



CPVO

Community Plant Variety Office

Plant Breeders' Rights in the European Union

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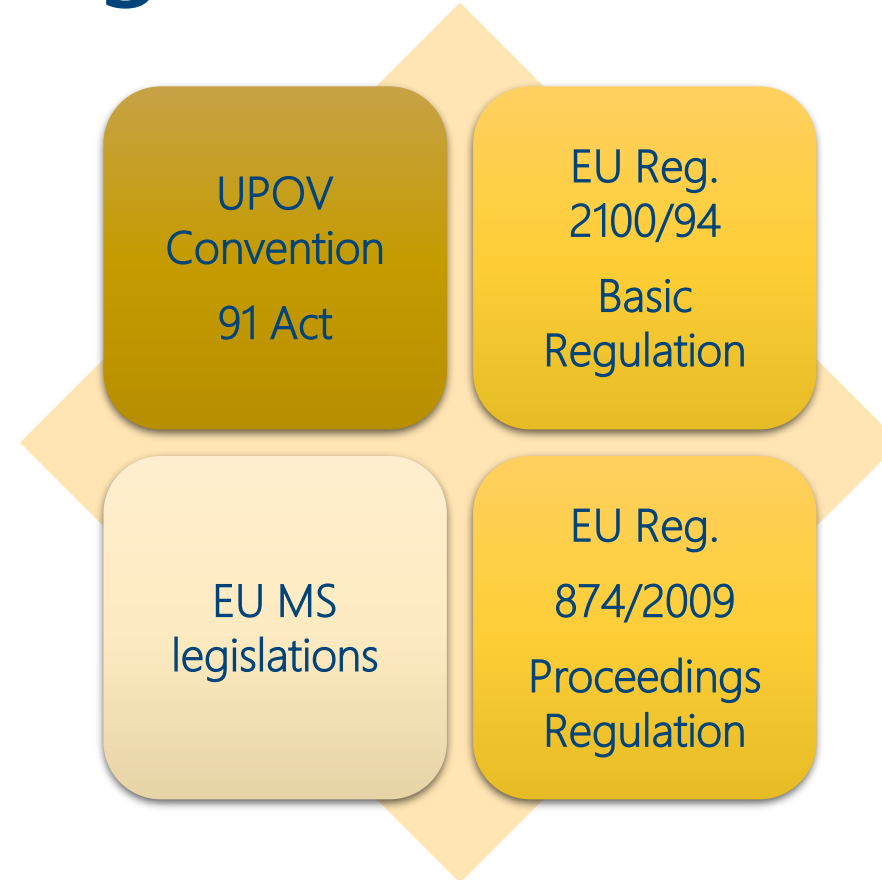
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Outline

- Introduction of the EU PBR System
- Application process
- International cooperation in DUS testing
- Benefits of a regional system

PBR protection in the EU: Legal Framework



PBR Protection in the EU



- The EU implemented a ***sui generis* system of PVP** in line with the TRIPS Agreement requirements (Art. 27(3)b);
- The EU PVP system is based on the **International Convention for the Protection of New Varieties of Plants** of the Union For The Protection of New Varieties Of Plants (UPOV) (1991 Act);
- The protection under the EU system has a **uniform effect** throughout all Member States (Art. 2 BR).



PBR Protection in the EU

- Varieties of all botanical genera and species may be protected
- The CPVO has received applications for more than 2000 different plant species
- Duration of the right:
 - 25 years
 - 30 years for vines, trees and potato varieties



The **CPVO** is an agency of the EU operational since 1995 and currently based in Angers, France.

Mission Statement:

'To deliver and promote an efficient Intellectual Property Rights system that supports the creation of new plant varieties for the benefit of Society'



The Application procedure





Applications from outside the EU

Entitlement to file an application for a CPVR (Article 12 BR)

- Any natural or legal person can file an application
- Persons without a:
 - Domicile
 - Seat
 - An establishment

In the territory of the EU, shall designate a procedural representative within the EU.

Technical examination Examination Offices (EOs)



- When the EU PBR system was created it has been decided to use the testing facilities already existing in the MS, for the assessment of the DUS criteria of candidate varieties
- Where no examination office within the EU is available for testing a particular species, the Office may collaborate with offices outside the EU



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DUS Examination Offices in the EU



The red dots represent entrusted Examination Offices carrying out DUS technical examinations on behalf of the CPVO

Take-over of examination reports

Legal Basis



- UPOV convention (1991 Act):
 - Art. 12 (Examination of the Application): "... the authority may grow the variety or ... take into account the results of growing tests ... which have already been carried out. ..."
- At the CPVO- Art. 27 Proceedings Regulation (Other examination reports):
 - Report take-over from EU Member states
 - Entrustment required
 - Report take over from non-EU authorities
 - UPOV members or party to the TRIPs Agreement
 - Special written agreement required



Take-over of examination reports

- Conditions to take over reports
- Equivalent plant material requirements
- CPVO test protocol or equivalent applied
- Opportunity to visit the growing trial
- Technical examination has already been carried out or is in the process of being carried out
 - For tests not yet started: only if there is no testing competence in a EU Member state
- Adequate experience in DUS testing of the crop in question
- **Written Agreement with the testing authority**
 - Defining technical and administrative details



Cooperation with non-EU EOs

The CPVO may under certain circumstances make use of DUS reports established by a non EU EO after having received the consent of the Administrative Council (AC). This applies to cases where:

- There is no EO available to perform DUS test for the species in question in the EU
- An EO in the EU is entrusted for the species in question, but the candidate variety has already undergone, or is in the process to undergo, a DUS examination at a non EU EO

Technical examination from non-EU Legal Basis



Article 27.5 PR - Request to carry out the Technical Examination:

- No possibility to carry out the TE in the EU
- Report not available/not meeting the conditions in the PR
- UPOV Member or party to the TRIPs Agreement
- Written agreement approved by the Administrative Council



Benefits of a Regional System

Administrative

Harmonisation of practices

Access to information

Less administrative burdens
for national authorities

Economic

Development of common
tools

Additional income for
national authorities

Training



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