

The cascade of protection in relation to parent lines and hybrids and the relevance of the breeders' exemption

The analysis outlined on this page represents the view of the CPVO in relation to the scope of protection extended from the parental lines to the hybrids and the potential use of such hybrid for the breeding of other varieties in relation to the breeders' exemption.

The following question has been analysed by the CPVO: **Can holder 1 of varieties A and B prevent breeder 2 from the repeated use of a single hybrid H in the breeding of a new 3-way hybrid variety Z?**

Production scheme of single hybrid and 3-way hybrid

A x B Parent lines

 H Single hybrid

H x C Parent lines

 Z 3-way-hybrid

To evaluate the situation, the following Articles of COUNCIL REGULATION (EC) No 2100/94 of 27 July 1994 on Community plant variety rights (hereinafter referred to as 'the Basic Regulation') must be taken into account:

Article 13: *Rights of the holder of a Community plant variety right and prohibited acts*

1. A Community plant variety right shall have the effect that the holder or holders of the Community plant variety right, hereinafter referred to as 'the holder', shall be entitled to effect the acts set out in paragraph 2.

2. Without prejudice to the provisions of Articles 15 and 16, the following acts in respect of variety constituents, or harvested material of the protected variety, both referred to hereinafter as 'material', shall require the authorization of the holder:

- (a) production or reproduction (multiplication);
- (b) conditioning for the purpose of propagation;
- (c) offering for sale;
- (d) selling or other marketing;
- (e) exporting from the Community;
- (f) importing to the Community;

(g) stocking for any of the purposes mentioned in (a) to (f).

The holder may make his authorization subject to conditions and limitations.

5. The provisions of paragraphs 1 to 4 shall also apply in relation to:

(c) varieties whose production requires the repeated use of the protected variety.

Article 15: Limitation of the effects of Community plant variety rights

The Community plant variety rights shall not extend to:

(c) acts done for the purpose of breeding, or discovering and developing other varieties;

Analysis

According to Art. 15. c) of the Basic Regulation the effects of CPVR are limited in the case of “acts done for the purpose of breeding or discovering and developing other varieties”. The so called breeder’s exemption allows thus free access to protected varieties for the development therefrom and exploitation of new varieties. In this respect, the Basic Regulation does not impose any limitation in the application of this exception to hybrids. Indeed, under the breeder’s exemption any variety can be used to breed and develop another variety. The fact that one of the parent varieties to the variety Z is a hybrid itself does not limit the applicability of the breeder’s exemption. The above scheme shows that breeder 2 uses the hybrid H to make a new 3-way hybrid Z. Therefore it is a different variety bred and developed under the breeder’s exemption. It could be concluded, then, that the protection of a hybrid would not prevent the use of said hybrid for the creation of a new variety by a third party.

Does it make a difference if the single hybrid H is protected through the protection of its parental lines or if it is protected in its own right?

In the opinion of the CPVO Article 15(c) of the Basic Regulation (the breeder’s exemption) applies equally regardless of whether H is protected through its parent lines or if it enjoys protection in its own right. However, it should be noted that variety H cannot be multiplied without the authorization of holder 1 pursuant to Article 13(2)(a) of the Basic Regulation.

Disclaimer: *The scope of protection is determined by national courts, and in the end, by the Court of Justice of the EU. The opinion of the CPVO is not binding on courts and it is up to each market player to assess what action s/he deems appropriate to take.*

ESMA publishes list of thresholds for shareholder identification

The European Securities and Markets Authority (ESMA), the EU's securities and markets regulator, has today published a [document](#) listing the thresholds above which shareholders can be identified in the various Member States of the European Union (EU).

The document contains information provided by national competent authorities setting out:

- national thresholds for shareholder identification in Member States that have established such a threshold;
- relevant national legislation and rules; and
- indication of Member States where the revised Shareholder Rights Directive (SRDII) has not yet been transposed into national law.

ESMA drafted this document to enhance transparency around the regimes adopted across the EU.

The revised SRDII requires Member States to ensure that companies have the right to identify their shareholders. Member States may provide for companies having a registered office on their territory to be only allowed to request the identification of shareholders holding more than a certain percentage of shares or voting rights. Such a percentage shall not exceed 0,5 %.

Next steps

When ESMA receives notifications from Member States that information reflected in the document has changed, the document will be updated and republished on the website. However, there may be a small delay in making such updates. If any discrepancy is identified between the information in the document and legislation or rules published at national level, priority should therefore be given to the latter.

Sudan: Statement by the High Representative Josep Borrell on the



The peace agreement initialled today between the civilian-led Transitional Government of Sudan and the Sudan Revolutionary Front signifies an important milestone for the ongoing democratic and economic transition of Sudan.

Mediated with the help of neighbouring South Sudan, the agreement paves the way towards the establishment of a lasting peace in Sudan.

Only an agreement implemented in good faith and in the spirit of cooperation can live up to the needs and expectations of the Sudanese people for a better life in peace and stability.

On this occasion, the EU calls upon Sudan People's Liberation Movement–North-Abdalaziz Al-Hilu and the Sudan Liberation Movement-Abdul Wahid Al-Nur to join the peace efforts for the benefit of the local communities who deserve to benefit from the changes underway in Sudan. This is the time for all Sudanese stakeholders to set aside their differences and to look for the greater good of the country and of all Sudanese.

The EU remains committed to supporting the historic Sudanese transition.

[EIB releases €100 million in emergency funding to help Morocco combat COVID-19](#)



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- **Emergency release of initial €100 million tranche of a €200 million package to support Morocco in its fight against the COVID-19 crisis**
- **First EIB financing for the EU's Mediterranean neighbourhood to assist national authorities in their struggle against the pandemic**

On 31 August 2020, **Mohamed Benchaaboun**, the Moroccan Minister of Economy, Finance and Administration Reform, and **Emma Navarro**, Vice-President of the European Investment Bank (EIB), announced the release of €100 million to finance the Kingdom of Morocco's most urgent requirements as it deals with the COVID-19 pandemic. This is the first payment of an overall financing package worth €200 million.

The Minister of Economy, Finance and Administration Reform emphasised the importance of these funds in enabling Morocco to procure urgently needed medical supplies and equipment. The financing will strengthen the country's health facilities and boost hospital capacity, allowing it to fight against the pandemic more effectively. This achievement is a tangible sign of the calibre of the partnership between Morocco and the EIB, the EU bank.

The EIB Vice-President was delighted that these funds were released in record time. For her, acting rapidly is crucial in limiting the pandemic's impact on the population's health. The EIB is continuing to draw on its expertise, resources and skills to provide concrete solutions to the challenges posed by COVID-19.

This €100 million payment is the first time the EIB has allocated funding to the EU's Mediterranean neighbourhood for the purpose of fighting against

COVID-19. More specifically, it forms part of the EIB's support for the Moroccan national plan to combat COVID-19 and also chimes with Team Europe, an EU initiative to help partner countries, particularly those outside Europe, in fighting the coronavirus pandemic and dealing with its consequences. This financing therefore dovetails with the EU's overall action in Morocco's health sector, supplementing the €100 million aid programme to fund healthcare needs during the pandemic and support the Ministry of Health's reform initiative.

As a key partner to Morocco for over 40 years, the EIB is very attentive to the population's needs, and is pursuing its efforts to improve their daily lives while boosting the country's economic development. Since 2007, Morocco has received over €5 billion in funding, of which 30% was granted to the private sector. Since the outbreak of the pandemic, the EIB has stepped up its support for businesses in need of liquidity. The Bank has also supported education in Morocco by, for instance, providing the Euro-Mediterranean University of Fes with funding. As a result, the university can ensure the continued education of its scholarship students thanks to the purchase of IT equipment, which can also be used to produce face masks.

India: Green, safe and affordable public transport for Kanpur as EIB invests €650 million into city metro rail



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- EU bank to invest €650 million in Kanpur city rail in its second biggest operation outside the EU to date.
- EIB will finance a 32.4 km metro line with 18 elevated and 12 underground stations, as well as acquisition of rolling stock.
- Total EIB investment in connectivity projects in India and green infrastructure is now €2.6 billion.
- Kanpur metro rail system will improve safety of commute, especially for female travellers.

The European Investment Bank (EIB) will invest €650 million into the construction of Kanpur's first city metro line, enabling some 3 million people in the city of Kanpur, India, to benefit from green, safe, fast and affordable public transport. The new metro rail system will reduce commuting hours and unlock new employment and education opportunities in Kanpur, the industrial capital of [Uttar Pradesh](#). This is the [second metro rail project supported by the EIB in Uttar Pradesh](#), following the €450 million investment in the development of a metro rail system in the city of Lucknow.

The second biggest EIB operation outside the EU to date will finance the construction of a 32.4 km urban rail line, with 18 elevated and 12 underground stations. Once completed, Kanpur metro rail will create 1 100 new jobs and enable around 116 million more affordable commutes each year.

This is the fifth EIB investment in green infrastructure and connectivity in

India and the second in the state of Uttar Pradesh. The EU bank has invested in metro rail systems in [Bhopal](#), [Pune](#), [Bangalore](#) and [Lucknow](#). With the Kanpur investment, the total amount of the EIB's approved support for metro rail systems in India has reached €2.65 billion, more than half of the entire EIB investment portfolio in India.

In addition to creating an affordable and accessible public transport network and a reliable alternative to heavily congested streets, the new metro will reduce pollution and greenhouse gas emissions and improve air quality across the city. With easier access to the local job market, healthcare and education for residents, Kanpur metro rail will have a positive impact on quality of life and doing business, and increase safety for female travellers.

Andrew McDowell, Vice-President of the European Investment Bank, said: "Kanpur is the fifth metro rail project to receive EIB funds in India and the biggest investment made by the Bank outside the EU. The metro will have a positive impact on quality of life and doing business in the city through access to affordable transport, creating new employment and education opportunities. It will be a safe, green and affordable transport alternative for Kanpur and its visitors. We are also glad to see this project is contributing to global climate action while strengthening EU-India relations."

H.E. Ugo Astuto, [the EU Ambassador to India](#), said: "At the last summit on 15 July, the EU and India discussed how to put climate action and the green transition at the heart of our economic recovery post COVID. Sustainable mobility is a key component of this strategy, towards modern, clean and healthy economies. The Kanpur project is an important investment in making public transport efficient, safe and sustainable. I am happy to see the European Investment Bank fully engaged in this transformational process."

Kumar Keshav, Managing Director of Uttar Pradesh Metro Rail Corporation, said: "UPMRC is extremely thankful to European Investment Bank for their continued support for the development of metro rail projects in the state of Uttar Pradesh. Comfortable, fast, safe, energy efficient and affordable public transport systems like metros are needed for cities to become the engines of growth in our country. The faith and whole-hearted support of the EIB in funding the Lucknow metro, a world-class metro system in the capital city of Uttar Pradesh ahead of the stipulated time and within the approved cost is a source of pride for all of us. On behalf of the UPMRC team, I again assure you that fulfilling the trust shown by the EIB in funding the Kanpur metro project will be our highest priority in delivering this prestigious project on time, which will further accelerate the long-term economic and social development of the city."

The EIB investment will accelerate the social and economic recovery of the city in the aftermath of the COVID-19 pandemic and support the long-term re-emergence of the local economy. The investment also bolsters the Government of India and its [Urban Development "Smart Cities Mission"](#), as Kanpur is one of the first 100 targeted Smart Cities in the country.

The Kanpur metro rail project will help India achieve a number of [UN Sustainable Development Goals](#) (SDGs), namely SDG 13 (climate action), SDG 11 (sustainable cities) and SDG 5 (gender equality).

About the EIB in India:

Since the beginning of its operations in India in 1993, the EIB has supported 17 projects in the country and invested close to €4.2 billion in transport, energy, agriculture, fisheries and forestry projects as well as India's small and medium enterprises.

[More details about the EIB in India](#)

About the EIB in Asia:

For 25 years, the EIB has supported economic development in Asia and the Pacific region through projects ranging from cutting travel times for the people of Bangalore with a new metro line, to providing cheaper, cleaner energy to western Nepal.

In Asia, the EIB's focus is our lending on climate action across all sectors. Through our financing, we act as a catalyst to attract the funding needed to meet the UN's Sustainable Development Goals for 2030. We also work to include gender equality in our projects, ensuring that women, men, girls and boys can benefit from projects equally and equitably.