

New leaflet: Protecting New Plant Varieties in Europe 1995-2020

The Community Plant Variety Office (CPVO) celebrates its 25th anniversary in 2020! The Community Plant Variety Rights (CPVR) system, based on the 1991 Act of the UPOV Convention, is the largest and most efficient regional system for plant variety rights' protection in the world. Over the past 25 years, the CPVO processed nearly 70 000 applications and granted over 53 000 plant variety right's titles. Today, almost 30 000 new plant varieties are being protected in the European Union by the CPVO.

At the occasion of CPVO's 25th anniversary, we have compiled key information about the the CPVR system and, in particular, relevant explanations detailing:

- Why Intellectual Property rights for the protection of new plant varieties is relevant to address today's global demands and challenges
- What are the benefits of the CPVR system managed by the CPVO
- How to file applications for Community Plant Variety Rights (CPVR)
- How are applications processed by the CPVO
- What are the key statistics for the period 1995-2020, including the top species that have been granted CPVR protection over the past 25 years

You can download below a full PDF copy of the new CPVO leaflet: Protecting New Plant Varieties in Europe since 1995.

What is a Community Plant Variety Right ?

Protecting a new plant variety entails granting exclusive rights for the exploitation of the variety. The protection system is technically and legally complex, but the application procedure is simple.

What is protectable as a CPVR?

A CPVR is an IP right that grants an exclusive right in relation to a plant variety, provided that the latter complies with the legal requirements for protection provided by Council Regulation 2100/1994 (the "Basic Regulation"). A protectable plant variety must be distinct, uniform and stable (DUS requirements), as well as new. Furthermore, it should be identified with a suitable denomination and the registration fees must be paid.

CPVRs grant their owners a right to prevent third parties from the following acts in respect of variety constituents (propagating material):

- Production or reproduction (multiplication);
- Conditioning for the purpose of propagation;
- Offering for sale;
- Selling or other marketing;
- Exporting from the EU;
- Importing to the EU;
- Stocking for any of the purposes mentioned.

When should I file a CPVR application?

The application must be filed before the variety is put on the market or within the novelty grace periods indicated by the law. Indeed, a CPVR can be granted if the variety is novel, meaning that variety constituents or harvested material of the applied-for variety were not physically transferred for the purpose of commercial exploitation with the breeder's consent.

- *Within the EU for more than one year before the date of application;*
- *Outside the EU for more than four (4) years or, in the case of trees and vines six (6) years, prior to the date of application.*

The person who first files a valid application for a given CPVR can become the right holder (first-to-file principle). It is also possible to maintain the date of a national PVR application, provided that the application at EU level is done within 12 months from the date of first filing in relation to the same variety.

Who can file a CPVR application?

A CPVR application may be filed by any natural or legal person. For applicants not having a domicile, seat or establishment within the territory of the EU it is mandatory to appoint a procedural representative domiciled in the EU to file the CPVR application. The applicant should be the breeder, i.e. the person who bred, or discovered and developed the variety, or his successor in title. The breeder can transfer the entitlement to apply for and to hold CPVRs in the name of the applicant. If the breeder is not the applicant, a deed of assignment must be provided.

Where and how do I file an application for a CPVR?

Applications can be filed online on the CPVO website or through one of the national plant variety protection (PVP) offices. Applications to the CPVO and supporting documents must be filed in one of the official languages of the EU. The e-filing service provided by the CPVO is currently available in English, Dutch, French, Spanish, and German.

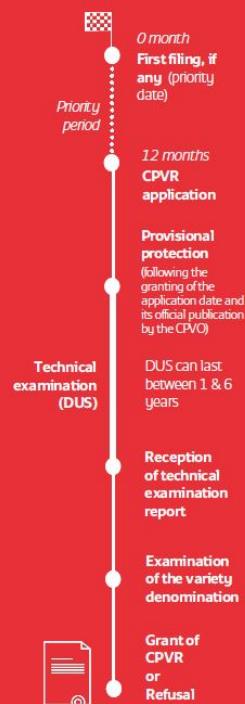
How do I check the availability of a variety denomination?

You can use **Variety Finder**, the CPVO online database which includes relevant data of national and CPVRs and commercial registers both in the EU and outside the EU.

What happens after filing a CPVR application?

- 1- Formal and substantive examinations by the CPVO** (e.g. completeness of the application, novelty, entitlement and credentials of procedural representatives). If successful, an application date is granted and the application is published on the CPVO Official Gazette, an official publication prepared and made available every second month on the CPVO website.
- 2- Technical examination (DUS):** The purpose of these examinations is to ensure that the criteria of distinctness, uniformity and stability are met. The duration varies from 1 year for most ornamental species to 6 years for certain fruit tree varieties. The applicant will be required to provide the plant material of the variety to be tested by an appointed national authority.
- 3- Examination of the suitability of the variety denomination by the CPVO** the candidate variety must be designated by a variety denomination which is also subject to testing by the CPVO.
- 4- Decision of the grant of the title and the CPVR certificate** by the CPVO, which is published in the Official Gazette.

What happens after filing a CPVR application ?



Benefits of the system



One single application to cover the territory of all the EU Member States.



Less time and money spent in comparison to individual application filing in each EU Member State.



Easier management of the application and post-application processes thanks to a unique contact point.

How much does it cost ?

Application fees

450€

for online applications

Annual fees

330€

per variety and per year of protection

Appeal fees

1 500€

Examination fees

1 900€

up to **3 900€**

Fees for taking over* reports

320€

Other fees :

i.e. administrative fees such as for issuing certified documents of the recordal of new entries in the Register

Please note that these fees apply as of 1st April 2020.

* When a technical examination has already been carried out, or is in the process of being carried out, on a variety already benefiting from national protection in a EU Member State, the CPVO may consider the examination reports of the responsible authorities to be a sufficient basis for a decision on a CPVR application.



How long does the protection last ?

The CPVR protection runs until the end of the 25th calendar year following the year of grant, and until the end of the 30th calendar year for potatoes, vine and tree species, provided that the annual fees are paid.

Example :



CPVO 1995-2020 in numbers*



68 593
Applications received
1995 to 2020



53 583
Titles granted
1996 to 2020



28 228
Titles in force
on 01/01/2020



54 %
of applications for the ornamental sector
37 173 titles granted

Shares of the crop sectors in relation to the number of applications in the period 1995-2020



25 %
of applications for the agricultural sector
17 116 titles granted

14 %
of applications for the vegetable sector
9 779 titles granted



23 136
Online applications since 2010

The CPVO online application system exists since March 2010 and the CPVO is gradually phasing out paper applications. More info on the CPVO website : www.cpvo.europa.eu

7 %
of applications for the fruit sector
4 525 titles granted

* Please note that these figures reflect CPVO's numbers on 31st December 2019.