CPVO
Community Plant Variety Office

Impact of Plant Variety Protection and UPOV 1991 to Farmers and Plant Breeders in the EU

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President of Community Plant Variety Office (CPVO)

IPKey South-East Asia
12 November 2020

OUTLINE

1. The European Union Plant Variety System
2. The CPVO
3. Application Procedure
4. Scope of the Plant Variety Rights
5. Statistics
6. EU Strategies
7. Impact on society, farmers and breeders

1. THE EUROPEAN UNION PLANT VARIETY SYSTEM

- Sui generis system for the industrial property protection of plant varieties
- Industrial property rights granted are valid throughout the territory of the 27 Member States of the European Union
- System established by an EU Regulation in 1994, to comply with the International Convention for the Protection of New Varieties of Plants of 1991 (**1991 UPOV Act**)*
- EU became party to UPOV as inter-governmental organization in June 2005

* *The UPOV Convention was originally adopted in Paris in 1961*

Legal Basis

- **Basic Regulation (BR)**:

Council Regulation (EC) No 2100/94 on Community plant variety rights

- **Implementing Regulations (IRS):**
  - 3 Commission Regulations relating to:

Regulation No. 874/2009	Regulation No. 1238/95	Regulation No. 1768/95
• Proceedings before the CPVO	• Fees payable to the CPVO	• The agricultural exemption

2. THE CPVO

The EU Plant Variety system is run by the Community Plant Variety Office (CPVO)

- Official Agency of the EU
- Based in Angers (France)
- Operational since 1995
- Independent legal status
- Fully self-financed
- President and Vice-President (appointed by the Council)

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'.

3. APLICATION PROCEDURE

- CPVRS shall have **uniform effect** within the EU territory* (including: grant, transferral, termination) (Art. 2 BR)

  28 EU MS (27 after Brexit): access to a market of **520 million citizens!*

- The procedure concludes with the **decision** of grant or refusal (Art. 61-62 BR)
- Duration of the CPVR** (Art. 19 BR):
  - **25 years**
  - **30 years** > for vines, trees and potato varieties

  ***The CPVR system also foresees a provisional protection period covering the time from publication of the application until the CPVR grant (Art. 95 BR)*

Filing of an application

- System open to **any natural or legal person** (Art. 12 BR)

- Applicants who are not domiciled or do not have a seat or establishment within the EU territory must appoint a procedural representative (Art. 82 BR)

CPVR Grant Requirements

The Plant Variety must comply with the following requirements (Art. 6 BR):

THE DUS CRITERIA

- **D – Distinctivity**
- **U – Uniformity**
- **S – Stability**

NOVELTY

VARIETY DENOMINATION

Examination of the application

Examinations carried out by the CPVO:

- **Formal examination** (Art. 53 BR)
- **Substantive examination** (Art. 54 BR): Entitlement, Novelty, Variety Denomination

Examinations carried out by Examination Offices:

- **Technical examination** (Art. 55 BR): DUS

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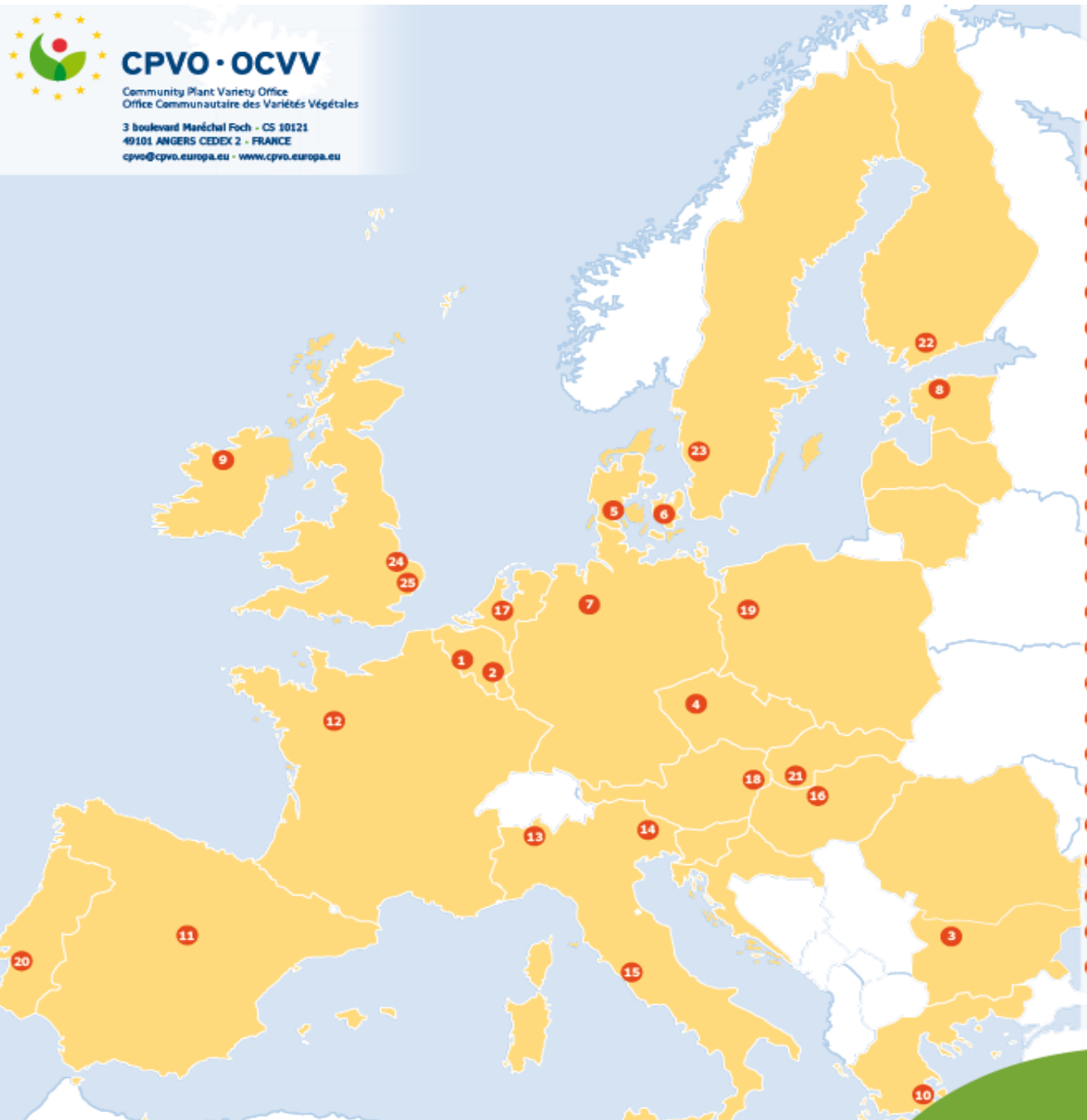
Réseau des offices d'examens de l'OCVV / CPVO examination offices network



1. Instituut voor Landbouw - en Visserijonderzoek ILVO eenheid Plant
Caritasstraat 21
9090 Melle - Belgium
2. Centre Wallon de Recherches Agronomiques
4 rue de Liroux - Bâtiment Léon Lacroix
5030 Gembloux - Belgium
3. Ministry of Agriculture and Food Executive Agency for Variety Testing, Field Inspection and Seed Control - 125 Tsarigradsko Shosse Blvd., Block 1
1113 Sofia - Bulgaria
4. Central Institute for Supervising & Testing in Agriculture (UKZUZ)
National Plant Variety Office - Hroznová 2
656 06 Brno - Czech Republic
5. University of Aarhus - Aarslev Department of Food Science
Kirstinebjergvej 10
5792 Aarslev - Denmark
6. Ministry of Food, Agriculture and Fisheries
Danish Agrifish Agency - Department of Variety Testing - Teglvaerksvej 10
4230 Skaelskor - Denmark
7. Bundessortenamt
Osterfeldddamm 80
30627 Hannover - Germany
8. Agricultural Research Center Viljandi Variety Testing Center
Metsperi küla
71065 Pärsti vald (Viljandimaa) - Estonia
9. Department of Agriculture, Food and the Marine Office of the Controller of Plant Breeders' Rights - Backweston Farm Leixlip Co Kildare
Ireland
10. Ministry of Agriculture - Directorate of Inputs of Plant Productions
Section A - 2 Acharnon street
10167 Athens - Greece
11. Oficina Española de Variedades Vegetales (OEVV)
Ministerio de Agricultura, Alimentación y Medio Ambiente - C/ Almagro nº33
28010 Madrid - Spain
12. GEVES - Groupe d'Etude et de contrôle des Variétés et des Semences
Direction SEV - 25 Rue Georges Morel - CS 90024
49071 Beaucouzé Cedex - France
13. CRA-SCS - Consiglio per la Ricerca e Sperimentazione in Agricoltura (CRA) Centro Sperimentazione e Certificazione Sementi (SCS) - Via Ugo Bassi 6
20159 Milano - Italy
14. C.R.A.- VIT - Centro di ricerca per la viticoltura
Viale XXVIII Aprile 26
31015 Conegliano Veneto (TV) - Italy
15. C.R.A.- FRU - Centro di Ricerca per la Frutticoltura
via di Fioranello, 52
00134 Roma (RM) - Italy
16. National Food Chain Safety Office (NÉBIH)
Directorate of Plant Production and Horticulture - Kalet K. u. 24.
1024 Budapest - Hungary
17. Naktuinbouw
Afdeling/Department Rassenonderzoek - Sotaweg 22
2371 GD Roelofarendsveen - The Netherlands
18. Bundesamt für Ernährungssicherheit p.A. Österreichische Agentur für Gesundheit und Ernährungssicherheit GmbH - Spargelfeldstraße 191
1220 Wien - Austria
19. COBORU
Research Centre for Cultivar Testing - Centralny Osrodek Badania Odmian Roslin Uprawnych - 63022 Slupia Wielka - Poland
20. Direção-Geral de Alimentação e Veterinária
Largo da Academia Nacional de Belas Artes, 2
1249-105 Lisboa - Portugal
21. Central Controlling and Testing Institute in Agriculture (UKZUP)
Department of Variety Testing - Matulkova 21
833 16 Bratislava - Slovakia
22. Finnish Food Safety Authority Evira
Mustialankatu 3
00790 Helsinki - Finland
23. The Swedish Board of Agriculture
Seed Division
551 83 Jönköping - Sweden
24. Food and Environment Research Agency (FERA)
1st floor, Eastbrook - Shaftesbury Road
Cambridge CB2 8DR - United Kingdom
25. NIAB
Huntingdon Road
Cambridge CB3 0LE - United Kingdom

4. SCOPE OF THE PLANT VARIETY RIGHTS

- **The authorization of the holder** is required in respect of the following acts [Art. 13(2) BR]:
  a) Production or reproduction
  b) Conditioning for the purpose of propagation
  c) Offering for sale, selling or other marketing
  d) Exporting from/Importing to the European Union
  e) Stocking for any of the above mentioned purposes

- **The material scope** of CPVRS includes:
  - Variety constituents
  - Harvested material

Exceptions to CPVRS

- The main exceptions to CPVRS – restricting the breeder's scope of rights – are:
  - The limitations of the effects of CPVRS as listed in Art. 15 BR:
    - Acts done privately for non-commercial purposes
    - Acts done for experimental purposes
    - Acts done for the purpose of breeding, or discovering and developing new varieties (**the breeder's exemption)**
  - **The agricultural exemption** (Farm-saved seed) (Art. 14 BR):
    - Covering varieties belonging to a limited list of 21 agricultural crops in well-defined circumstances and classified into four categories:

      a) Fodder plants b) Cereals c) Potatoes d) Oil and fiber plants

Advantages of the exemptions

- **Breeder's exemption** [Art. 15(c) BR]:
  - Variety improvement is enhanced
  - Germplasm sources remain accessible to the community of breeders
  - Genetic basis for plant improvement is broadened and actively conserved
  - Opportunity for all breeders to share in benefits of breeding activities

- **Agricultural exemption** (Art. 14 BR):
  - Farmers are authorized to use for propagating purposes in the field the product of the harvest which they have obtained by planting, propagating material of a variety other than a hybrid or synthetic variety, which is covered by a CPVR
  - Farmers shall pay an equitable remuneration sensibly lower than the amount charged for the licensed production of propagation material

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5. Statistics

CPVO - Key Statistics

55 800
Titles granted

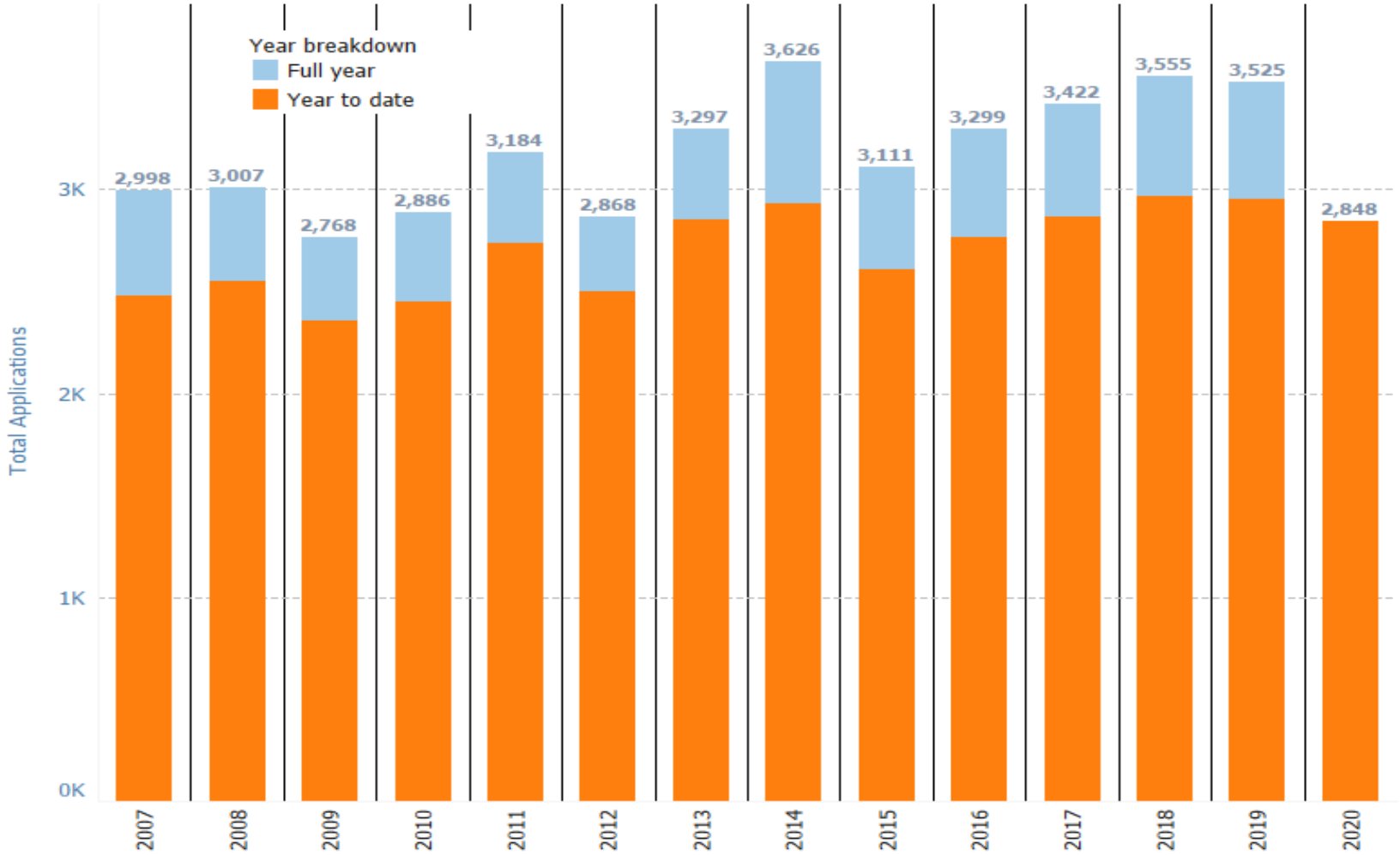
28 900
Active titles

70 800
Applications received

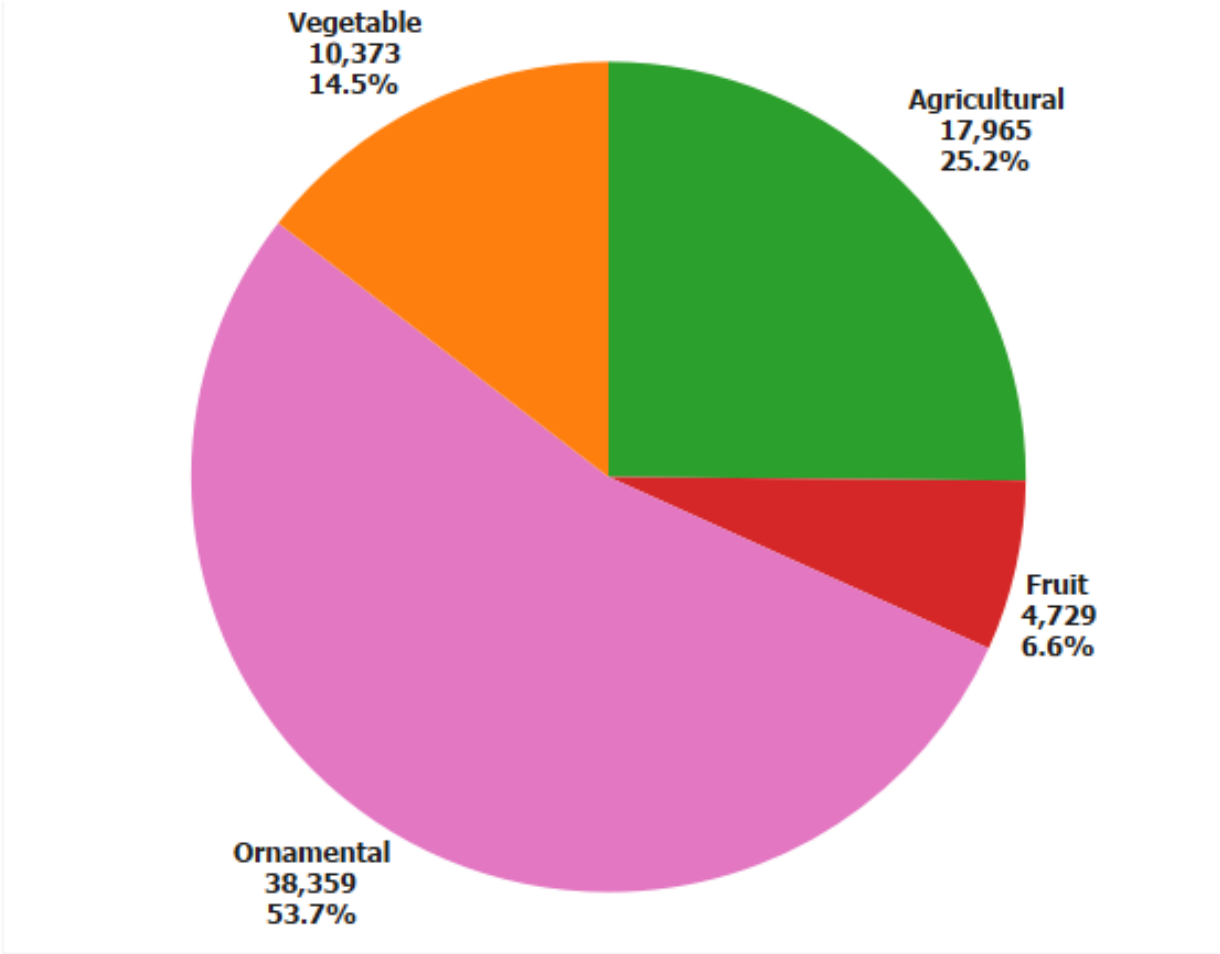
2 300
Different species

(15.09.2020)

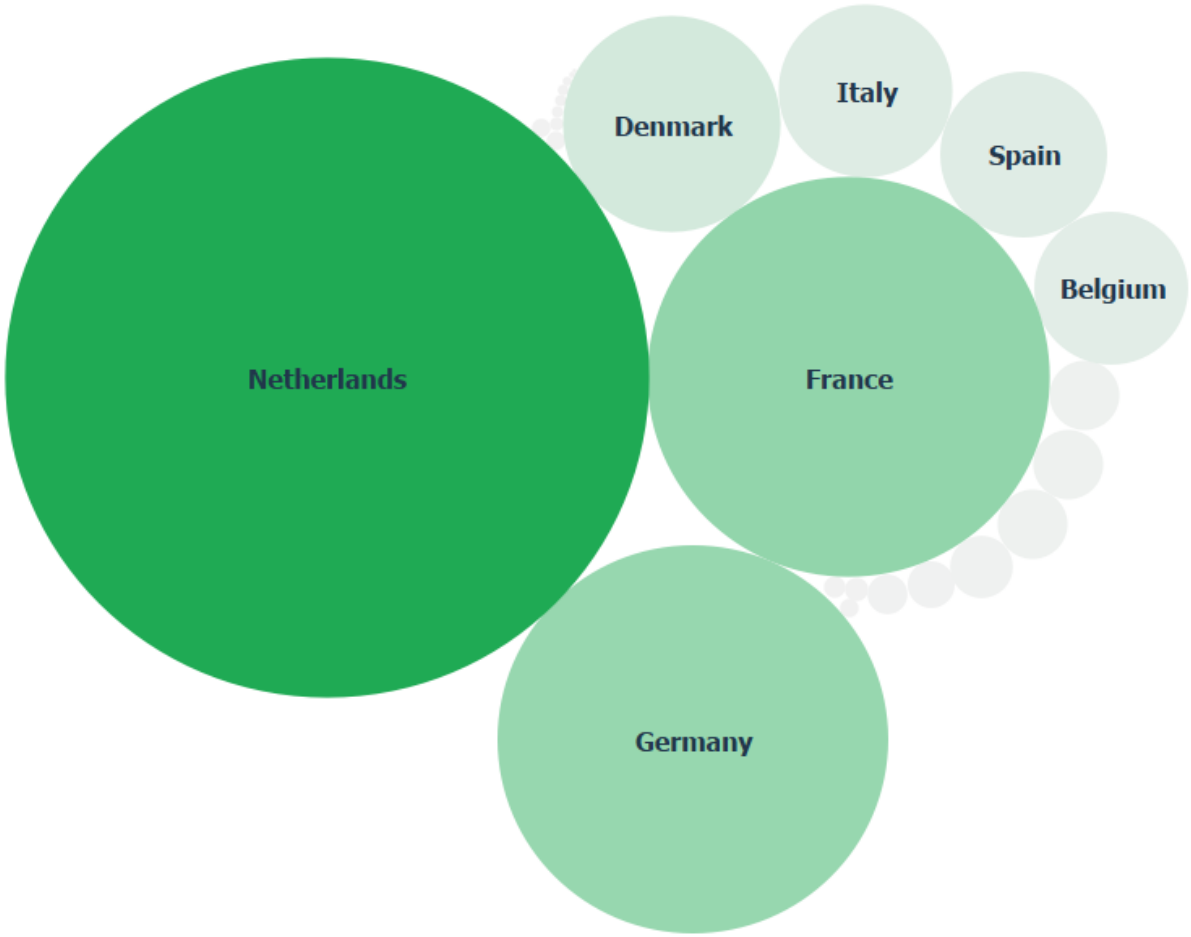
Applications



Applications by crop

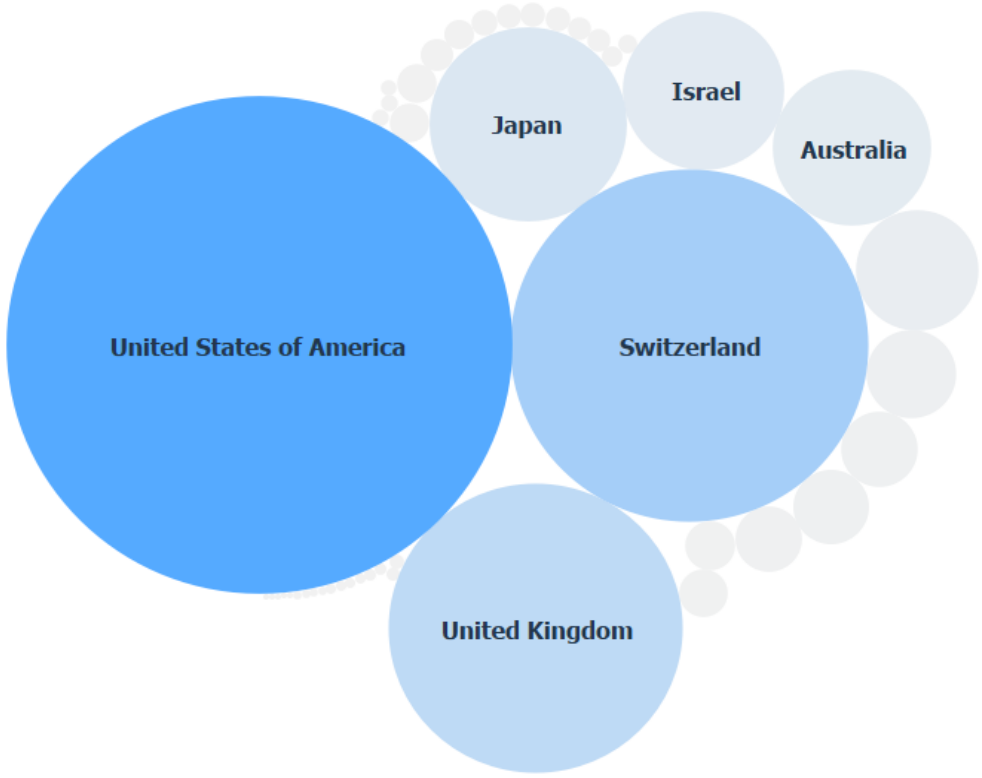


Applications EU



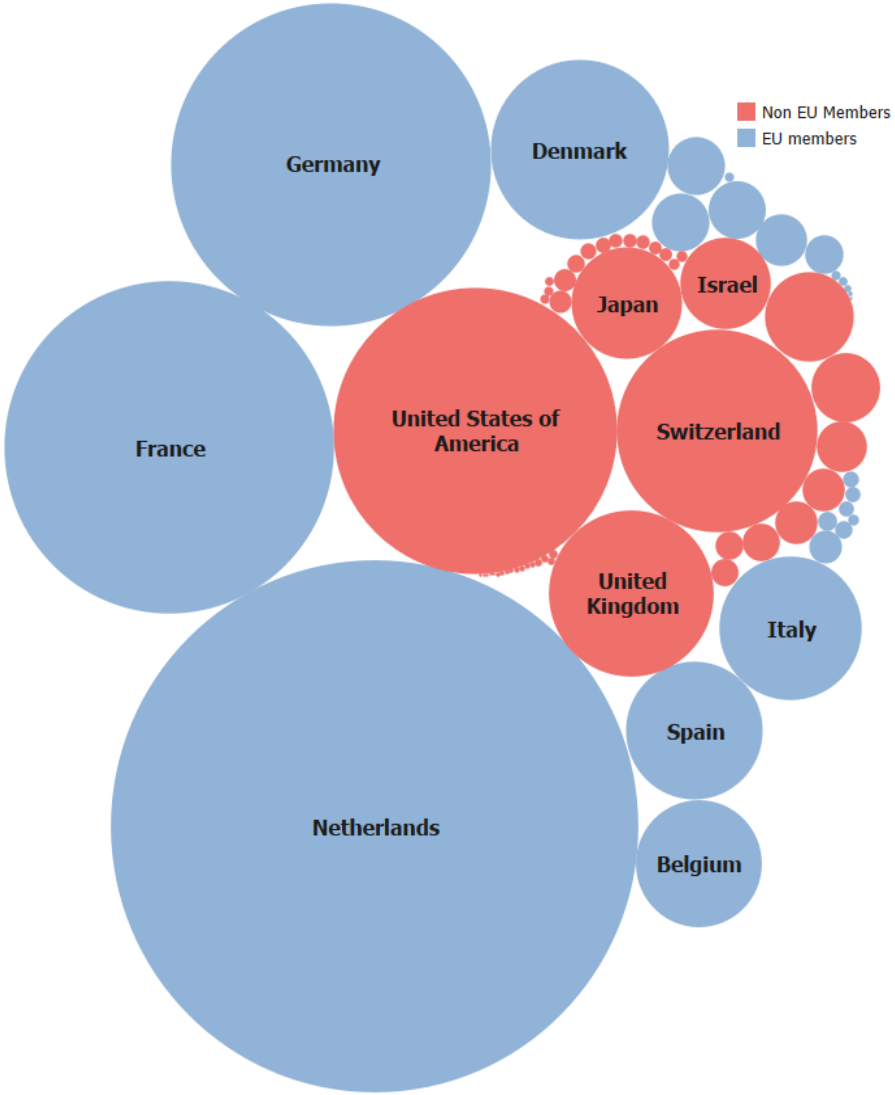
Netherlands	25,278
France	9,869
Germany	9,300
Denmark	2,883
Italy	1,841
Spain	1,696
Belgium	1,441
Sweden	306
Poland	300
Austria	297
Czech Republic	239
Hungary	134
Ireland	97
Greece	33
Slovenia	28
Slovak Republic	23
Finland	22
Cyprus	21
Luxembourg	11
Portugal	9
Latvia	8
Romania	7
Estonia	5
Croatia	2
Malta	1

Applications non-EU



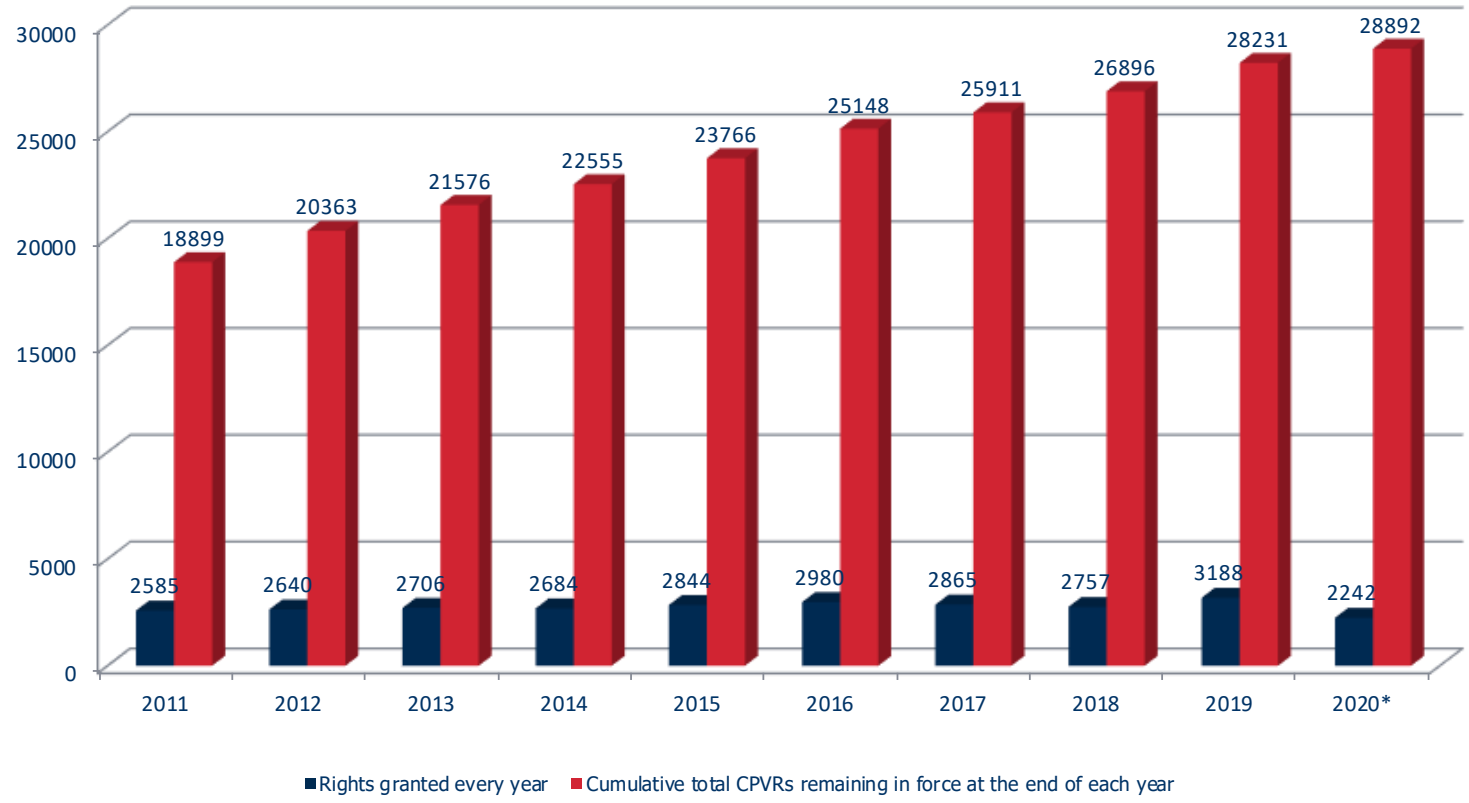
United States of Am..	7,308
Switzerland	3,661
United Kingdom	2,468
Japan	1,110
Israel	743
Australia	715
New Zealand	428
Thailand	229
South Africa	167
Taiwan	163
Canada	126
Costa Rica	71
China	67
South Korea	45
Serbia	44
Colombia	30
Brazil	25
Ecuador	19
Argentina	17
India	17
Russian Federation	17
Chile	15
Norway	15
French Polynesia	12
Mexico	10
Sri Lanka	9
Morocco	8
Netherlands Antilles	7
Panama	6
Mauritius	5
Puerto Rico	4
Ukraine	4
Belarus	3
Kenya	3
Peru	3
Western Samoa	3
Gibraltar	2
Moldova	2
Philippines	2
Turkey	2
Hong Kong	1
Indonesia	1

All Applications



Evolution of botanical taxa

Evolution of varieties protected under the Community system over the last 10 years



NB (*) Situation at 15/09/2020. Comparison 2020 grants with 2019 - period from 01/01 to 15/09: -334 grants or -13.0%

6. Strategies in the EU

- **European Green Deal**
  - Commitment to tackling climate change and environmental-related challenges
  - Maps a new, sustainable and inclusive growth strategy to boost the economy
  - Improve people's health of life, care for nature
  - Leave no one behind

Strategies in the EU

Farm to Fork Strategy

- Adopted to implement the Green Deal
- Addresses challenges of sustainable food systems and recognises the links between healthy people, healthy societies and a healthy planet.
- **Plant breeding** is recognised as important to implement the strategies

Strategies in the EU

- **SDG:s**

  The Green Deal and the Farm to Fork Strategy are both central to the Commission's agenda to implement the United Nation's 2030 Sustainable Agenda and the Sustainable Development Goals.

- **Draft IP Strategy**

7. Breeding in the interest of society

- Breeding new varieties was crucial in order to come to terms with food supply after the second world war
- European countries invested in breeding and agriculture to provide farmers with high quality varieties
- Seed legislation set quality standards to ensure that farmers got good varieties
- Ornamental sector grew and copying was considered contra productive

Breeding in the interest of society

- Breeding is costly
- PVP system adopted to provide financial incentives to create new varieties
- PVP system benefits breeders because they can reinvest in creating new varieties
- Breeders compete to satisfy the demands of
  - Farmers
  - Producers of ornamental varieties

Breeding in the interest of society

- Farmers benefit from new and better performing varieties
- Specialised varieties are created for various industries such as,
  - Rice for various purposes
  - Pasta
  - Breweries
  - Chips producers
  - etc

- Efficient agriculture provides consumers with affordable products

Benefits of breeding in the EU

Without plant breeding:

- ✓ EU would have moved from being net EXPORTER to net IMPORTER in all major agricultural crops (including wheat and barley)
- ✓ European farmers would be **30**% worse off
- ✓ Europe would need an extra **19** million hectares of farmland to produce the same amount of food

Plant breeding has increased wheat harvest by **15**%

Benefits in relation to potatoes

More Yield

- Over the past 15 years, an extra **10** million tons of potatoes have been grown by EU farmers annually thanks to potato breeding

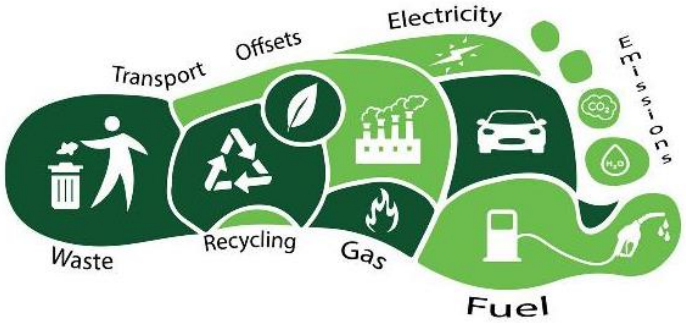
- **60 %** of the growth in potato harvests can be attributed to plant breeding

Benefits in relation to potatoes

Carbon footprint

- Without plant breeding, Europe would need an extra **47** million acres of farmland to produce the same amount of food.

- Turning 47 million more acres of forests, wetlands and other habitats into farmland would release **3.4** billion tons of carbon dioxide



Benefits in relation to potatoes

Water use

- Plant breeding has enabled EU farmers to save nearly **55** billion cubic meters of water since 2000
- Plant breeding is helping EU agriculture to meet the objectives of the EU Adaptation Strategy for climate change and helping manage droughts as our climate changes

Benefits of plant variety rights

Study to be carried out in the EU 2021

- Benefits for the economy

- Implementation of the EU Green Deal and UN Sustainability Development Goals

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