



CPVO

Community Plant Variety Office

Essentially Derived Varieties (EDVs) implementation in the EU

欧盟实质性派生品种（**EDVs**）实施情况

By Martin Ekvad – CPVO
22 April 2019, Beijing
Martin Ekvad – 欧盟植物品种局（CPVO）
2019年4月22日，北京

Applicable legal provision

适用法律规定



- Art. 87(2)(h) Regulation (EC) No 2100/94 (Basic Regulation)
- 第2100/94号欧盟法规（基本法规）第87(2)(h)条

The Register of CPVRs shall contain the following particulars:

The identification of the varieties as initial and essentially derived including the variety denominations and the names of the parties concerned.

欧盟植物新品种权（CPVRs）注册应包含以下详细内容：

鉴定品种为原种还是实质性派生品种，包括品种名称和相关缔约方的名称。



Preliminary remarks

初步评论

- The CPVO does not conduct an examination concerning the information entered into the Register of CPVRs supporting the claim that a variety is an EDV from an already protected variety.
- 欧盟植物品种局不对输入欧盟植物新品种权注册系统的信息进行审查，这些信息将支持某一品种为某一受保护品种实质性派生品种的权利要求。



Conditions under which EDVs will be registered in the Register of CPVRs

实质性派生品种在欧盟植物新品种权注册系统进行注册的条件

- EDVs which are not protected or for which no application for registration is pending can be entered into the Register provided the initial variety is registered with the CPVO (Art. 13.5.a Basic Regulation)
- 不受保护或注册申请未处于待决状态的实质性派生品种可在注册系统中进行注册，前提是原种已在欧盟植物品种局注册（根据基本法规第13.5.a条）
- If the EDV is protected itself, the information that it is an EDV of a protected initial variety can also be entered in the Register of CPVRs.
- 如果实质性派生品种本身受保护，也可在欧盟植物新品种权注册系统中输入该品种为某一受保护原种的实质性派生品种的信息。



Information to be provided to the CPVO

提供给欧盟植物品种局的信息

- ✓ Identification of the varieties as **initial** and **essentially derived** (act of derivation)
- ✓ 鉴定品种为原种还是实质性派生品种（派生行为）
- ✓ A proposal for a suitable **denomination** pursuant to Article 63 of Regulation 2100/94
- ✓ 根据第2100/94号欧盟法规第63条提出适当的品种名称
- ✓ The characteristics in which the EDV is **distinct** from the initial variety
- ✓ 实质性派生品种区别于原种的特征



Information to be provided to the CPVO

提供给欧盟植物品种局的信息

- ✓ A **declaration** that the EDV is a variety within the meaning of Article 5 of Regulation 2100/94
- ✓ 声明实质性派生品种为第2100/94号欧盟法规第5条下定义的品种
- ✓ If it exists, an official **description** of the variety
- ✓ 如有，品种的官方描述



Who can make the request for entry in the Register of CPVRs?

谁可请求在欧盟植物新品种权注册系统进行注册？

In case the request is made by the titleholder of the initial variety and the breeder of the EDV, such request shall show signatures of **both parties** (in fact the request must be made by 2 different parties)

如果注册请求由原种品种权人和实质性派生品种育种者提出，则应显示**他们两者**的签名（实际上，请求必须由**2**个不同方提出）





Who can make the request for entry in the Register of CPVRs?

谁可请求在欧盟植物新品种权注册系统进行注册？

In case the request was made by only one person, the acknowledgement signed by the other party pursuant to Art. 99 BR or the final decision or judgment (for instance from a national court by means of a declaratory judgment) which contains an identification of the varieties concerned.

如果注册请求仅由一人提出，则应提供另一方根据基本法规第99条签署的确认函，或最终判定或裁定（例如，国家法院发布的宣告判决），其中应包含相关品种鉴定信息。



Case where the entry of an EDV in the Register will be refused

驳回在注册系统中注册实质性派生品种的情况

Where the holder of the initial variety and the breeder of the EDV are the same (natural or legal) person, the EDV will not be registered.

如果原种品种权人和实质性派生品种育种者为同一人（自然人或法人），则将驳回实质性派生品种注册请求。

REFUSED



Appeals against decisions not to register an EDV 驳回实质性派生品种注册申诉

Decisions not to register particulars of an EDV into the Register of CPVRs can be subject to appeal pursuant to Art. 67 Basic Regulation as they refer to entry of information in the Register under Art. 87 Basic Regulation.

可根据基本法规第67条对驳回在欧盟植物新品种权注册系统中输入特定实质性派生品种信息的决定提出申诉，基本法规第87条中规定了可输入注册系统的信息。



Number of EDVs entered in the Register Chapter 12 of the Official Gazette 在注册系统中注册的实质性派生品种数量 官方公报第12章

- **30 requests** 30 项请求
- **25 registered and published** 25 项获得注册
并公布
- **5 not registered nor published** 5 项未注册和

公布



北京，2019年4月22日