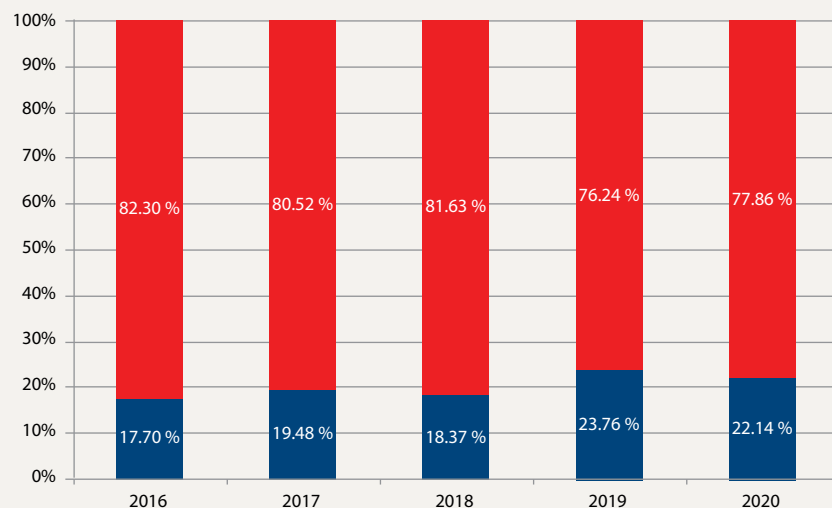
The order of importance of species changed since last year, with oilseed rape moving up to third and triticale to make it for the first time into the top 10 species. The increase in oilseed rape may be explained by the higher number of hybrids in this species and by the fact that parent lines are also subject to applications for CPVR.

The ratio of takeover of reports to technical examinations also remains stable. In case of applications that are filed once the DUS report has been established in the framework of applications for national listing, the duration between application and granting is rather short, compared to applications where a technical examination needs to be organised, which takes generally two growing cycles for agricultural species.

Figure 4

Evolution of the percentage of the ratio of technical examinations to takeovers of DUS reports in the agricultural sector (2016-2020)

■ Technical examinations
■ Takeovers

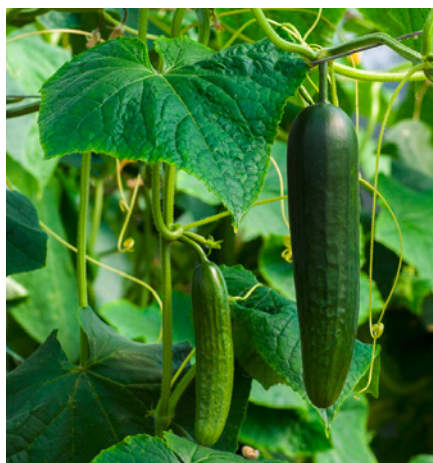


9.2.1.3. Vegetable species

The year 2020 showed an increase of 0.7 % in the number of applications in comparison with the previous year, the second highest ever. Vegetable varieties represented 20 % of all applications in 2020, which means that the percentage share of this sector amongst all CPVR applications has increased over time compared to the 16 % share it had a decade earlier. The distribution of applications in vegetable species in recent years is displayed in Table 16.

Table 16: Number of applications received per year for all vegetable species since 2016, with a total covering 1995-2020

	2016	2017	2018	2019	2020	Total (1995-2020)
All vegetable species	721	665	659	683	688	10 468



Cucumber



Pea

Table 17 shows the number of applications for the 10 most important vegetable species for the last 5 years.

Table 17: Number of applications for the 10 most important vegetable species from 2016 to 2020, with a total covering 1995-2020

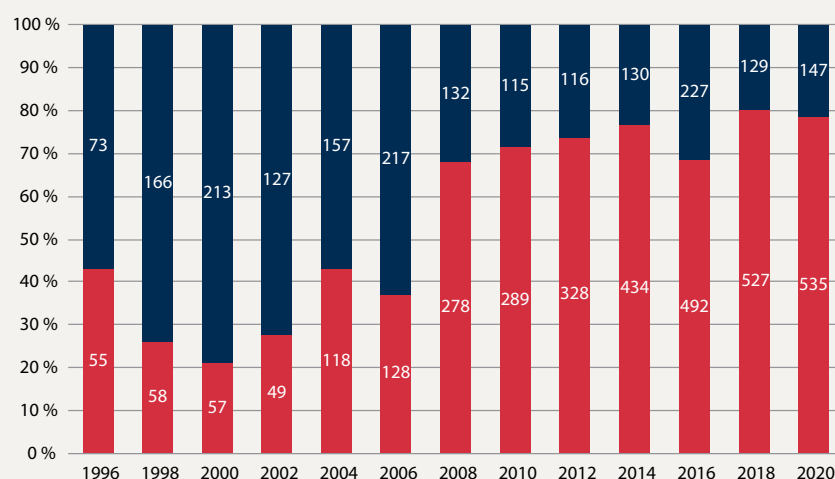
Species	2016	2017	2018	2019	2020	Total (1995-2020)
<i>Lactuca sativa</i> L.	192	183	248	180	230	2924
<i>Solanum lycopersicum</i> L.	127	161	116	150	90	1586
<i>Capsicum annuum</i> L.	65	47	47	61	59	694
<i>Cucumis melo</i> L.	80	46	30	64	47	579
<i>Phaseolus vulgaris</i> L.	13	11	27	12	27	547
<i>Pisum sativum</i> L.	13	16	28	28	27	517
<i>Cucumis sativus</i> L.	45	32	37	21	33	468
<i>Brassica oleracea</i> L. convar. <i>botrytis</i> (L.) Alef. var. <i>botrytis</i>	5	1	7	4	17	256
<i>Allium cepa</i> (Cepa group)	25	8	6	10	17	218
<i>Spinacia oleracea</i> L.	7	23	14	6	15	212
Total	572	528	560	536	562	

Since 2008 there is an increasing tendency by vegetable breeders, to file first for national listing or national PBR application, and, to follow it shortly afterwards with an application for the same variety at the CPVO. In such cases, the breeders expect the CPVO to take over the technical report for the candidate variety from the national EO. For vegetable applications received in 2020, whereas the CPVO requested 147 technical examinations to be carried out on its behalf, it took over 535 technical reports from national authorities (Figure 5).

Figure 5

Evolution of the number of applications and the percentage of the ratio of technical examinations to take-overs of DUS reports in the vegetable sector (1996-2020) every other year shown

■ Technical examinations
■ Takeovers
■ Number of applications



9.2.1.4. Fruit species

The number of CPVR applications for fruit species increased in 2020. With 57 applications more than in 2019, it was the third best year in the fruit sector. The top three species in the history of the CPVO until 2020 remained peach, strawberry and apple. The highest number of applications received in 2020 was for strawberry (48) followed by peach (47), and blueberry (37). Most applications in the fruit sector are made for 'small fruit' crops.

Table 18: Number of applications received per year for all fruit species since 2016, with a total covering 1995-2020

	2016	2017	2018	2019	2020	Total (1995-2019)
All fruit species	243	312	325	246	303	4 827

Table 19 shows the number of applications for the 10 most important fruit species over the last 5 years.

Table 19: Number of applications for the 10 most important fruit species from 2016 to 2020, with a total covering 1995-2020

Species	2016	2017	2018	2019	2020	Total (1995-2020)
<i>Prunus persica</i> (L.) Batsch	48	52	21	34	47	1043
<i>Fragaria x ananassa</i> Duchesne ex Rozier	26	44	37	53	48	743
<i>Malus domestica</i> Borkh.	43	36	27	23	28	602
<i>Vitis</i> L.	16	34	50	14	20	339
<i>Prunus armeniaca</i> L.	24	16	8	10	8	322
<i>Vaccinium</i> L.	10	23	42	20	37	268
<i>Rubus idaeus</i> L.	13	27	22	27	24	263
<i>Prunus salicina</i> Lindl.	7	7	7	8	7	149
<i>Prunus avium</i> (L.) L.	4	6	12	8	5	141
<i>Rubus</i> subg. <i>Rubus</i>	5	16	8	5	12	98
Total	196	261	234	202	236	



Raspberry



Peach

9.2.1.5. Origin of the applications

Since the creation of the CPVO, it received applications from 70 countries. Nearly every year more than one third of all applications originates from The Netherlands (38% in 2020), underpinning the important role of the Dutch in the breeding sector. The Netherlands is followed, quite some distance behind, by France, Germany, and the United States. Table 20 gives an overview of the number of applications received from different Member States in 2020.

Table 20: Member States from which CPVR applications were filed in 2020

Member State of main applicant	Number of applications received in 2020
Netherlands	1 306
France	505
Germany	418
Spain	150
Denmark	108
Italy	104
Poland	41
Belgium	34
Austria	21
Sweden	10
Czech Republic	9
Hungary	8
Ireland	4
Romania	4
Greece	2
Slovak Republic	2
Finland	1
Total	2 727

Table 21 shows the application numbers from countries outside the EU.

Table 21: Non-EU countries from which CPVR applications were filed in 2020

Country of main applicant	Number of applications received in 2020
United States	287
Switzerland	181
United Kingdom	58
Japan	45
Australia	22
Israel	21
Serbia	15
New Zealand	14
Canada	9
Brazil	7
Mexico	6
South Africa	6
Russian Federation	5
Colombia	4
Morocco	4
China	3
South Korea	3
Peru	3
Taiwan	3
Costa Rica	1
Ecuador	1
Moldova	1
Turkey	1
Total	700

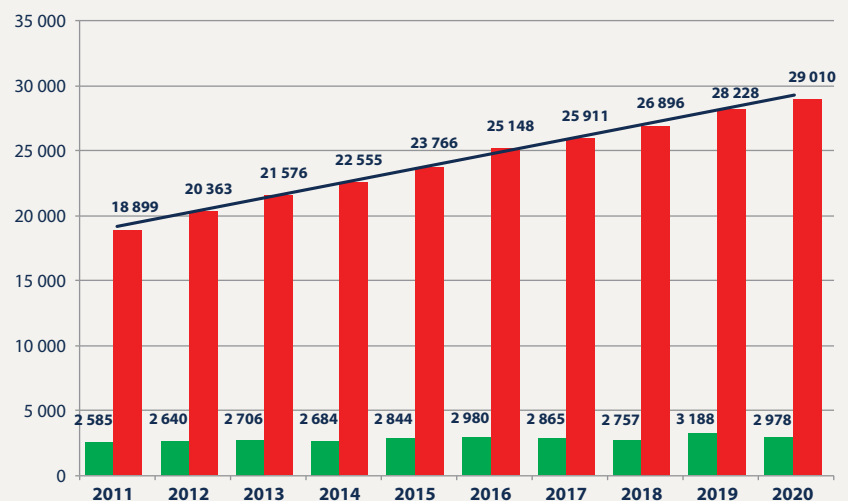
9.2.1.6. Grants of protection

In 2020 the CPVO granted 2 978 CPVRs, a drop of 210 in absolute figures compared to the 2019 record but still the third highest in 25 years. As the number of applications seems to be stabilising, one may predict stable numbers of grants issued. A detailed list of all varieties under protection (on 31 December 2020) is published on the CPVO website in a separate annex to this report.

By the end of 2020 there were 29 010 CPVRs in force. Figure 6 shows the number of titles granted each year from 2011 to 2020, and illustrates the continuous increase in the number of varieties under protection within the Community system, which is due to the fact that the number of rights terminated is still below the number of rights granted; in the long run an equilibrium can be expected.

Figure 6
CPVR granted per year and total number of rights in force at the end of each year (2011-2020)

■ Titles granted
■ Rights in force at the end of each year
— Linear (Rights in force at the end of each year)



The development of the number of CPVRs in force must be seen in conjunction with the number of rights surrendered (Figure 7). The number of rights granted still greatly outweighs the number of surrenders. As older varieties are replaced by newer ones, the number of surrenders is expected to get closer to the number of grants. The regular increase in the number of surrenders is therefore not a surprise. The number of surrenders increased in 2020 by almost 500 compared to last year and is certainly partly linked to the COVID-19 pandemic.

Figure 7
Number of surrenders of CPVR
(2011-2020)

■ Number of surrenders registered
◆ Percentages of surrenders per year
out of total number of rights in force on
31 December of previous year

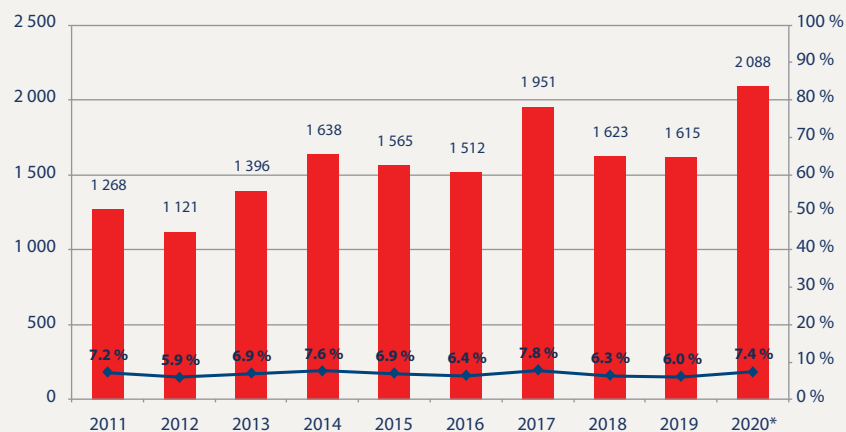
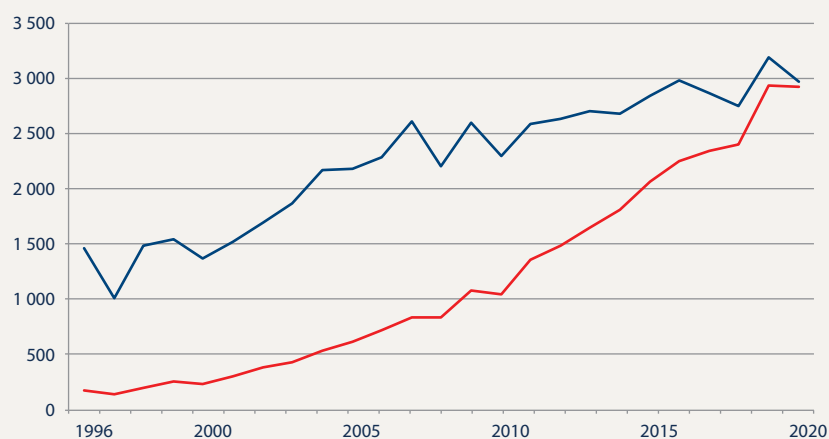


Figure 8 shows the number of rights granted in the years 1996 to 2020 and those still in force on 31 December 2020. A large number of rights are surrendered within a few years from their granting date. In 2020 the number of surrenders increased significantly, particularly in the ornamental sector, it accounted for almost two thirds of all surrenders.

Figure 8
Number of rights granted each
year from 1996 to 2020 and
those remaining in force on
31 December 2020 from those
granted per year

— Number of rights granted
— Number of rights remaining in force



At the end of 2020, out of the 56 561 CPVRs granted in total, 29 010 (51 %) were still in force. Table 22 illustrates that fruit varieties are generally kept protected for a longer period and that, within each crop sector, the situation varies from species to species. There might be a number of reasons for this phenomenon, such as a change in consumer preferences, breeding trends, differences in intensity of breeding activities, the time and expenses required to develop new varieties or a recent boom in plant breeding.

Table 22: Percentage of granted rights that were still in force on 31 December 2020

Crop sector	Species	Proportion (%)
Agricultural		57%
	<i>Hordeum vulgare</i> L.	46%
	<i>Triticum aestivum</i> L. emend. Fiori & Paol.	54%
	<i>Zea mays</i> L.	56%
	<i>Solanum tuberosum</i> L.	59%
	<i>Festuca rubra</i> L.	72%
Vegetable		63%
	<i>Cichorium endivia</i> L.	50%
	<i>Lactuca sativa</i> L.	57%
	<i>Solanum lycopersicum</i> L.	70%
	<i>Capsicum annuum</i> L.	70%
	<i>Daucus carota</i> L.	76%
Ornamental		43%
	<i>Gerbera</i> L.	21%
	<i>Chrysanthemum</i> L.	36%
	<i>Rosa</i> L.	44%
	<i>Phalaenopsis</i> Blume & <i>Doritaenopsis</i> hort.	58%
	<i>Clematis</i> L.	78%
Fruit		74%
	<i>Fragaria x ananassa</i> Duch.	65%
	<i>Prunus persica</i> (L.) Batsch	67%
	<i>Prunus domestica</i> L.	75%
	<i>Malus domestica</i> Borkh.	77%
	<i>Prunus avium</i> (L.) L.	88%

9.2.2. Technical examinations

In 2020 the CPVO initiated 1 943 technical examinations, 143 less than in 2019. In the agricultural and vegetable sectors, technical examinations have already been carried out as part of the national listing procedure. If such a technical examination has been carried out, in a large number, by an entrusted EO, the CPVO can base its decision to grant CPVR on this technical examination in the context of a national application.

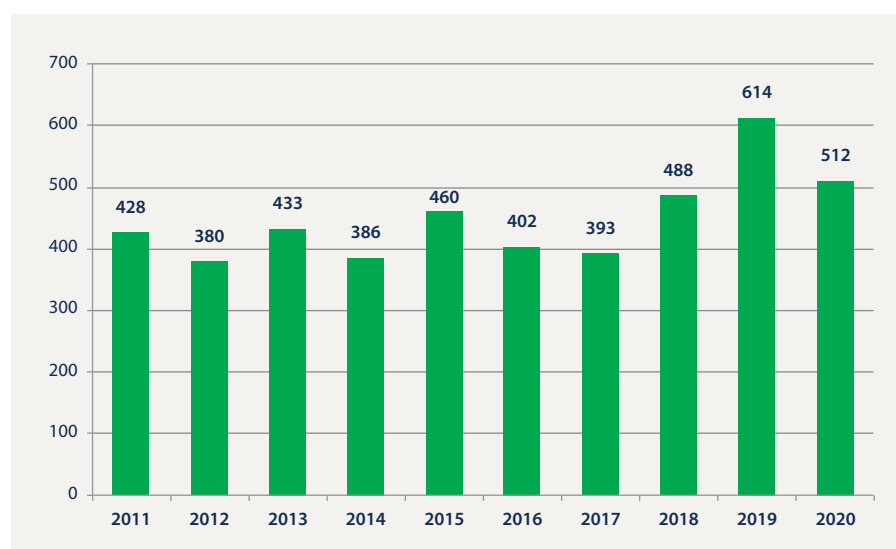
9.2.2.1. Sales of reports

National PBR authorities from all over the world regularly base their decisions on applications for PVRs on technical examinations carried out on behalf of the CPVO in the framework of the international cooperation in plant variety testing.

Figure 9 illustrates the number of reports the CPVO has made available to national authorities.

Figure 9

Evolution of the number of DUS testing reports made available to other PBR authorities (2011-2020)



By the end of 2020 the CPVO sold 7 743 technical reports to PBR authorities from 60 countries. In 2020, the five countries from which most requests emanated were Kenya, Morocco, Colombia, Brazil, and Malaysia; 48.7 % of requests concerned ornamental varieties, 43.3 % fruit varieties, 4.6 % vegetable varieties, and 3.3 % agricultural varieties. During the report year the CPVO processed 826 requests, which is the highest number of requests ever received in a year.

The CPVO has set up a flexible approach in respect of the agreed UPOV fee for making reports available. Requesting PBR authorities can pay this fee directly to the CPVO or they can opt for the sending of the invoice to the breeder or a local agent, who will carry out the payment. The final DUS reports are however always provided directly to the requesting national authorities.

Table 23: The 10 countries that have bought the most DUS reports from the CPVO (1998-2020)

Country	Number of reports bought
Brazil	766
Colombia	762
Ecuador	616
Israel	593
Canada	464
Switzerland	459
Kenya	450
France	328
Turkey	304
Norway	276

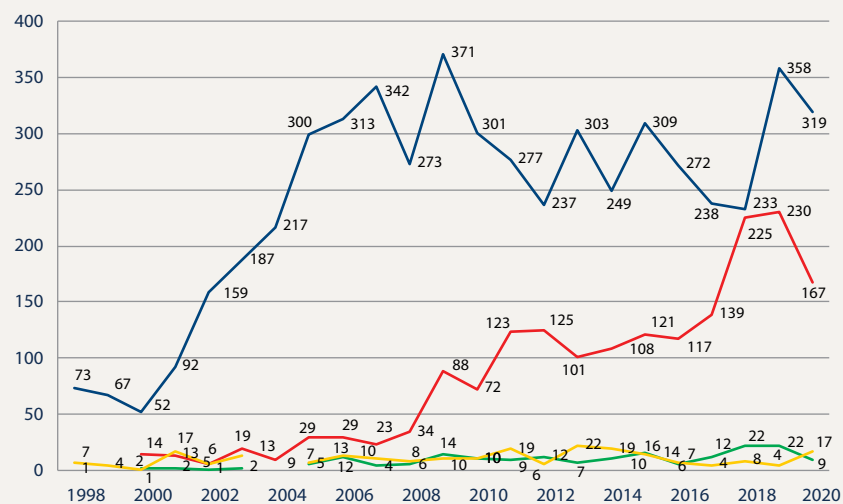
Figure 10 shows the evolution per crop sector of the number of DUS reports exchanged with national PBR authorities all around the world from 1998 to 2020. The number of requests increased in 2020, still mainly in the ornamental and fruit sectors. The number of sales in 2020 was also very high in these two sectors due to applications for ornamental and fruit varieties applied in multiple countries and those countries taking over the DUS reports from the CPVO.

Since 1998, the CPVO DUS report of each of 16 fruit varieties has been taken over by 10 countries or more. The record is held by a DUS report for a raspberry variety that has been sold by the CPVO, so far, to 24 countries outside the EU.

Figure 10

Evolution of the number of DUS reports made available to other PBR authorities per crop sector for the period 1998-2020 (every other year shown)

■ Agricultural
■ Ornamental
■ Fruit
■ Vegetable



9.2.2.2. Relations with examination offices

9.2.2.2.1. 23rd annual meeting with the examination offices

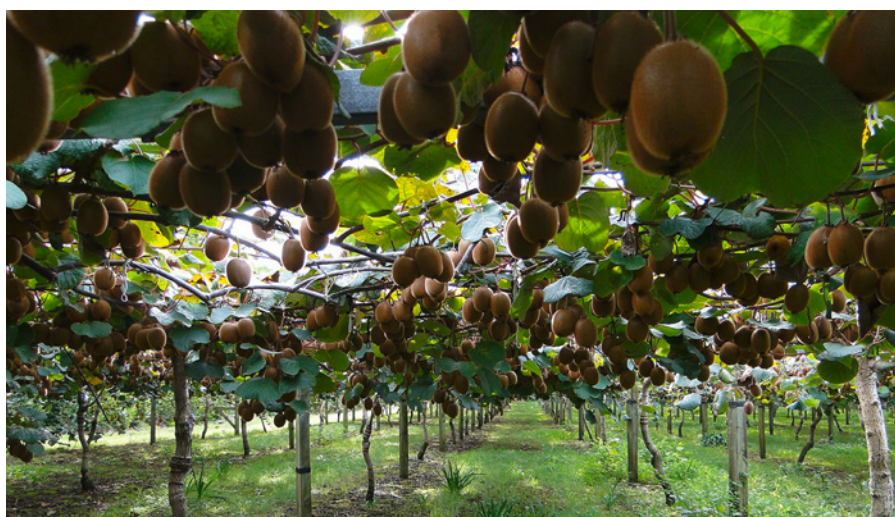
In December 2020 the CPVO held its 24th annual meeting with its EOs, which was also attended by representatives from the European Commission, UPOV, the EPO, and breeders' organisations (Ciopora, Euroseeds, Dutch Association for the Plant Reproduction Material Sector (Plantum), and European Consortium for Organic Plant Breeding (ECO-PB)), as well as by representatives from Switzerland and Norway as non-EU PBR authorities. The meeting was organised by video-conference. The main subjects of discussion were the following:

- Use of national protocols for CPVR applications.
- Time schedule for adoption of CPVO TPs.
- Characteristics observed only once in multi-annual testing.
- Taking over reports from national DUS procedures.
- Developing guidance for the contracts between EOs and technically qualified bodies.

Furthermore, the participants were informed of the state of play of R & D projects, IT projects, and the calculation of costs by the EOs.



Anigozanthos



Kiwi fruit

9.2.2.2.2. Preparation of the CPVO's technical protocols

In 2020, experts from the EOs were invited to participate in drawing up or revising the following TPs for DUS testing, which were either subsequently approved by the AC or can be expected to be approved in 2021.

- **Agricultural Sector.** In 2020, the TPs for cocksfoot, cotton and quinoa were discussed for presentation to the AC in 2021. The following protocols have been reviewed for further discussion in 2021: hemp and Lucerne.
- **Vegetable sector.** In 2020, the TPs for fennel, leaf beet, melon, water melon, tomato, tomato rootstock, cabbage, leaf chicory, and lettuce were partially revised. They will all enter into force in 2021.
- **Fruit sector.** The TPs for blueberry, walnut, and kiwifruit were revised.
- **Ornamental sector.** The new or revised TPs for *Alstroemeria* L., *Phalaenopsis* Blume and *Anigozanthos* Labill. and *Macropidia fuliginosa* (Hook.) Druce were adopted.

9.2.2.2.3. Crop experts meetings

A meeting of fruit experts was held by electronic means in November 2020. The discussions included a number of items relating to conducting technical examinations (such as testing of apple mutation groups, technical verifications, confirming the receipt of plant material to applicants, obtaining reference varieties for DUS testing, observing in multi-annual tests certain characteristics only once or the number of plants of reference varieties to be assessed) as well as plant health issues, and R & D projects.

The agricultural experts meeting took place by video-conference in October 2020. In addition to the DUS technical examination-related topics and TP discussions, the following items were on the agenda: hybrid wheat testing and the consideration of elongated plants as a new form of off-types in wheat, observing in multi-annual tests certain characteristics only once, replacing the FAO numbers by flowering time in maize or methods for cyclic planting in grass testing. Furthermore an update on the CPVO R & D strategy was provided.

Also the meeting of ornamental experts was held by video-conference in September 2020. The aim of the meeting was to inform examiners of the developments in the work of the CPVO and to discuss items linked to the technical examinations (such as observing in multi-annual tests certain characteristics only once, the adoption and publication of national test protocols by the CPVO, the consideration of disease resistance characteristics in CPVO protocols, obtaining reference varieties for DUS testing, number of plants of reference varieties to be assessed). Part of the discussions served as preparation for the annual meeting with all the EOs.

A meeting of vegetable experts was held by video-conference on 2 and 3 December 2020. In addition to the previously mentioned vegetable protocols, the group discussed numerous other items on DUS matters: the merge of the CPVO S2 and S3 Gazettes and

its consequences on the entrustment and cultivation types, the EU Plant Passport and phytosanitary certificates, the adoption and publication of national TPs by the CPVO, a new template letter for obtaining reference varieties or the organisation of field expert meetings.

9.2.2.2.4. New species

In 2020 the CPVO organised two new-species inventories.

- In April (2020-A procedure): 38 new species for which varieties have not yet been subject to an application to the CPVO were published in a call for tender. For 33 of them, a new EO was appointed.
- In November (2020-B procedure): 24 new species were published in a call for tender. For 21 of them, a new EO was entrusted.

The list of those taxa concerned is provided in Table 24.

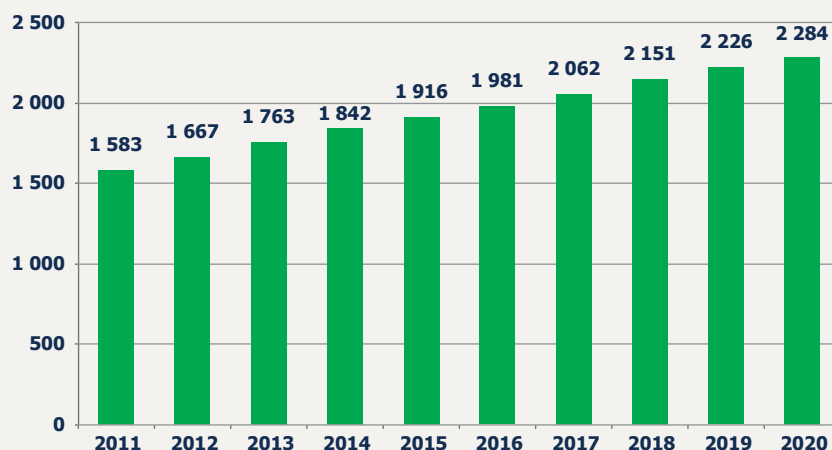
Table 24: List of new species for which EOs were entrusted during the procedures 2020-A and 2020-B

Species
<i>Agapanthus campanulatus</i> F. M. Leight. x <i>A. comptonii</i> F. M. Leight.
<i>Allium tuberosum</i> Rottler ex Spreng.
<i>Alocasia brancifolia</i> (Schott) A. Hay
<i>Aloe aculeata</i> Pole-Evans
<i>Amaranthus cruentus</i> L.
<i>Arbutus unedo</i> L.
<i>Avenella flexuosa</i> (L.) Parl. (syn. <i>Deschampsia flexuosa</i> (L.) Trin.)
<i>Betula ermanii</i> Cham.
<i>Betula utilis</i> D. Don subsp. <i>albosinensis</i> (Burkill) Ashburner & McAll (syn. <i>Betula albosinensis</i> Burkill)
<i>Brassica rapa</i> L. subsp. <i>nipposinica</i> (L. H. Bailey) Hanelt x <i>Brassica rapa</i> L. subsp. <i>narinsosa</i> (L. H. Bailey) Hanelt
<i>Camellia azalea</i> C. F. Wei x <i>C. reticulata</i> Lindl.
<i>Chamaelium micranthum</i> (Turcz.) Domin x <i>C. uncinatum</i> Schauer
<i>Chionochloa flavicans</i> Zotov
<i>Colocasia esculenta</i> (L.) Schott
<i>Dryopteris wallichiana</i> (Spreng.) Hyl.
<i>Echeveria elegans</i> Rose x <i>E. gibbiflora</i> DC.
<i>Echeveria gibbiflora</i> DC.
<i>Echinacea</i> Moench
<i>Erica nana</i> Salisb.
<i>Euphorbia pulcherrima</i> Willd. ex Klotzsch x <i>Euphorbia corollata</i> (Dressler) Radcl.-Sm.
<i>Festuca gautieri</i> (Hack.) K. Richt.
<i>Fraxinus ornus</i> L.
<i>Gaultheria procumbens</i> L. x <i>G. shallon</i> Pursh
<i>Geranium sanguineum</i> L.

Species
<i>Geum quellyon</i> Sweet (syn. <i>Geum chilense</i> hort.)
<i>Hedera colchica</i> (K. Koch) K. Koch
<i>Heliopsis</i> Pers.
<i>Hibiscus</i> L.
<i>Hypoestes phyllostachya</i> Baker
<i>Isotoma fluviatilis</i> (R. Br.) F. Muell. ex Benth.
<i>Leucadendron conicum</i> (Lam.) I. Williams x <i>L. floridum</i> R.
<i>Leucospermum cordifolium</i> (Knight) Fourc. x <i>L. patersonii</i> E. Phillips
<i>Malus domestica</i> (Suckow) Borkh. x <i>M. x robusta</i> (Carrière) Rehder
<i>Manfreda undulata</i> (Klotzsch) Rose
<i>Monolena primuliflora</i> Hook. f.
<i>Myosotis sylvatica</i> Hoffm.
<i>Narcissus tazetta</i> L.
<i>Oncidium</i> Sw. x <i>Rhyncho스테le</i> Rchb. f.
<i>Paulownia</i> Siebold & Zucc.
<i>Prosthechea cochleata</i> (L.) W. E. Higgins (syn. <i>Encyclia cochleata</i> (L.) Dressler)
<i>Raphanus</i> x <i>Brassica</i>
<i>Raphiolepis indica</i> (L.) Lindl. ex Ker Gawl.
<i>Rhododendron molle</i> (Blume) G. Don subsp. <i>japonicum</i> (A. Gray) Kron
<i>Salvia nemorosa</i> L.
<i>Sambucus nigra</i> L.
<i>Saxifraga cortusifolia</i> Siebold & Zucc.
<i>Scadoxus multiflorus</i> (Martyn) Raf.
<i>Schefflera actinophylla</i> (Endl.) Harms
<i>Sedum rupestre</i> L.
<i>Teucrium fruticans</i> L.
<i>Tradescantia cerinthoides</i> Kunth
<i>Alicea</i> hort. (syn. <i>Brassia</i> R. Br. x <i>Miltonia</i> Lindl. x <i>Oncidium</i> Sw.)

Figure 11

Evolution of the number of botanical taxa for which the CPVO received applications (2011-2020)



9.2.3. Technical liaison officers

The CPVO endeavours to maintain a close and efficient working relationship with its EOs. In 2002 the CPVO formalised a network of contact persons on a technical level in the Member States, the technical liaison officers (TLOs). The TLOs play an important role in the CPVO's relationship with its EOs. A revision of the set-up of the TLO network was approved by the AC and the changes entered into effect from January 2016.

The TLO is the contact point for the CPVO at technical level. In particular, this means the following.

- Invitations to the annual meeting with the EOs are, in the first place, addressed to the TLOs.
- The TLO should be the person at EO level who is in charge of distributing information of technical relevance within the EO in respect of the CPVR system (e.g. informing crop expert colleagues of conclusions from the annual meeting of the EOs).
- Technical enquiries, which are sent out by the CPVO to collect information, should be addressed to the TLOs. Examples include:
 - new species procedures, in order to prepare the proposal for the entrustment of EOs to the AC;
 - surveys in respect of closing dates, quality requirements and the testing of genetically modified organisms.
- For items of general technical nature, the CPVO contacts the TLOs first. Specific problems, such as those relating to a certain variety, may be discussed in the first instance directly between the crop expert at the EO and the relevant expert at the CPVO.

Table 25: The list of appointed TLOs (as of 31 December 2020)

Luca Aggio	CREA-VE Centro di ricerca per la viticoltura ed enologia/Viticulture and Enology Research Centre Italy
Lubomir Basta	UKSUP Department of variety testing Slovakia
Pier Giacomo Bianchi	CREA-DC Italy
Alexandra Chatzigeorgiou	Hellenic Ministry of Rural Development and Food Directorate-General of Agriculture Directorate of Propagating Material of Cultivated Plant Species and Plant Genetic Resources Greece
Mihaela-Rodica Ciora	Institutului de Stat pentru Testarea si Inregistrarea Soiurilor / State Institute for Variety Testing and Registration Romania

Zoltán Csűrös	NÉBIH Directorate of plant production and horticulture Hungary
David Cummins	Department of Agriculture, Food and the Marine Ireland
Maureen Delia	Ministry of sustainable development environment and climate change Seeds and other propagation material unit Plant health directorate Malta
Gerhard Deneken	Tystofte Foundation Denmark
Dilyan Dimitrov	Executive Agency for Variety Testing Field Inspection and Seed Control Bulgaria
Damien Eylenbosch	Centre Wallon de Recherches Agronomiques Belgium
Barbara Fürnweger	AGES Austria
Fabio Gervasi	CREA-OFA ROMA Centro di ricerca per la Olivicoltura, Frutticoltura e Agrumicoltura / Olive, Citrus and Tree Fruit Research Centre Italy
Sigita Juciuvienė	Ministry of agriculture Lithuanian state plant service Division of plant variety Lithuania
Marcin Król	Coboru Poland
Kristiaan van Laecke	Eenheid Plant – eel ten Omgeving / Plant Unit – Cultivation and Environment Belgium
Clarisse Leclair	GEVES FRANCE
Päivi Mannerkorpi	European Commission DG Health and Food Safety Belgium
Kyriacos Mina	Ministry of agriculture, natural resources and environment Agricultural research institute Cyprus
Inga Ovsjannika	State Plant Protection Service Latvia
Kaarina Paavilainen	Finnish food safety authority Finland
Teresa Maria Pais Nogueira Coelho	DGAV Portugal
Helena Rakovec	Ministry of agriculture, forestry and food Slovenia
Beate Rücker	BSA Germany

Ivana Rukavina	Croatian Centre for Agriculture, Food and Rural Affairs Croatia
Andrea Povolna	ÚKZÚZ Czech Republic
Bert Scholte	Naktuinbouw Afdeling Rassenonderzoek / Variety Testing Department Netherlands
Joakim Stefansson	Swedish Board of Agriculture Plant and Environment Department Plant Regulation Division Sweden
Agra Univer	Agricultural research centre Viljandi variety testing centre Estonia
Nuria Urquia Fernandez	OEV Ministerio de Agricultura, Pesca y Alimentación / Ministry of Agriculture, Fisheries and Food Spain
Marc Weyland	Agriculture technical services office Plant production service Luxembourg

10. VARIETY DENOMINATIONS

10.1. The CPVO Variety Finder

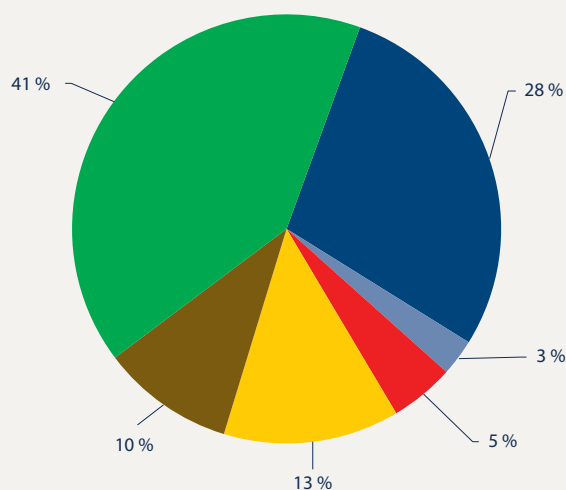
Maintained and developed by the CPVO since 2005, the web-based CPVO Variety Finder database contains information on registers of more than 70 countries with a general search tool. It also includes a similarity search tool to test the suitability of denominations. The general principle is to update the database as soon as data are officially published. A memorandum of understanding has been signed with UPOV to share the task of collecting data from EU Member States and non-EU countries, and ensure a regular data exchange.

In total, more than 1 million records originating from EU and UPOV members have been included in the Variety Finder. The use of the Variety Finder has constantly increased over recent years. CPVO applicants and titleholders represent the biggest group of users with more than 50 % of the tests of similarity launched. Around 80 000 denomination similarity tests are launched every year.

Figure 12 gives an overview of the content of the database with the number of records per type of register.

Figure 12

Variety Finder content: shares of records (in percentage) by type of register



The CPVO finalised the software development project to redesign the Variety Finder database. The CPVO worked in close cooperation with EUIPO on the drafting of the requirements specifications of the future tool as part of a cooperation agreement between the two offices. The new version of Variety Finder was successfully released in December 2020. The application is more user-friendly and includes a range of additional features for the similarity testing of variety denominations but also for the general search tool (like saving setting facilities for instance).

In 2020, the European Commission and the CPVO worked intensively together on the ongoing project named “EU Portal on plant varieties” aiming at a unique format for the Member States contributing to the Common Catalogues of agricultural plant species and vegetable species and the CPVO Variety Finder database.

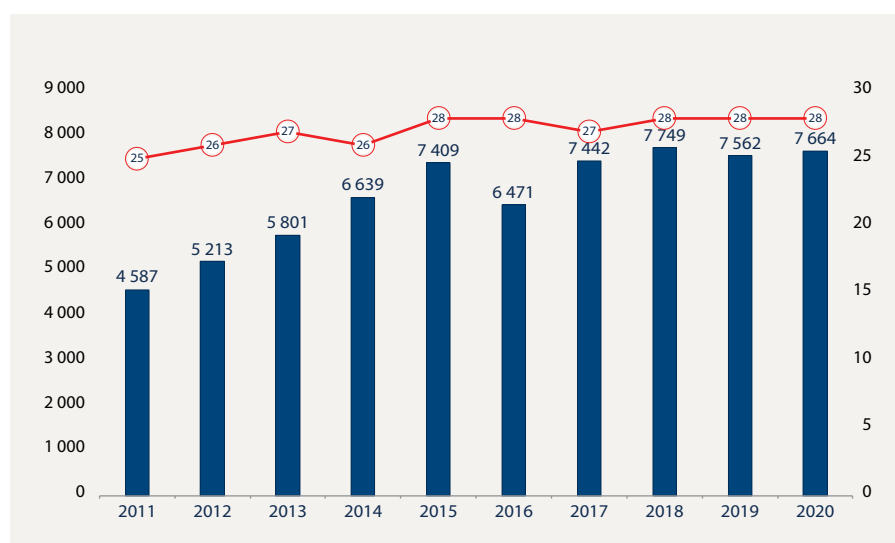
10.2. Cooperation in denomination testing

After a decrease in 2019, the year 2020 was marked by a slight rebound in the field of the cooperation in denomination testing (+2%), reaching a level close to the record of 2018. The national authorities submitted more than 7720 denominations via the dedicated cooperation service in the Variety Finder database. After 10 years of existence, the cooperation service works well and has proven its effectiveness. Most of the users of the service are unanimous on the benefits of the service, and 2020 should have been the opportunity to give the daily users of the Cooperation service the possibility to exchange and debate on practical and technical aspects in the framework of a workshop in Angers. Unfortunately, the workshop was postponed to 2021 due to the sanitary situation linked to the COVID-19 pandemic.

Figure 13

Number of requests for opinion received and number of contributing national PBR authorities (2011-2020)

■ Sum of Number of requests for opinion
— Sum of Number of National Authorities

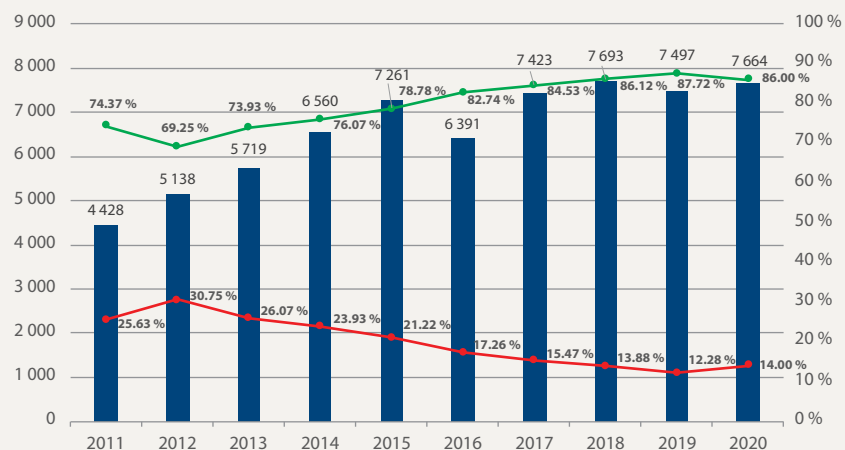


The year 2020 showed an increase in the number of observations regarding non-suitable variety denominations. This should nevertheless be put in perspective, considering that a number of observations are linked to requirements that must be checked before accepting a denomination or to notifications concerning prior EU trademarks, which increased a lot in 2020. In order to clearly distinguish these denominations from proper observations, the CPVO implemented at the end of the year two additional labels: “Condition” and “Prior rights”, which allow the users to have a refined overview of the status of their proposals in the Variety Finder database.

Figure 14

Number of analyses carried out and share of observations made / absence of observations in the analyses (2011-2020)

■ Sum of Number of analyses
 + % of Observation
 ● % of No observation



The CPVO is closely monitoring this indicator, which can also reflect at a certain point a tightening or a doubt in the interpretation of the rules on the variety denominations. A common interpretation of the rules is a key element for the harmonisation of their application. For that purpose, the CPVO decided to put in place a permanent working group on variety denominations. The aim is to clarify some provisions of the 2018-Guidelines that should enter into force in January 2022, together with the revised Commission Regulation (EC) No 637/2009 regarding the denominations of varieties of agricultural plant species and vegetable species. A first meeting of the permanent working group is scheduled for June 2021.

11. INFORMATION TECHNOLOGY (IT)

The IT team was reinforced in 2020, and two open competitions were launched for the recruitment of a Head of Unit and for Cloud developers. The volume of work in the pipeline for the IT team remained very high compared with the available resources. The confinement due to the COVID-19 pandemic put additional pressure on the team. Notwithstanding the lack of resources, the year was very productive and the IT team ensured a smooth transition to remote work for the CPVO staff, also several important applications were brought online.

11.1. E-services

The e-services programme encompasses all of the various projects that will ensure that the CPVO's activities with external stakeholders (clients, EOs and partners such as EUIPO and UPOV) are online, transparent, paperless and, to the greatest extent possible, limit manual intervention in the procedures.

In 2020, the electronic denomination proposal was developed to allow clients to use an online workflow for denominations in the "MyPVR" client portal. The public search feature was also re-written as was the Variety Finder tool. The client portal itself was updated in line with the Cloud Strategy.

11.2. Operational improvements

Operational tools cover all the IT applications necessary for the day-to-day business of the CPVO. As is the case every year, significant developments were made in 2020 with regard to internal operational tools that manage, amongst others, application processing, document management, human resources, and finance. The CPVO leverages tools available in other institutions and in that vein it continued to implement modules of the European Commission's HR management tool.

11.3. Communication tools

The CPVO website did not undergo major developments during the year, but regular enhancements were made to improve Communication, particularly communication aspects, extra-special care was given to communication during the COVID-19 pandemic crisis.

A new and sleek format of electronic newsletter was launched in December 2020.

11.4. Infrastructure and support

The CPVO takes part in European Commission framework contracts for many IT projects, and the adherence to the 'cloud II' framework contract will allow a structured transition of infrastructure to the cloud. Physical infrastructure was improved in the CPVO premises and a move towards a more mobile hardware set-up (laptop and remote stations) was initiated.

12. COOPERATION WITH THE DIRECTORATE-GENERAL FOR HEALTH AND FOOD SAFETY

12.1. Standing Committee on Community Plant Variety Rights

In 2020 there was no meeting of the Standing Committee on CPVR.

12.2. Standing Committee on Plants, Animals, Food and Feed

12.2.1. 'Seeds and propagating material for agriculture and horticulture' section

This European Commission committee met by video-conference three times during 2020.

Of particular interest for the CPVO throughout 2020 were the following:

- The European Commission / CPVO project on a unique EU IT system on plant varieties. Member States were regularly updated on the progress of the project.
- Exchange of views on a working document amending Commission Regulation (EC) No 637/2009 on rules as to the suitability of the denominations of varieties of agricultural plant species and vegetable species.
Several Member States and the CPVO provided comments on the draft text but expressed general support for the working document.
- Update on the preparations of a temporary experiment on organic varieties.
The Member States and the Commission agreed on a list of priority species to be worked on, to collect detailed proposals from the organic sector, and to set up small working groups in the beginning of 2021 to work on specific DUS protocols for certain species.



Spinach



Sunflower

- Exchange of views on a working document on an amendment of the Annexes of the Directives in relation to bio-molecular techniques.

A draft text to amend the Annexes of the Directives on marketing seed of agricultural and vegetable species as presented by the Commission got support from the Member States

- Plant reproductive material aspects of the preparedness for the EU-UK trade from 1 January 2021 onwards.

The Commission presented the state of play of Brexit files related to seeds and other plant reproductive material. The Commission further informed the Member States that any reference to the United Kingdom will be deleted from the Common Catalogues. Regarding CPVR, the United Kingdom will be considered as a third country as mentioned in Regulation (EC) N° 1994/2100. Attention was drawn on further detailed information available on the CPVO webpage.

- Presentation and exchange of views on a proposal from Euroseeds on hybrid wheat. Euroseeds gave a presentation of their proposal on new rules for hybrid wheat which will also be presented to the Organisation for Economic Cooperation and Development (OECD) Technical Working Group meeting. Several Member States were in favour of conducting a temporary experiment to find out how the new requirements would work.
- Exchange of views on the inclusion of varieties of vegetable rootstocks into Commission Decision 2004/842/EC.

The Commission informed that work on this issue will commence in 2021.

- **Information submitted by the Member States to the Commission on the development and application of in vitro mutagenesis techniques on certain varieties of agricultural species**

The Commission gave a presentation summarising the replies submitted by the Member States. Several Member States were concerned about the situation. The CPVO and the Member States agreed to share their replies. France informed that they were still analysing the way forward, and that some NGOs filed a new appeal against the French government. The Commission further informed France that there was no legal basis to indicate herbicide tolerant varieties on a mandatory basis in the Common Catalogue of varieties of agricultural species.

- **Presentation on the Farm to Fork (F2F) Strategy.**

The Commission gave a comprehensive presentation on the F2F strategy and highlighted the objectives for sustainable food production. It was highlighted that the F2F strategy considers all potential fields to achieve these goals including new breeding techniques and diversity of genetic resources. It was confirmed that seed security plays an important role in the F2F strategy to ensure access to quality seeds for farmers.

- **EU-Seed Study**

The Commission gave an overview and state of play of the study and its timeline. All relevant information will be introduced in the study. Member States will have the opportunity in early January 2021 to provide further input in the context of a validation survey carried out by the contractor. In February 2021, Member States will be consulted on a draft of the study.

Exchange of views on a possible work programme for 2021.

The Commission presented the work programme for 2021. The CPVO and a Member State suggested to organise a workshop on hemp seed to clarify the legislation, also in relation to medical uses.

The CPVO informs the members of the Standing Committee on a regular basis of developments of interest at of the CPVO, in particular decisions taken by its AC on new or revised TPs for DUS testing.

12.2.1.1. ‘Standing Committee on Propagating Material of Ornamental Plants’ section

There was no meeting of this committee in 2020.

12.2.2. ‘Standing Committee on Propagating Material and Plants of Fruit Genera and Species’ section

There was no meeting of this committee in 2020.

12.3. Council working parties

Following an invitation from the DG for Health and Food Safety to join the European Commission delegation, the CPVO participated in the following Council working parties in 2020:

- working parties on coordination of EU positions on UPOV meetings (Council, Consultative Committee, Technical Committee, and Administrative and Legal Committee);
- working parties on coordination of EU positions on the OECD annual meeting.

13. EXTERNAL RELATIONS

13.1. Cooperation with external organisations

13.1.1. Breeders' organisations

Regular interaction with breeders' organisations is a top priority for the CPVO. The CPVO ensures it is in frequent contact with breeders' organisations, representing the majority of users of the EU system. Ciopora, Euroseeds, and Plantum are all key contributors to the work of the CPVO.

Representatives of these three organisations participate in the AC of the CPVO as observers and in all relevant meetings of technical experts organised by the CPVO. These organisations actively contribute to seminars and workshops organised by the CPVO. The breeders' organisations play an invaluable role in spreading information and knowledge on all aspects of the Community plant variety system throughout the EU.

The CPVO is most grateful for the constructive and positive collaboration with these organisations, they are effectively conveying CPVO's work on PVRs to breeders.

In 2020 the CPVO attended by video-conference the annual meetings of Euroseeds and of Ciopora. The CPVO gave in that context various presentations and participated in panel discussions.

During the bilateral meetings the CPVO held with Ciopora, Euroseeds, and Plantum, issues of mutual interest were discussed. Those discussions related amongst other issues to fee and cost aspects, essentially derived varieties, public access questions, the international strategy of the CPVO, the interface of PBR and patents, the new organic regulation and its potential consequences, the minimum distance project, enforcement issues, and the publication of variety descriptions. It was concluded that such formal bilateral meetings should continue being organised on an annual basis.



Carrot



Oilseed rape

13.1.2. The International Union for the Protection of New Varieties of Plants

The CPVO has been participating in UPOV activities since 1996. In July 2005 the European Community (now the EU) became a member of UPOV.

During 2020, as members of the EU delegation, CPVO officials participated in video-conference meetings of the following UPOV bodies and committees.

- The UPOV Council.
- The Legal and Administrative Committee.
- The Technical Committee.
- The Consultative Committee.
- Technical working parties (agricultural crops, vegetable crops (hosted by the CPVO), fruit crops, ornamental plants and forest trees, automation and computer programmes and biomolecular techniques).
- The Ad hoc working group on the development of an electronic application form.
- The Ad hoc working group on a possible international system of cooperation.
- The Ad hoc working group on variety denominations.

It should be noted that the CPVO actively contributes to the technical working parties by regularly providing presentations and drafting documents. In addition the CPVO provides the Chair for the technical working party for fruit crops (Jean Maison).

The UPOV Senior officials regularly attend meetings of experts or working groups organised by the CPVO dealing with technical and legal issues of common interest.

In several regions of the world where countries are members of UPOV, such as Asia, Africa, Latin America and the Caribbean, there is a rising interest in knowing the details and results of PVR systems with a regional scope and learning from the gained experience. The CPVO frequently provides speakers for seminars and technical workshops organised by UPOV. Furthermore, several staff members of the CPVO also act as tutors in the various distance-learning courses offered by UPOV.

13.1.3. The European Union Intellectual Property Office

In 2020 the CPVO and the EUIPO continued their cooperation by way of reciprocally provided services.

As regards the human resources field, the EUIPO supported the CPVO in the conducting of two recruitment procedure in the IT sector. Moreover, in 2020, the CPVO continued to participate in the enforcement and legal working groups of the European Observatory on Infringements of IPRs, as well as in the plenary session. In this area, the Observatory's Working Group on economics and statistics agreed to conduct a sectorial study on the

economic contribution of the PVR system in the EU. The study is expected to be finalised in 2021. Moreover, the CPVO contributed to the update of the observatory national case-law database in the domain of enforcement of PVRs by national courts. In the area of international cooperation, the CPVO jointly implemented the IP Key China, IP Key Latin America, and IP Key South-East Asia projects.

In the area of data protection, the DPO of the EUIPO continues being the appointed DPO of the CPVO. In the IT area, both offices agreed to intensify their cooperation with a view to strengthening synergies in the development of IT projects. In this respect, the EUIPO has successfully cooperated with the CPVO in the re-writing of the Variety Finder database. The CPVO has released the improved version of its Variety Finder database on 10 December 2020. The new CPVO Variety Finder features key improvements, both in terms of usability, with a more user-friendly and intuitive design, and in terms of functionalities, with new searching functions and the possibility to use API.

13.1.4. The European Patent Office

On 25 October 2018 the administrative arrangement, signed on 11 February 2016 by the CPVO with the EPO, was renewed for a further period of 3 years. A new implementation plan was agreed with activities to be jointly implemented continuing with the knowledge sharing among technical experts. In 2020 the CPVO continued sharing data from the CPVR register. Those data have been made available to the EPO contracting states. In other areas in 2020 the cooperation between the CPVO and the EPO has been stayed, waiting for the opinion of the Enlarged Board of Appeal on the Referral of the president of the EPO regarding plant patentability. The opinion was delivered on 14 May 2020.

13.1.5. The Organisation for Economic Cooperation and Development

In 2020 the CPVO attended the annual video-conference meeting of the OECD seed schemes, the related technical working group meeting and some of the ad hoc working parties. Of particular interest for the CPVO are the OECD activities in respect of biochemical and molecular techniques, aspects related to variety identity and variety descriptions as well as discussions related to digital technologies for trade, traceability and certification.

13.1.6. Other EU institutions

The CPVO maintains regular external contacts by participating in meetings organised by the following bodies and on the following topics:

- The European Commission DG Human Resources and Security – implementation of the staff regulations.
- The European Commission DG Budget – implementation of the new financial regulation.
- The European Commission DG Trade – cooperation in the field of the EU-funded project IP Key project with China, Latin America, and South-East Asia.

- The European Commission DG International Partnerships (INTPA) (former DG DEVCO) – cooperation in the field of EU-funded projects ‘Caribbean Forum of the African, Caribbean and Pacific Group of States intellectual property rights and innovation’.
- The committees on legal affairs and for agriculture and rural development of the European Parliament.

In addition, other fields of external activity can be mentioned, such as the following.

- The relevant standing committees of the European Commission.
- The Management Board of the Translation Centre for the Bodies of the EU.
- The coordination of the EU agencies at management level.
- The annual coordination meeting of the Publications Office of the EU with the EU agencies.
- The meetings of the DPOs of the EU agencies, as well as other working groups established under the umbrella of the coordination of EU agencies, such as the Inter-Agencies Legal Network, the Network of Agencies Procurement Officers, the Inter-Agency Appeal Proceedings Network, and the Head of Communication Inter-Agency Network (HCIN).
- Cooperation with the European Union Agency for Law Enforcement Training and the European Union Agency for Law Enforcement Cooperation to raise the awareness of the law enforcement agencies about the infringement of PVRs in the framework of the Virtual Training Centre for police and customs officials and the operation ‘Opson’ to fight against the counterfeiting of foodstuffs. This aims at enhancing cooperation between the law enforcement and regulatory authorities involved in the field of PVRs.

13.1.7. Non-governmental organisations

In addition to the cooperation as mentioned in the previous chapters, the CPVO has contact and communicates with various non-governmental organisations.

An annual bilateral meeting is organised with the International Association for Horticultural Production (AIPH). At the occasion of the 2020 meeting, the CPVO informed AIPH on the ongoing discussions in the CPVO AC and AIPH reported on their issues of relevance for the CPVO. The CPVO noted that topics of major concern for AIPH related to patents, essentially derived varieties, minimum distances of varieties, and activities of AIPH members in China.

Representatives from ECO-PB attend as observers the meetings of the CPVO crop sector expert groups for agricultural and vegetable crops as well as the annual meeting of the CPVO with its EOs.

Representatives of the International Federation of Organic Agriculture Movements (IFOAM) and the ECO-PB are also involved in the discussions on a future joint EU IT system for plant varieties.

13.1.8. Local partners

In 2020, the CPVO continued its engagement and collaboration with a series of local partners.

Among other, the CPVO participated in the 'Salon Sival' 2020 fair and exhibition in Angers in January 2020 where it delivered a presentation of the EU PVP system in French in the main forum area of the fair.

The CPVO also participated for the 19th consecutive year in 'Made in Angers' in February 2020. This festival, organised by the City of Angers, consist in "open doors" activities in which local companies and organisations welcome external visitors and explain their role and achievements.

Due to the COVID-19 pandemic outbreak in March 2020, most of the events and activities planned at local level in 2020 had to be postponed or cancelled. For instance, even though the CPVO continued to reinforce its collaboration with the communication department of the City of Angers and was planning to organise an event on Europe's day in May 2020, the activity was cancelled. The CPVO also planned to participate in the local fair and exhibition "Salon du vegetal" which was meant to take place in Angers in September 2020, but the event was cancelled.

Nevertheless, a series of online activities aimed at promoting the CPVO at local or French national level were organised.

The CPVO collaborated with Vegepolys Valley to organise two webinars in French: the application procedure for EU PVR and Essentially Derived Varieties in the EU. The CPVO also recorded and broadcast a short movie explaining the DUS examination at the GEVES testing station in Brion in summer 2020. Finally, the CPVO collaborated with La Maison de l'Europe Angers & Maine-et-Loire to record a radio interview presenting the activities of the CPVO to the local population. The interview was broadcast on Radio G!, a radio station based in Angers, in December 2020.



Orchid

13.2. Training and promotion of the Community plant variety rights system

13.2.1. CPVO international relations strategy

The present CPVO international relations strategy was adopted on 4 October 2017. The document contains a broad framework of initiatives aimed at strengthening the importance of PVR in providing food security, supporting economic development in the rural sector and facilitating technology transfer. Furthermore, the strategy underlines the CPVO contribution to the harmonisation of the PVR system at the international level. Moreover, it aligns the objectives of the CPVO with the communication from the European Commission to the European Parliament, the Council and the European Economic and Social Committee, 'Trade, growth and intellectual property – Strategy for the protection and enforcement of IPRs in third countries' (COM(2014) 389 final) (the EU strategy), which serves as a basis for debate on securing better IPR protection in foreign markets, in cooperation with non-EU countries (third countries). In the EU strategy the European Commission has aimed to set a revised strategy to promote IPRs and fight IPR infringements abroad, including in the field of PVR, and has acknowledged the importance of cooperation with the CPVO.

The Commission staff working document Report on the protection and enforcement of IPRs in third countries of 8 January 2020 (SWD (2019) 452 final/2) contained a dedicated Annex on the protection and enforcement of PVR.

The CPVO's objective is to contribute to the EU's policies in the field of IPRs, so that European breeders can count on tools and practices that facilitate their access to emerging markets through the exchange of knowledge, and to support EU users in registration and enforcement overseas, in cooperation with EU Member States. For EU breeders doing business outside the borders of the Union, being able to access and secure their IPRs is a key strategic advantage, particularly for SMEs. Funds for this work have been provided for in the OAPI project and the IP Key projects.

13.2.2. Participation in international fairs

The CPVO considers its participation in international fairs and open days at EOs to be a useful opportunity to promote the CPVR system, to have direct contact with applicants and to provide information to breeders. In 2020 the CPVO participated in the following fairs:

- 'Salon Sival' 2020, which took place in mid-January in Angers, France, is a fair mainly for growers of horticultural crops and vine; the CPVO participated together with GEVES.
- at the end of January 2020 the CPVO attended the International Trade Fair for Plants (IPM) in Essen, Germany. The stand was shared with experts from BSA, Naktuinbouw and GEVES. Even though the fair is open to the entire field of horticulture, the focus is on ornamentals.

13.2.3. Seminar on Farm Saved Seeds in Estonia

The CPVO organised in cooperation with the Estonian authorities a Seminar on Farm Saved Seeds in Tartu/Estonia, to enhance the farmers' understanding of the topic. Since the Seminar was organised in the beginning of 2020 it was a meeting in-person with more than 160 participants.

13.2.4. The African Intellectual Property Organisation roadmap

In 2014, OAPI became the second intergovernmental organisation and the 72nd member to join UPOV. OAPI adopted an ambitious 5-years roadmap, from 2015 to 2020, which they are eagerly pursuing. The CPVO, GEVES, the French Association for Seeds and Seedlings (GNIS), Naktuinbouw, and the United States Patent and Trademark Office are supportive of this initiative and are actively supporting its implementation.

OAPI operates a PVR system that covers the territory of its 17 Member States: Benin, Burkina Faso, Cameroon, Central African Republic, Chad, Comoros, Congo, Côte d'Ivoire, Equatorial Guinea, Gabon, Guinea, Guinea-Bissau, Mali, Mauritania, Niger, Senegal, and Togo.

Together with partners in Europe, OAPI engaged in 2016 with the European Commission to get funds for the implementation of the roadmap under the programme 'TradeCom II', the African, Caribbean and Pacific Group of States' trade capacity building programme. The European Commission signed an agreement with OAPI in mid-2019 followed by a formal opening procedure held on 23 September 2019. The project is limited to 2019-2021.

At the end of August 2019, the CPVO visited OAPI at its headquarters in Yaoundé, Cameroon, and analysed the method used to process applications. In September and October, the CPVO contributed to three seminars for approximately 20 participants in each of the following countries: Burkina Faso, Mali and Togo. The aim of these seminars was to raise awareness of the benefits of PVRs and to explain the conditions to fulfil to receive protections. Another focus of these seminars was strategies to commercialise protected varieties and to strengthen the link between the different stakeholders. In November 2019, two variety research stations in Senegal and in Cameroon were assessed by the QAS of the CPVO with the aim to provide recommendations to develop them into DUS examination centres. Finally, at the end of the year, five experts from OAPI visited the CPVO to familiarise themselves with the processing of applications. All activities were conducted in closed cooperation with the other project partners, UPOV, GEVES, Naktuinbouw and the French Association for Seeds and Seedlings.

13.2.5. IP Key China

Due to the COVID-19 pandemic the initially planned activities were transformed into online activities carried out by video-conference. The online technical training was based on presentations and video material compiled by EOs from CZ, DE, ES, FR, HU, NL, and

the CPVO over the course of the 2020 trial period. Experts from EOs made great efforts in producing training materials in a format that was used for the first time for online training, it proved to be successful and provided results above expectations. Fifteen horizontal and crop specific modules were presented and further discussed in panel sessions. More than 60 Chinese experts on DUS testing from the Chinese authorities MARA and NFGA participated in the sessions on different aspects of DUS testing. There were dedicated sessions on the testing of specific agricultural, fruit, vegetable, and ornamental species: wheat, pepper, perennial ryegrass, apple, maize, phalaenopsis, potato, and grapevine. The good organisation of the events by IP Key, the live translation services, and the acquired ease in using the video conferencing tools were instrumental in making the event a success. The participation from the Chinese plant variety authorities was much wider than an on-site training of Chinese experts in Europe would have been. Training materials produced will be available for further events. Ultimately this exercise can also be a blueprint for future trainings that may complement on-site trainings and demonstrated ways of knowledge sharing that all the organisations involved will integrate in their toolbox.

The online PVR enforcement seminar was organised by the CPVO involving European experts representing all stakeholders on the subject; UPOV, CPVO, EU Customs, National Authorities, breeders, farmers and producers organisations, anti-infringement organisations, and DNA laboratories. In addition, 6 presentations were given by Chinese experts from government, legal side, breeders, and DNA laboratories. Again, the technical challenges were fully mastered and the seminar content was shared, discussed and further followed up by collecting and addressing the questions raised in writing. The seminar provided all stakeholders with a platform to discuss PVR enforcement in China and in the EU, and to share views on developments in PVR legislation and enforcement practice, as well as on practical tools for overcoming infringement.

13.2.6. IP Key Latin America (LA)

In 2020, the CPVO, together with GEVES, SENADI, and UPOV contributed to the organisation of three events in Quito, Ecuador. The focus of all events was regional cooperation and PVP awareness.

The first event was a workshop for the development of an online course to foster licensing practices as a tool to improve partnerships among public research institutes and SMEs. The second event was a regional seminar on the enforcement of PVRs, targeting public authorities, the private sector, and academia. The CPVO, UPOV and the participating countries (Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, Mexico, Paraguay, Peru, and Uruguay) shared their experiences. The third event was a workshop organised in cooperation with GEVES for technical experts from Latin America on the use of the GAIA software, which is expected to improve PVP authorities' DUS testing procedures.

Moreover, the CPVO participated in a training on PVRs for trade negotiators of the EU Delegations in Latin America.

On 26 and 27 November 2020, an online regional workshop was organised with the aim of training PVR authorities in Latin America on measures to guarantee independence in the conduct of DUS testing. This event was organised in collaboration with UPOV, and the Spanish PBR authority (OEVV).

This workshop included presentations delivered by representatives from the CPVO, UPOV, and OEVV, as well as from participating countries, who also exchanged best practices, and identified specific needs.

Moreover, in 2020, the CPVO supported the creation of an online course on licensing practices addressed to public research institutes and universities to foster public-private partnerships.

13.2.7. IP Key South-East Asia (SEA)

In the framework of the IP Key SEA project, during 2020, a webinar series were held on the 12, 13, and 23 November 2020. On November 12 and 13 presentations were followed by a question-and-answer session, while on 23 November 2020, a panel discussion with all the speakers closed the series.

The webinars offered the opportunity to present and discuss selected topics of interest on PVP and UPOV 1991 Membership, from the Food Security and Economic Development angles, in the context of climate change. The webinars also brought in the perspectives of farmers and plant breeders from the EU and the selected countries from the SEA region.

13.2.8. Universities

In 2020, the CPVO continued its collaboration with universities with the aim of spreading awareness on the PVP system in the academic community. The CPVO continued its collaboration with the Universities of Alicante (Magister Lvcentinvs), and Maastricht University. Several successful internships at the CPVO were granted to former students of these universities' Masters in IP Law.

In particular, the CPVO supports the Magister Lvcentinvs, the master in IP of the University of Alicante that continues implementing a special intensive course dedicated to PVRs.

The CPVO has also provided lectures at local universities, including the Ecole Supérieure d'Agriculture (ESA), and the ESSCA School of management of Angers (France).

Finally, the year 2020 saw a broadening of the number of collaborations with universities, which now also includes the University of Stockholm.

14. PUBLIC ACCESS TO DOCUMENTS

In 2001 specific rules on public access to documents held by the Parliament, the Council, and the European Commission were introduced by the adoption of 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. In order for these rules to also apply to documents held by the CPVO, a new article, Article 33(a), was introduced into the BR in 2003 by the adoption of Council Regulation (EC) No 1650/2003 of 18 June 2003 amending Regulation (EC) No 2100/94 on CPVR.

Article 33(a) contains the following elements.

- Regulation (EC) No 1049/2001 shall also apply to documents held by the CPVO, and by its Board of Appeal. This provision entered into force on 1 October 2003.
- The AC shall adopt practical arrangements for implementing Regulation (EC) No 1049/2001. The AC adopted such practical arrangements on 25 March 2004. These rules entered into force on 1 April 2004.
- Decisions taken by the CPVO or its Board of Appeal 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 adopted by the AC (modified during the October 2014 meeting of the AC to reflect the new work organisation within the Legal Unit of the CPVO, and modified during the September 2019 meeting of the AC to reflect the new work organisation within the Board of Appeal of the CPVO, and its registry) are available on the website of the CPVO. Information on these rules and the forms to use when requesting access to a document are also published on the website of the CPVO.

The CPVO monitors 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 CPVO, and its Board of Appeal refused to grant access to documents, and the reasons for such refusals. In the event of a total or partial refusal to a public access request by the CPVO or its Board of Appeal, the applicant has the right to make a confirmatory application asking the president of the CPVO or the chair of the Board of Appeal to reconsider its position.

Figure 15
Evolution of annual number of public access requests received by the CPVO and its Board of Appeal registry over the last 10 years.

■ Number of files concerned
— Number of requests

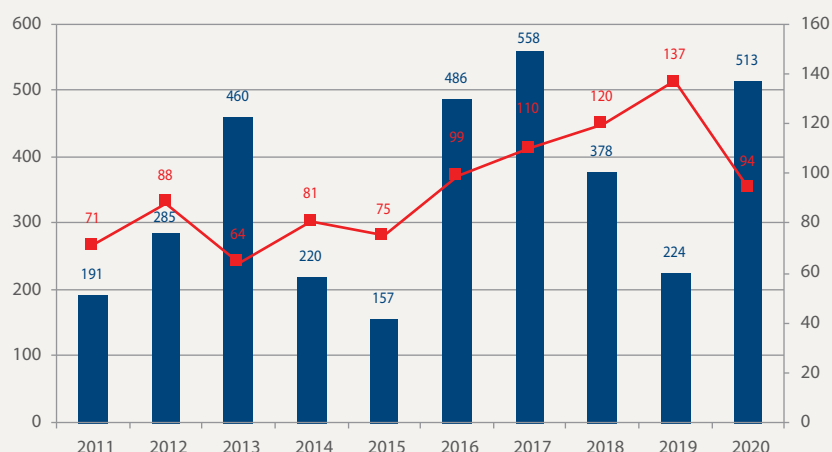


Table 26: Number of public access requests

Year of receipt	Number of requests for access received	Number of partial refusals	Reasons for such refusals	Confirmatory applications
2004	30	6	Confidential technical questionnaire not sent	
2005	55	2	Confidential technical questionnaire not sent	
2006	58	6	Confidential technical questionnaire not sent	
2007	55	17	Confidential technical questionnaire not sent/ information of commercial interest not sent	2 (successful)
2008	57	19	Confidential technical questionnaire/ photo/ assignment not sent	1 (unsuccessful)
2009	54	28	Confidential technical questionnaire not sent/ information of commercial interest not sent/ photos not available	2 (successful)
2010	63	29	Confidential technical questionnaire not sent/ information of commercial interest not sent	1 (unsuccessful)
2011	71	27	Confidential technical questionnaire not sent/ information of commercial interest not sent	2 (1 unsuccessful and 1 successful)
2012	88	57	Confidential technical questionnaire not sent/ information of commercial interest not sent	8 (3 unsuccessful and 5 successful)
2013	63	18	Confidential technical questionnaire not sent/ information of commercial interest not sent	1 (unsuccessful)
2014	81	27	Confidential technical questionnaire not sent/ information of commercial interest not sent	4 (1 unsuccessful and 3 successful)
2015	75	17	Confidential technical questionnaire not sent	3 (2 unsuccessful and 1 successful)
2016	99	26	Confidential technical questionnaire not sent	4 (successful)
2017	110	45	Confidential technical questionnaire not sent	2 (1 unsuccessful and 1 successful)
2018	120	35	Confidential technical questionnaire not sent	2 (1 unsuccessful and 1 successful)
2019	137	39	Confidential technical questionnaire not sent	4 (3 unsuccessful and 1 successful)
2020	94	38	Confidential technical questionnaire not sent	3 (3 successful)

15. REPORT OF THE DATA PROTECTION OFFICER

15.1. Legal background

As Agency of the EU, the CPVO must comply with the obligations stemming from Regulation (EU) No 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the EU institutions, bodies, offices and agencies, and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC.

15.2. Role and tasks of the data protection officer

Regulation (EC) No 2018/1725 requires the nomination of at least one DPO in the EU institutions and bodies. The DPO should ensure, in an independent manner, the internal application of the provisions in the regulation and that the rights and freedoms of the data subjects are unlikely to be adversely affected by the processing operations.

In March 2018, an addendum to the Memorandum of Understanding between the CPVO and the EUIPO was signed to outsource the tasks of the DPO to the EUIPO, and Ms Mariya Koleva was nominated as DPO.

As of 1 April 2020, the DPO of the CPVO (and the EUIPO) is Ms Gloria Folguera Ventura.

In a nutshell, the responsibilities and actions of the DPO are aiming at:

- ensuring and demonstrating legal compliance with the applicable EU data protection legislation;
- guaranteeing a high level of transparency and accountability of the CPVO policies, procedures and practices, as well as of security for the data subjects (including both CPVO staff members and external users) in the exercise and enforcement of their rights;
- raising awareness of the applicable data protection legislation and its application within the remit of the CPVO functions, as reflected in the CPVO policies and procedures implementing data protection provisions.

15.3. Report of the data protection officer for 2020

15.3.1. Consultation and review of data processing operations

The main duty of the DPO consists in responding to consultations relating to privacy and data protection matters and reviewing the documentation of the new or updated personal data processing operations.

Throughout the course of 2020, the DPO has assisted the CPVO Data Protection Coordinator and the CPVO Data Controllers in updating existing contracts as well as internal policies and procedures in accordance with Regulation (EU) No 2018/1725.

Further, some records and privacy statements concerning personal data processing operations of the CPVO were updated and new ones created. For instance, a record and corresponding privacy statement were created to reflect the treatment of personal data within the framework of COVID-19 contact-tracing of CPVO personal staff members and external contractors, where this operation was necessary to ensure the safety of all CPVO staff members.

15.3.2. Ensuring and demonstrating compliance

Investigating and responding to complaints filed before the DPO, either internally (by staff members) or externally (by CPVO users), also falls within the remit of the DPO. In 2020 no complaints from employees or external users were received by the DPO. Likewise, no complaints were filed with the European Data Protection Supervisor (EDPS), which is a good indicator that the CPVO is compliant with the data protection rules.

15.3.3. Implementation of Microsoft Office 365

The DPO continued assisting the CPVO with the Microsoft contract for the full implementation of Microsoft Office 365 Desktop, and Online Application services at the CPVO. The CPVO is already using Microsoft services, in particular, Office 2016 as well as Microsoft Teams (MS Teams) as part of the Office 365 suite. Due to the outbreak of the COVID-19 pandemic and the consequent implementation of full telework at the CPVO, the use of Microsoft Teams has been enhanced. Accordingly, all records and privacy statements concerning operations of the CPVO where Microsoft Teams is used have been reviewed and internally validated.

In order to fully implement Microsoft Office 365, the CPVO carried out an assessment of the impact of the envisaged Microsoft Office 365 processing operations on the protection of personal data, which concluded with a positive decision on signing the agreement with Microsoft on Office 365 Desktop and Online Application services. A pilot phase for the implementation of Office 365 was put in place, with a view to better assess in practice both the functional and security aspects of the software.

15.3.4. Transfer of personal data to United Kingdom plant variety authorities

In conformity with the agreement on the Withdrawal of the United Kingdom (UK) from the EU ("Withdrawal Agreement"), CPVRs in force on 31 December 2020 maintain their protection throughout the territory of the United Kingdom. To this end, the CPVO had to transfer publicly available data on the titles in force to the UK authorities, including the full name and contact details (e-mail address) of titleholders of CPVRs in force as well as

of the procedural representatives thereof, as recorded in the CPVO contacts database. To conduct said transfer of data to the UK PBR authorities, the CPVO sent a request for consent (to the transfer) to all the data subjects concerned, allowing for the transfer to take place.

15.3.5. Order of the European Data Protection Supervisor on international transfers of personal data

Following the issuance of ruling of 16 July 2020 *Schrems II* (C-311/18) of the Court of Justice of the European Union (CJEU), the EDPS sent on 2 October and 6 November 2020 letters to all Heads of the EU Institutions, Offices, Bodies and Agencies (EUIs), including the CPVO, containing an Order requiring these to provide information relating to international data transfers. This order is based on Articles 57(1)(a) and (f), and 58(1)(a) of the Regulation (EU) No 2018/1725 concerning respectively the duty of the EDPS to monitor and ensure the application of the regulation with regard to the processing of personal data by all EUIs, and the duty of the latter to provide relevant information to the EDPS.

In particular, the CPVO was required to carry out a mapping exercise of all international data transfers, based on the relevant information contained in the Records of processing activities regarding on-going contracts, procurement procedures, and other types of cooperation contexts in which personal data are transferred.

Based on the outcome of the cited mapping exercise, the CPVO reported to the EDPS on 30 November 2020 on two main categories of international data transfers, namely: transfers to private entities in third countries and not based on any transfer tool (e.g.: transfers between the EUI's processor and a sub-processor that are not framed by any standard or ad hoc contractual clauses), and high-risk transfers to the United States.

15.3.6. Data breaches

Three data breaches took place at the CPVO in 2020, one of which was notified to the EDPS. With the assistance of the DPO, reports on these data breaches were prepared and recorded in the CPVO 'breach register', and mitigating and preventive measures were also adopted.

15.3.7. Training to CPVO staff members

In July 2020, the DPO provided a training by video-conference to CPVO staff members on personal data breaches, to familiarise staff members on this matter and provide them with tools to know how to act when a data breach takes place. The training included the presentation of the following elements: the key concepts relating to a personal data breach, the applicable legislative provisions, the procedure and its different steps of such and practical scenarios and cases.

16. APPEAL PROCEDURES

16.1. Composition of the Board of Appeal of the CPVO

The Board of Appeal of the CPVO is composed of a chair, an alternate chair, and qualified members.

16.1.1. Chair and Alternate of the Board of Appeal

Paul van der Kooij was appointed as Chair of the Board of Appeal for a term of 5 years by a Council decision of 19 February 2018 (OJ C 65, 21.2.2018, p. 4). His past term ran from 18 December 2012 until 18 December 2017. His new term runs from 19 February 2018 until 18 February 2023. The position of his alternate, Sari Haukka, was renewed for a second term of 5 years by a Council decision of 16 June 2016 (OJ C 223, 21.6.2016, p. 5). Her term runs from 15 October 2016 to 14 October 2021.

16.1.2. Qualified Members of the Board of Appeal

The AC of the CPVO at its meeting of 30 September 2020 adopted, in accordance with Article 47(2) of the BR, the following list of 20 qualified members of the Board of Appeal for a period of 5 years, from 23 February 2021 to 22 February 2026.

Table 27: List of qualified members (from 23.2.2021 to 22.2.2026 included)

1. Richard Brand	11. Axel Metzger
2. Adrián Crespo	12. Cinzia Negro
3. Paul de Heij	13. André Pohlmann
4. Ellen De Keyser	14. Dirk Reheul
5. Willy Dillen	15. Kurt Riechenberg
6. Huib Ghijsen	16. Beate Rücker
7. Ofelia Kirkorian-Tsonkova	17. Ivana Rukavina
8. Hidde Koenraad	18. Zsolt Szani
9. Stefan Martin	19. Nuria Urquía Fernández
10. Virginia Melgar	20. Kees van Ettehoven

16.2. Decisions of the Board of Appeal in 2020

Case A004/2016 - ‘Gala Perathoner’ - *Malus domestica* Borkh. Contested decision: CPVO Refusal Decision R 1415 – for lack of distinctness. The Appellant in the grounds of appeal alleged that Angers (Beaucouzé) as a testing site was unsuitable, that the DUS examination was flawed in several ways. On 17 January 2020, the Board of Appeal composed of the Chair: Paul van der Kooij, the Rapporteur: Dirk Reheul, and the third Member: Kurt Riechenberg did not find decisive arguments for repealing the refusal decision of the CPVO given that the technical examination had been conducted pursuant to the TP, as a result all arguments were rejected in their entirety. The Appellant had to bear the costs of the appeal proceedings.

Case A008/2018 – ‘Stark Gugger’ - *Malus domestica* Borkh. Contested decision: CPVO Refusal R 1592 – for lack of distinctness. The Appellant in the grounds of appeal alleged that the technical examination was flawed, that a continental testing site would have been more appropriate than a maritime testing site, that the CPVO should have reordered DUS testing on such a continental testing site. On 24 January 2020, the Board of Appeal composed of the Chair: Paul van der Kooij, the Rapporteur: Huib Ghijsen, and the third Member: François Lallouet, did not find decisive arguments for repealing the refusal decision of the CPVO given that the technical decision had been conducted pursuant to the TP, the Appellant had not asked for the testing on a continental testing site in due time, and it also reminded of the pedigree elements of the compared varieties (two mutant varieties derived from the same mutant variety, as a consequence genetic differences between the varieties were very small). The Appellant had to bear the costs of the appeal proceedings.

Summaries and complete decisions are available in the CPVO PVR case-law database, on the CPVO website.

16.3. Further actions to the Court of Justice in 2020

In accordance with Article 73 of the BR, a further action to the Court of Justice can be brought against decisions of the Board of Appeal.

16.3.1. New further actions in 2020

Case T-278/19 – ‘M 02205’ - *Beta vulgaris* L. ssp. *vulgaris* var. *saccharifera* Alef. (syn. *Beta vulgaris* L. ssp. *vulgaris* var. *altissima* Döll). Contested decision: A010/2013 – RENV. On 13 March 2020, the General Court ordered the remittal of the case to the competent body of the CPVO for further action, pursuant to Article 72 of Regulation (EC) No 2100/94. The General Court added that there was no interest in bringing proceedings, it had not the power to alter decisions, and the action was in part manifestly inadmissible and in part manifestly lacking any foundation in law. The parties had to bear their own costs.

16.3.2. Ruling of the Court of Justice in 2020

Case C-886/19 P – ‘Cripps Pink’- *Malus domestica* Borkh..Contested decision: T-112/18. On 3 March 2020, the Court (the Chamber applying the prior admissibility assessment to determine whether appeals may proceed pursuant to Article 58(a) of the Statute of the Court of Justice of the European Union) refused to allow the appeal to proceed, as pursuant to Article 170b of the Rules of Procedure of the Court of Justice, the request failed to demonstrate that it was an issue significant with respect to the unity, consistency or development of Union law. By its appeal, the Appellant had asked the Court of Justice to set aside the judgment of the General Court of 24 September 2019 T-112/18 by which the General Court dismissed its action for annulment of the decision of the Board of Appeal of the CPVO of 14 September 2017 (Case A 007/2016), relating to nullity proceedings. The Appellant had to bear its own costs.

16.3.3. State of affairs of the further actions lodged with the Court of Justice

Table 28

Case No before the General Court	Contested decision	Variety denomination	Date of General Court ruling	Date of further appeal to the Court of Justice	Case No before the Court of Justice	Date of Court of Justice ruling
T-95/06	A001/2005	Nadorcott	31.1.2008	n/a	n/a	n/a
T-187/06	A003/2004	Sumcol 01	19.11.2008	29.1.2009	C-38/09 P	15.4.2010
T-187/06 DEP I	Non-payment of recoverable costs of the proceedings T-187/06	Sumcol 01	16.9.2013	n/a	n/a	n/a
n/a	n/a	Sumcol 01	N/A	7.2.2013	C-38/09 P-DEP	10.10.2013
T-133/08	A007/2007	Lemon Symphony	18.9.2012	28.11.2012	C-546/12 P	21.5.2015
T-134/08	A006/2007	Lemon Symphony	18.9.2012	28.11.2012	C-546/12 P	21.5.2015
T-135/08	A003/2007 and A004/2007	Gala Schnitzer	13.9.2010	15.11.2010	C-534/10 P	19.12.2012
T-177/08	A005/2007	Sumost 01	18.9.2012	28.11.2012	C-546/12 P	21.5.2015
T-242/09	A010/2007	Lemon Symphony	18.9.2012	28.11.2012	C-546/12 P	21.5.2015
T-367/11	A007/2010	Southern Splendour	21.10.2013	n/a	n/a	n/a
T-91/14	A004/2007	Gala Schnitzer	10.9.2015	23.11.2015	C-625/15 P	8.6.2017
T-92/14	A003/2007	Gala Schnitzer	10.9.2015	23.11.2015	C-625/15 P	8.6.2017
T-767/14	A007/2013	Oksana	13.7.2017	n/a	n/a	n/a
T-140/15	A010/2013	M02205	23.11.2017	n/a	n/a	n/a
T-425/15	A003/2010	Seimora	4.5.2017	n/a	n/a	n/a
T-426/15	A002/2014	Seimora	4.5.2017	n/a	n/a	n/a
T-428/15	A007/2009	Sumost 02	4.5.2017	n/a	n/a	n/a
T-177/16	A001/2015	Braeburn 78	5.2.2019	n/a	n/a	n/a
T-445/16	A005/2014	Gala Schnico	23.2.2018	7.5.2018	C-308/18 P	8.11.2018
T-405/16	A006/2014	Tang Gold	<i>Withdrawn</i>	n/a	n/a	n/a
T-765/17	A005/2016	Pinova	11.4.2019	11.6.2019	C-444/19 P	16.9.2019
T-112/18	A007/2016	Cripps Pink	24.9.2019	3.12.2019	C-886/19 P	3.3.2020
T-737/18	A009/2017	Siberia	25.6.2020	n/a	n/a	n/a
T-278/19	A010/2013-RENV	M 02205	13.3.2020	n/a	n/a	n/a
T-181/20	A008/2018	Stark Gugger	<i>Pending</i>			
T-182/20	A004/2016	Gala Perathoner	<i>Pending</i>			

16.4. Appeals received by the CPVO and decisions reached by the Board of Appeal since its inception (statistics)

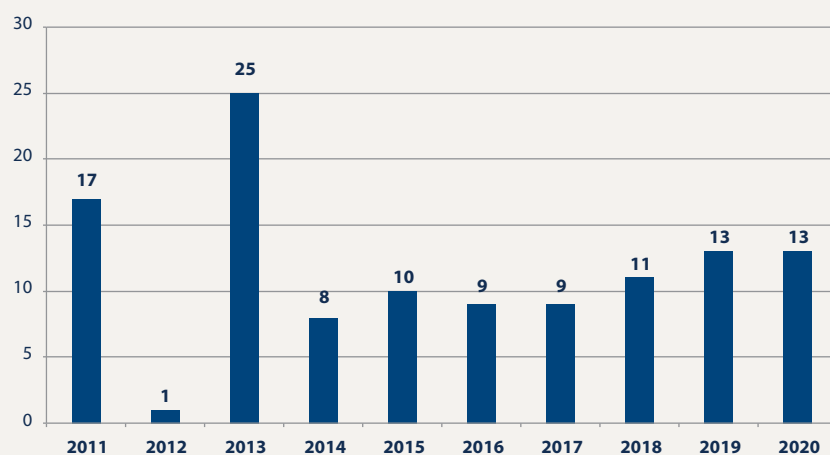
16.4.1. Number of notices of appeal lodged with the Board of Appeal

246 notices of appeal were lodged with the CPVO since its inception.

The annual number of appeals received in the last 10 years is shown in Figure 16.

Figure 16

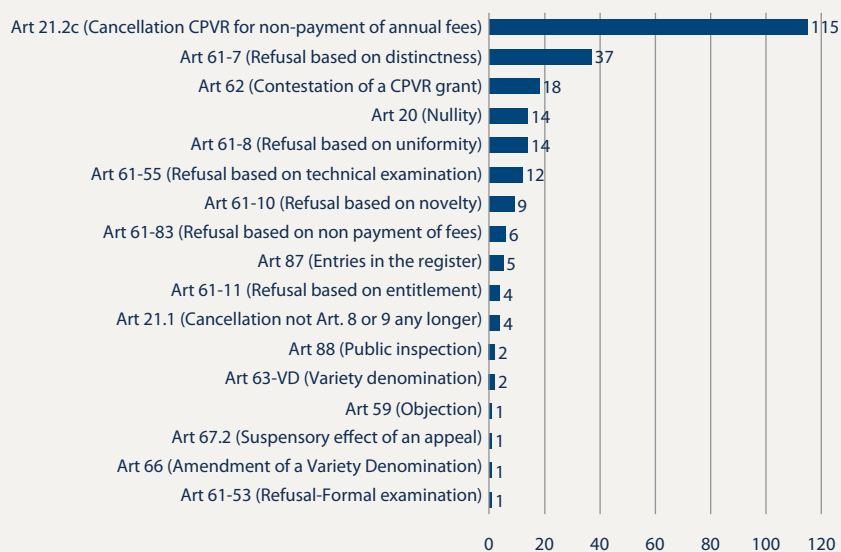
Number of appeal cases lodged per year with the CPVO between 2011 and 2020



16.4.2. Legal basis of the appeals lodged since 1996 (with reference to the BR) and number of cases

Figure 17

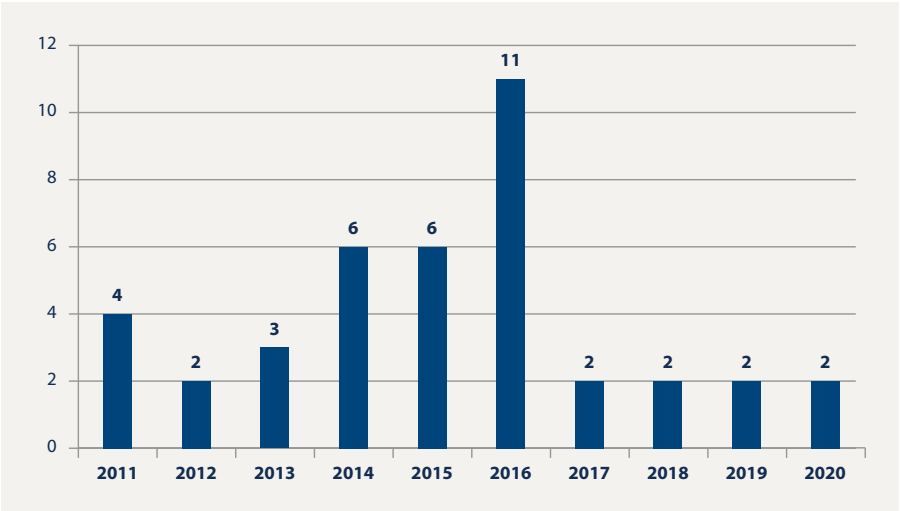
Legal basis of the appeals lodged with the CPVO since 1996 and number of cases



16.4.3. Decisions of the Board of Appeal per year

A total of 89 decisions were taken by the Board of Appeal of the CPVO between 1996 and 2020. The annual number of decisions taken in the last 10 years is shown in Figure 18.

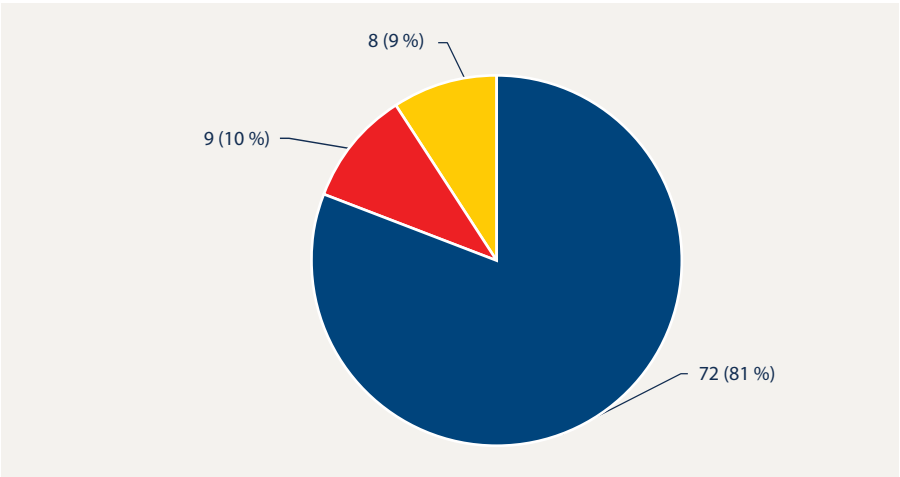
Figure 18
Number of decisions reached by the Board of Appeal per year over the last 10 years



16.4.4. Outcome of the 89 decisions of the Board of Appeal (1996-2020)

Figure 19
Outcome shares of all decisions of the Board of Appeal (1996-2020)

- Appeals dismissed
- Appeals partially upheld
- Appeals upheld



References of decisions taken by the Board of Appeal are given in table 29.

Table 29

Year	Appeal case number and Board of Appeal decision date
1999	A002/1998 of 14.9.1999
2000	A001/1999 of 25.1.2000 A002/1999 of 19.5.2000
2001	A002/2000 of 27.3.2001 A004/2000 of 6.12.2001
2002	A005/2000 of 28.5.2002
2003	A005/2002 of 2.4.2003 A001/2002, A002/2002 and A003/2002 of 1.4.2003 A018/2002 of 14.5.2003 A008/2002, A009/2002, A010/2002, A011/2002, A012/2002 and A013/2002 of 15.5.2003 A017/2002 of 3.4.2003 A023/2002 of 8.10.2003 A031/2002 of 8.12.2003 A021/2002 of 9.12.2003
2004	A003/2003 and A004/2003 of 4.6.2004 A005/2003 and A006/2003 of 28.9.2004 A001/2004 of 16.12.2004
2005	A006/2004 of 15.6.2005 A005/2004 of 16.6.2005 A004/2004 of 18.7.2005 A001/2005 of 8.11.2005
2006	A003/2004 of 2.5.2006 A004/2005 of 13.10.2006 A007/2005 of 7.7.2006
2007	A001/2007 of 11.9.2007 A003/2007 and A004/2007 of 21.11.2007 A005/2007, A006/2007 and A007/2007 of 4.12.2007
2008	A011/2007 of 9.9.2008 A009/2008 of 2.12.2008 A001/2008 and A002/2008 of 4.12.2008
2009	A010/2007 of 23.1.2009 A004/2008 and A005/2008 of 21.4.2009 A010/2008 and A011/2008 of 8.10.2009
2010	A018/2008 of 15.3.2010
2011	A001/2010, A005/2010, A006/2010 and A007/2010 of 18.2.2011
2012	A009/2011 of 17.1.2012 A001/2012 of 10.10.2012
2013	A003/2007 and A004/2007 of 20.9.2013 (second decisions for the same cases further to remittal from the Court of Justice) A007/2011 of 23.4.2013

Year	Appeal case number and Board of Appeal decision date
2014	A006/2013 of 13.1.2014 A004/2013 of 4.4.2014 A008/2013 of 1.7.2014 A007/2013 of 2.7.2014 A016/2013 of 11.9.2014 A010/2013 of 26.11.2014
2015	A007/2009 of 24.2.2015 A002/2010 of 24.2.2015 A003/2010 of 24.2.2015 A002/2014 of 24.2.2015 A001/2015 of 15.12.2015 A002/2015 of 15.12.2015
2016	A001/2014 of 3.3.2016 A003/2014 of 3.3.2016 A005/2014 of 22.4.2016 A006/2014 of 29.4.2016 A007/2014 of 29.4.2016 A008/2014 of 29.4.2016 A006/2015 of 15.8.2016 A009/2015 of 22.8.2016 A005/2007-RENV of 2.9.2016 A006/2007-RENV of 2.9.2016 A007/2007-RENV of 2.9.2016
2017	A005/2016 of 16.8.2017 A007/2016 of 14.9.2017
2018	A001/2017 of 13.3.2018 A009/2017 of 15.10.2018
2019	A010/2013-RENV of 27.2.2019 A007/2018 of 17.5.2019
2020	A004/2016 of 17.1.2020 A008/2018 of 24.1.2020

The detailed decisions of the Board of Appeal are available in the CPVO case-law database, on the CPVO website.

17. CONFLICTS OF INTEREST

In 2020 the CPVO continued its participation in the activities of the interagency task force on conflicts of interest organised by DG Health and Food Safety, with the aim of implementing the December 2013 European Commission 'Guidelines on the prevention and management of conflicts of interest in EU decentralised agencies' (for members of the management board, executive directors and experts on scientific committees or other similar bodies and members of boards of appeal).

Apart from the decision-making process relating to the core business of the CPVO, there are other decisions and procedures in the CPVO in which impartiality and objectivity are very important, such as employment procedures, public procurement and providing funds for R & D projects. Regarding employment procedures in particular, the CPVO staff members are subject to the staff regulations, which contain several provisions addressing situations of conflicts of interest. Nevertheless, over the years, procedures, provisions in agreements and declarations of absence of conflicts of interest have been introduced to remind the persons concerned about the importance of acting independently, with transparency, and with integrity.

Having taken the European Commission guidelines into consideration, the AC adopted during its meeting in October 2015 a CPVO policy on prevention and management of conflict of interest. The policy was amended in 2017 and the proposed changes were approved by the AC at its first annual meeting of March 2018.

MAIN ACRONYMS, INITIALISMS, AND ABBREVIATIONS

Acronym/Initialism/Abbreviation	
A	
AC	Administrative Council of the CPVO
AGES	Österreichische Agentur für Gesundheit und Ernährungssicherheit / Austrian Agency for Health and Food Safety (Austria)
B	
BR	Basic regulation: Council Regulation (EC) No 2100/94 of 27 July 1994 on Community plant variety rights
BSA	Bundessortenamt / Federal Plant Variety Office (Germany)
C	
Ciopora	International Community of Breeders of Asexually Reproduced Ornamental and Fruit Varieties
Coboru	Centralny Ośrodek Badania Odmian Roślin Uprawnych/ Research Centre for Cultivar Testing (Poland)
CPVO	Community Plant Variety Office
CPVR(s)	Community plant variety right(s)
CREA	Consiglio per la ricerca in agricoltura e l'analisi dell'economia agraria / Council for Agricultural Research and Agricultural Economics Analysis (Italy)
CREA-DC	Consiglio per la ricerca in agricoltura e l'analisi dell'economia agraria / Council for Agricultural Research and Agricultural Economics Analysis – Research Centre for Plant Protection and Certification (Italy)
CREA-OFA ROMA	Centro di ricerca per la Olivicoltura, Frutticoltura e Agrumicoltura / Olive, Citrus and Tree Fruit Research Centre Italy
CREA-SCS	Consiglio per la ricerca in agricoltura e l'analisi dell'economia agraria (Italy)
CREA-VE	Centro di ricerca per la viticoltura ed enologia/Viticulture and Enology Research Centre Italy
D	
DGAV	Direcção-Geral de Alimentação e Veterinária/Portuguese National Authority for Animal Health
DNA	deoxyribonucleic acid
DPO	data protection officer
DURDUS	CPVO co-financed project on the use of molecular data for DUS in durum wheat
DUS	distinctness, uniformity and stability
E	
ECO-PB	European Consortium for Organic Plant Breeding
EDPS	European Data Protection Supervisor
EO	examination office(s)
EPO	European patent office
ER	entrustment requirements
EU	European Union

EUI(s)	European Union Institutions(s)
EUIPO	European Union Intellectual Property Office (until 22.3.2016: Office for Harmonization in the Internal Market (Trade Marks and Designs))
Euroseeds	European seed association. Trade association for the seed industry in the European Union and the European Economic Area.
G	
GAIA	GEVES software used for the calculation of phenotypic distances between varieties
GEVES	GEVES French Variety and Seed Study and Control Group (France)
I	
ImodduS	CPVO workgroup on Integration of Molecular Data into DUS testing
InnoVar	H2020 project 'Next generation variety testing for improved cropping on European farmland'
INIA	Instituto Nacional de Investigación y Tecnología Agraria y Alimentaria/National Institute for Agricultural and Food Research and Technology (Spain)
Invite	H2020 project 'INnovations in plant Variety Testing in Europe'
IP	intellectual property
IP Key	IP Key is a series of EU projects managed by the European Commission and implemented by the EUIPO to promote and support IP protection and enforcement in various regions of the world.
IPR(s)	intellectual property right(s)
IT	information technology
L	
Liveseed	H2020 project 'Boosting organic seed and plant breeding'
N	
n/a	not applicable
NAKT	Naktuinbouw (Dutch Inspection Service for Horticulture)
NÉBIH	Nemzeti Élelmiszerlánc-biztonsági Hivatal/National Food Chain Safety Office (Hungary)
NIAB	National Institute of Agricultural Botany (United Kingdom)
O	
OAPI	Organisation Africaine de Protection Intellectuelle / African Intellectual Property Organisation
OECD	Organisation for Economic Cooperation and Development
OEVV	Oficina Española de Variedades Vegetales / Spanish Plant Variety Office (Spain)
OJ	Official Journal of the European Union

P	
PBR	plant breeders' right(s)
Plantum	Branchevereniging voor de sector zaden en jonge planten / Dutch Association for the Plant Reproduction Material Sector
PRO	post-registration officePost-Registration Office(s)
PVP	plant variety protection(s)
PVR	plant variety right(s)
Q	
QAS	quality audit service
R	
R & D	research and development
S	
SDG	FAO sustainable development goals
SEA	South-East Asia
SME(s)	small and medium-sized enterprise(s)
SNP	single-nucleotide polymorphism
T	
TLO(s)	technical liaison officer(s)
TP(s)	technical protocol(s)
U	
UKSUP	Ústredný kontrolný a skúšobný ústav poľnohospodársky / Central Controlling and Testing Institute in Agriculture (Slovakia)
ÚKZÚZ	Ústředního kontrolního a zkušebního ústavu zemědělský / Central Institute for Supervising and Testing in Agriculture (Czechia)
UPOV	International Union for the Protection of New Varieties of Plants
W	
WP	work package



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 Community Plant Variety Office

Служба на Общността за сортовете растения

Oficina Comunitaria de Variedades Vegetales

Odrůdový úřad Společenství

EF-Sortsmyndigheden

Gemeinschaftliches Sortenamt

Ühenduse Sordiamet

Κοινοτικό Γραφείο Φυτικών Ποικιλιών

Community Plant Variety Office

Office communautaire des variétés végétales

Ured Zajednice za zaštitu biljnih sorti

Ufficio comunitario delle varietà vegetali

Kopienas Augu šķirņu birojs

Bendrijos augalų veislių tarnyba

Közösségi Növényfajtá-hivatal

L-Uffiċju Komunitarju dwar il-Varjetajiet tal-Pjanti

Communautair Bureau voor plantenrassen

Wspólnotowy Urząd Ochrony Odmian

Instituto Comunitário das Variedades Vegetais

Oficiul Comunitar pentru Soiuri de Plante

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