



CPVO

Community Plant Variety Office

Annual report 2018





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1. WELCOME MESSAGE FROM MARTIN EKVAD, PRESIDENT OF THE CPVO



Martin Ekvad

I am happy to introduce this annual report by announcing that in 2018 the Community Plant Variety Office (CPVO) received 3 554 applications, the second highest number of applications received in the history of the CPVO (3 626 in 2014) and an increase of 3.9 % compared to 2017. The number of applications for agricultural varieties increased while the number of applications for ornamentals decreased. Furthermore, the number of grants was slightly lower than last year (2 757) and the number of titles in force reached 26 949 by the end of 2018. The number of surrenders decreased in 2018 to a level very similar to 2015 and 2016 following a peak in 2017.

The net out-turn for 2018 was positive EUR 1.3 million which is more or less the same as the out-turn in 2017. The free reserve remains stable and on 31 December 2018 it was EUR 1.3 million. Nevertheless, the CPVO will continue with a prudent approach to discretionary spending in future. The free reserve is likely to remain stable until the revision of the fees in 2020.

In October 2017, the CPVO Administrative Council (AC) adopted the strategic plan for 2017-2021 in which it is established that the CPVO mission is to deliver and promote an efficient intellectual property rights (IPRs) system that supports the creation of new plant varieties for the benefit of society. Strategic goals and objectives are identified in the strategic plan. The work programme for 2019 and the single programming document 2020-2022 set out the more-detailed objectives and the key performance indicators for the period.

Technical examinations of new varieties are one of the key elements of the EU plant variety right (PVR) system. Investments need to be made to ensure that new technologies are developed to meet this challenge. Information technology (IT) tools and databases will continue to be key to manage this increase in data. Developing new technologies and IT tools is expensive. For this reason, the CPVO joined the Invite (INnovations in plant Variety Testing in Europe) consortium to make a bid to acquire funds from EU Horizon 2020 with the aim to improve plant-variety testing in the EU. In December 2018 the European Commission decided to award EUR 8 million to Invite for a period of 5 years. This will have an impact on the technical work of the CPVO in the years to come and I am confident that results will be achieved that will ensure high quality testing of new varieties.

In 2018 some important IT projects were implemented. The CPVO online application system was updated. In addition, the online system was adapted to make it compatible with the International Union for the Protection of New Varieties of Plants' (UPOV) Prisma application system.

The United Kingdom has decided to withdraw from the EU. This means that, unless a ratified withdrawal agreement establishes another date, EU law will cease to apply in the United Kingdom from the Brexit date. Together with the Directorate-General for Health and Food Safety the CPVO has analysed the effects of Brexit and information on the possible consequences has been published on the CPVO and European Commission websites.

Cooperation with the European Patent Office (EPO) and the European Union Intellectual Property Office (EUIPO) continued in 2018. The administrative arrangement (AA) with the EPO was prolonged for a period of 3 years starting in January 2019 when the present one expires. The CPVO has entered into an agreement with the EUIPO under which the two EU agencies will share the function of data protection officer (DPO). The CPVO already shares the internal audit service with the EUIPO and these arrangements have been put into place with the aim to reduce the allocation of human resources for administrative tasks.

In 2018 the CPVO participated in the implementation of IP Key projects funded by the Directorate-General for Trade and the EUIPO. Activities in China, south-east Asia and Latin America were organised and cooperation between EUIPO, UPOV, CPVO and its EU examination offices (EOs) was very successful. These projects face the challenge of improving the protection and enforcement of IPRs in the above regions, while raising public awareness of the economic and other impacts of IPR infringing goods and their detriment to innovation and also on health and safety, and safeguarding the common interest of promoting sustainable and healthy development of trade relationships. The CPVO has also supported the African Intellectual Property Organisation (OAPI) in a successful request for funds from the European Commission to implement its road map on PVRs. The European Commission will sign an agreement with OAPI in early 2019 and the activities will then be implemented over a period of 2 years. The other partners to this project are the French Association for Seeds and Seedlings (GNIS), the Group for the Study and Control of Varieties and Seeds (GEVES), Naktuinbouw and UPOV.

A procedure to recruit a communication officer was initiated by the end of 2018 and it is envisaged that the person will start at the CPVO in the first half of 2019.

The details of the projects described above and other activities are provided in this report which should give you an overview of the activities carried out in 2018.

2. FOREWORD BY BISTRA PAVLOVSKA, CHAIR OF THE CPVO ADMINISTRATIVE COUNCIL



Bistra Pavlovska

Welcome to the CPVO annual report for 2018, my 2nd year as Chair of the Administrative Council (AC).

I would like to start by thanking all CPVO staff, observers, AC members and the European Commission for their important contribution to AC work and for taking well-balanced decisions.

I would like to welcome Paul A. C. E. van der Kooij as Chairperson of the Board of Appeal of the CPVO for the next 5 years and wish him successful work.

It has been very satisfying to see continued progress with the challenges of new breeding technologies, the interaction of PVRs and patents, the consequences of Brexit and the many others challenges facing the CPVO, while maintaining a robust and cost-effective system for Community plant variety rights (CPVR). The number of applications in 2018 marked the second highest level of applications in the history of the CPVO.

The AC has an essential role in governance and in guiding the CPVO. 2018 is a good example of a consistently high quality PVRs service and effective budgeting. The plant breeders' organisations, CPVO's primary stakeholders as a self-financed agency, are appreciated by the AC for the balance they provide as observers. But any success would not be possible without CPVO staff and its management team.

In 2018 the AC and the CPVO faced for the first time ever a request to grant compulsory license.

Looking for cost-effectiveness AC members adopted the revised procedure for R & D projects to optimise quality while reducing costs of distinctness, uniformity and stability (DUS) tests within the CPVO network of EOs, to strengthen EU PVRs and to facilitate enforcement.

The AC gave consent for the CPVO to take over reports from Taiwan and Mexico.

The AC looks forward to the continued promotion of plant variety protection (PVP) in the EU and worldwide. As a result, a seminar on 'The benefits of plant variety protection' took place in Sofia, Bulgaria on 20 September 2018. The seminar was organised by the CPVO in collaboration with the Executive Agency for Variety Testing, Field Inspection and Seed Control of the Bulgarian Ministry of Agriculture, Food and Forestry. The main objective of the seminar was to promote investments in plant breeding and benefits in protecting new plant varieties at national or EU level.

I am pleased to mention that in 2018 the CPVO continued the successful implementation of its strategic plan 2017-2021.

3. THE INVITE PROJECT

3.1. Invite's consortium

On 11 December 2018, the European Commission announced its decision to grant funds, in relation to the SFS-29-2018 call 'Innovations in plant variety testing' of the Horizon 2020 programme, to the Invite consortium. The amount awarded is about EUR 8 million to be spent over a period of 5 years, starting in July 2019.

Under the coordination of the French Institut National de la Recherche Agronomique/ National Institute for Agricultural Research (INRA), Invite links the CPVO to 26 partners across Europe from various sectors ranging from research, breeding and DUS examination to performance testing for both conventional and organic farming. The consortium includes 11 members from the CPVO's network of entrusted EOs. The private breeding sector also benefits from strong representation both through the active participation of the European Seed Association (ESA) and the breeding companies NPZ and Bayer Crop Science, and via the stakeholder platform and the Stakeholder Advisory Board whose roles will be to advise on the orientation of the project and support the dissemination of the project's results.

3.2. Invite's objectives

The project aims to improve the efficiency of variety testing and the availability of information to stakeholders on variety performances under diversified production conditions and on biotic and abiotic stresses. It addresses DUS and performance testing in a balanced way and intends to maximise synergies between them through related activities based on high throughput phenotyping (using low-cost sensors based on fluorescence, thermal and spectral imaging), next generation (epi)genotyping, modelling of genetics × environment × management interactions and database management. Bioinformatics analysis of genomic data and genome wide association studies will also be performed to identify new molecular markers for faster assessment of certain DUS characteristics and the management of reference collections for DUS testing.

Invite will focus on 10 crops (seven 'model' crops: maize, wheat, rye grass, sunflower, potato, tomato and apple, and three 'application crops': lucerne, soybean and rapeseed). The identification of the research needs and main challenges to be addressed for these crops was based on main end-users needs (EOs, CPVO, breeders and farmers), taking into account existing knowledge and projects. One expected impact is the introduction of plant traits into the testing protocols that respond to new challenges and demands in the conventional and organic sectors, while also taking into account the economic return of growers.

3.3. The CPVO's role within Invite

The role of the CPVO will be to bring its experience and knowledge from managing the EU DUS testing network to Invite. The CPVO has gained a lot of experience over the past 24 years in the ways varieties are tested, the technical challenges it represents and the approaches for harmonisation of variety assessment and decision rules in relation to DUS. The technical protocols (TPs) adopted by the CPVO are applicable for the DUS tests of a variety for both protection and for marketing authorisation. The CPVO is represented in the Invite Executive Committee, which is the decision implementing body of the project. The CPVO will contribute to the discussion in all of the eight work packages identified in the project. The CPVO is also the co-leader of Work Package 5 dedicated to testing the tools developed for application in DUS and performance testing. The CPVO will also be responsible for certain tasks such as the coordination of variety testing networks and the diffusion of results to stakeholders and policymakers. The CPVO expects that the results of Invite will lead to efficiencies and higher quality in variety testing.

4. THE COMMUNITY PLANT VARIETY RIGHTS SYSTEM



From its foundation and over its 24 years of functioning the CPVO has managed the Community plant variety rights (CPVR) system by granting an IPR for protecting new plant varieties with unitary effect throughout the whole territory of the EU via a single application to the CPVO.

The CPVR system is not intended to replace or even to harmonise national systems but rather to exist alongside them as an alternative. Indeed, it is not possible for the owner of a variety to simultaneously exploit a CPVR and a national right or a patent granted in relation to that variety. Where a CPVR is granted in relation to a variety for which a national right or patent has already been granted, the national right or patent is rendered ineffective for the duration of the CPVR.

The legal basis for the CPVR system is found in Council Regulation (EC) No 2100/94 on Community plant variety rights (the basic regulation (BR)). On receipt of an application for a CPVR, the CPVO must establish that the variety is novel, that it satisfies the DUS criteria and that a suitable variety denomination has been registered. Following the fulfilment of the formal and substantive examinations of applications, the CPVO arranges for a technical examination to determine DUS, to be carried out by the entrusted EOs in the Member States or by other appropriate authorities outside the EU. To avoid unnecessary duplication of work where such a technical examination is being — or has already been — carried out in relation to a variety for official purposes, the CPVO may, subject to certain conditions, accept the results of that examination by taking over the report concerned.

Anyone may lodge an objection to the granting of a CPVR with the CPVO in writing and within specified time limits. The grounds for objection are restricted to allegations either that the conditions laid down in Articles 7 to 11 of the BR are not met (DUS, novelty or entitlement) or that the proposed variety denomination is unsuitable due to one of the impediments listed in Article 63 of the BR. Objectors become parties to the application proceedings and are entitled to access relevant documents. Following the grant, a CPVR may be declared null and void ex officio by the CPVO or on the request of a third party on one of the conditions laid down in Article 20 of the BR. A third party seeking annulment of a CPVR must adduce evidence and facts of sufficient substance to raise serious doubts as to the legality of the grant of a CPVR following the examination provided for in Articles 54 and 55 of the BR. A CPVR can also be cancelled under one of the grounds established under Article 21 of the BR.

Except in two specific instances where a direct action against a decision of the CPVO may be brought before the Court of Justice of the European Union, a right of appeal against such a decision lies with a Board of Appeal consisting of a chair appointed by the Council of the European Union and two other members selected by the chair from a list adopted by the AC. The addressee of a decision, or any person who is directly and individually concerned by the decision, may appeal against it. After examining the appeal, the Board of Appeal may exercise any power that lies within the competence of the CPVO or refer the case back to the CPVO, which is bound by the Board of Appeal's decision. Actions against decisions of the Board of Appeal may be brought before the Court of Justice of

the European Union, based in Luxembourg. Decisions of the Board of Appeal and of the Court of Justice of the European Union are published in the CPVO case-law database on the CPVO website.

Graphs 17 and 19 in Section 17 show the number of notices of appeal lodged with the CPVO and the decisions reached by the Board of Appeal.

Once granted, the duration of a CPVR is 25 years, or 30 years in the case of potato, vine and tree varieties. These periods may be extended by legislation for a further 5 years in relation to specific genera or species. The effect of a CPVR is that certain specified activities in relation to variety constituents or the harvested material of the newly protected variety require the prior authorisation of the rights-holder. Such authorisation may be granted subject to conditions and limitations. Infringement of a CPVR entitles the rights-holder to commence civil or penal proceedings against the perpetrator of the infringement.

Registers, which are open to public inspection, contain details of all applications received and all CPVRs granted by the CPVO. The *Official Gazette of the Community Plant Variety Office* is published every 2 months and contains the information entered in the registers. Information on applications and titles in force is also found in a database accessible via the CPVO website.

5. THE ADMINISTRATIVE COUNCIL

The CPVO is supervised by an Administrative Council (AC) comprising representatives of the Member States and the European Commission and their alternates. The AC monitors the activities of the CPVO. In particular, it is responsible for examining the president's management report, adopting the CPVO's budget and granting discharge to the president in respect of its implementation. In addition, it can provide advice, establish rules on working methods within the CPVO and issue guidelines on technical examinations, committees of the CPVO and general matters.

The AC met twice in 2018: in Angers (France) on 21-22 March and in Sofia (Bulgaria) on 19 September.

At the **21-22 March** meeting, the AC gave its (confidential) opinion in respect of a request received for a compulsory license. It also appointed the reporting officers of the president and of the vice-president for their 2018 evaluation and a new member of the R & D advisory group.

During that meeting, the members of the AC adopted the following.

- The consolidated annual activity report for 2017 providing a complete overview of the CPVO's activities for 2017 and including the analysis and assessment adopted by the AC and the discharge of the President of the CPVO for implementation of the 2016 budget.
- The CPVO Guidelines on variety denominations with explanatory notes on Article 63 of Council Regulation (EC) 2100/94 of 27 July 1994 on Community plant variety rights. In order for the CPVO guidelines to enter into force, the AC members invited the European Commission to amend, as soon as possible, Commission Regulation (EC) No 637/2009 of 22 July 2009 establishing implementing rules as to the suitability of the denominations of varieties of agricultural plant species and vegetable species.
- The amended CPVO policy on prevention and management of conflicts of interest.
- The entrustment of the following EOs:
 - (a) Tystofte Foundation (Denmark);
 - (b) Instituut voor Landbouw- en Visserijonderzoek/Research Institute for Agriculture, Fisheries and Food — eenheid Plant (Belgium);
 - (c) Spanish Plant Variety Office (OEVV) (Spain);
 - (d) Naktuinbouw (Netherlands).
- Three new and nine revised TPs presented for the following.
 - (new) — CPVO-TP/154/1 — *Cichorium intybus* L. var. *foliosum* Hegi (leaf chicory),
 - (new) — CPVO-TP/274/1 — *Hibiscus syriacus* L.,
 - (new) — CPVO-TP/296/1 — *Eucalyptus* L'Hér.,
 - (revised) — CPVO-TP/013/6 — *Lactuca sativa* L.,
 - (revised) — CPVO-TP/045/2 Rev.2 — *Brassica oleracea* L. convar. *botrytis* (L.) Alef. var. *botrytis* L.,
 - (revised) — CPVO-TP/061/2 Rev — *Cucumis sativus* L.,
 - (revised) — CPVO-TP/173/2 — *Cichorium intybus* L. (Witloof chicory L.),
 - (revised) — CPVO-TP/194/1 Rev — *Lavendula* L.,

(revised) — CPVO-TP/276/1 Rev — *Cannabis sativa* L.,
 (revised) — CPVO-TP/sugarbeet/1 Rev — *Beta vulgaris* L. ssp. *vulgaris* var. *saccharifera* Alef. (syn. *Beta vulgaris* L. ssp. *vulgaris* var. *altissima* Döll),
 (revised) — CPVO-TP/044/4 Rev.3 — *Solanum lycopersicum* L.,
 (revised) — CPVO-TP/294/1/Rev.3 — *Solanum habrochaites* S. Knapp & D. M. Spooner; *Solanum lycopersicum* L. x *Solanum habrochaites* S. Knapp & D. M. Spooner; *Solanum lycopersicum* L. x *Solanum peruvianum* (L.) Mill.; *Solanum lycopersicum* L. x *Solanum cheesmaniae* (L. Ridley) Fosberg; *Solanum pimpinellifolium* L. x *Solanum habrochaites* S. Knapp & D. M. Spooner (partial, without the additional method of observation of alternative deoxyribonucleic acid (DNA) marker test for *Fusarium oxysporum* f.sp. *lycopersici* (Fol)).

- A model decision of the European Commission on learning and development, the new mission guide and the CPVO decision on Seconded National Experts.
- Opt-outs of the European Commission decisions on temporary occupation of management posts and on engagement of contract agents.

The members of the AC also took note of the following.

- The preliminary draft budget for 2019.
- The Quality Audit Service (QAS) review report for 2017.
- The draft single programming document 2019-2021 including the 2019 draft annual work programme.
- The state of affairs of the various R & D projects were presented and, in particular, the participation of the CPVO in the Invite consortium which submitted a bid on 13 February 2018 in the framework of the Horizon 2020 project financed by the European Commission and aiming at improving variety testing in the EU.
- The state of affairs as regards Brexit.
- The state of affairs of the cooperation between the CPVO and the EPO.
- The update on the fulfilment of the international activities of the CPVO.
- The state of affairs of the joint CPVO-Commission IT project for a unique EU IT system (including database) on plant varieties.
- The state of affairs as regards the AC request for extending the duration of protection for asparagus, some woody ornamental species and flower bulbs for an additional 5 years.
- The report of the annual meeting with EOs 2017.
- The ongoing EU/Switzerland discussions on a bilateral agreement including PVRs.

They furthermore did the following.

- Agreed that the CPVO would sign an agreement with the Israeli Office — Plant Breeders' Rights Unit of the Israeli Ministry of Agriculture — to take over reports for *Jacaranda mimosifolia* D. Don and *Mangifera indica* L. for 3 years and with the New Zealand Office — MBIE/PVR Office — to take over reports for *Grevillea alpine* Lindl. x *G. rosmarinifolia* A. Cunn for 3 years.

- Expressed their opinions on the online application system — applyfor.plantvarieties.eu — and the possible interest of national authorities in using it in the near future based on a contractual arrangement with the CPVO and a fee aiming to ensure the maintenance of the system at fair cost.

At the **19 September** meeting, the members of the AC acknowledged the end of the mandate of Chair Andy Mitchell (United Kingdom) and they elected the new Chair and Vice-Chair of the AC.

- Bistra Pavlovska (Bulgaria) was appointed Chair of the AC for 3 years, starting from 4 October 2017.
- Marien Valstar (Netherlands) was elected Vice-Chair of the AC for 3 years, starting from 4 October 2017.

The members of the AC adopted the following.

- The draft budget for 2019 as proposed by the CPVO.
- The decision to cap the increase in costs for EOs to a maximum of + 3 % overall.
- The open list of 36 QAS technical experts for the 2019-2021 cycle.
- The procedure on the career development review of the CPVO accountant by which the annual assessment of the CPVO accountant shall be initiated by the head of administration and finalised by the AC vice-chair.
- The revised CPVO procedure for R & D projects.
- The single programming document, including two new key performance indicators.
- The entrustment of the following EOs:
 - (a) Council for Agricultural Research and Agricultural Economics Analysis — Research Centre for Plant Protection and Certification (CREA-DC) (Italy);
 - (b) GEVES (France);
 - (c) Swedish Board of Agriculture (Sweden);



Administrative Council meeting, March 2018, Angers, France

- (d) University of Aarhus — Aarslev (Denmark);
- (e) Elintarviketurvallisuusvirasto/Finnish Food Safety Authority (Finland).
- One new TP: CPVO-TP/021/1 — *Populus* L.

The members of the AC also took note of the following.

- The president's report and the statistics for 2018.
- The suppression of the audit fee chargeback as of 1 January 2019.
- The financial situation of the CPVO.
- The final accounts for 2017.
- The 2017 internal audit report
- The state of play of the ongoing R & D projects and the upcoming ones.
- The revised CPVO technical protocol template incorporating elements from the entrustment requirements, from the designation agreements and aligned with UPOV test guidelines.
- The state of play of the cooperation between the CPVO and the EPO [extension of the administrative agreement to be signed in Munich on 25 October for another 3 years (2019-2021)].
- The state of play of the cooperation between the CPVO and the EUIPO.
- An update on the CPVO international relations strategy.
- The state of play of the IT projects in the CPVO and, in particular, the sharing online applications and the joint CPVO-Commission IT system on plant varieties.
- The finalised 'CPVO report on the classification of Onion and Shallot' was sent to the European Commission on 29 March 2018 for follow-up.
- The update on Brexit.
- The outcome of the satisfaction survey on the AC meeting of March 2018.
- The update on the ongoing discussions between EU and Switzerland on a bilateral agreement that would integrate PVRs.
- The state of play of the discussions of the working group on a United Nations declaration on the rights of peasants and other people working in rural areas — United Nations Human Rights Council.

They furthermore did the following.

- Were informed that the CPVO may use the designation agreements as a legal basis to charge the EOs for non-examination services.
- Consented to the conclusion of a written agreement with the Taiwan Seed Improvement and Propagation Station for Phalenopsis and Doritaenopsis.
- Consented to the conclusion that a written agreement with the Servicio Nacional de Inspección y certificación de Semillas in Mexico for *Carica papaya*.

Chair of the Administrative Council

B. Pavlovska since 4 October 2017

Vice-chair of the Administrative Council

M. Valstar since 4 October 2017

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Latvia	I. Ovsjannika (member) (alternate vacant)
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Luxembourg	M. Weyland (member) F. Kraus (alternate)
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United Kingdom	A. Mitchell (member) M. Watts (alternate)
European Commission	(Member vacant) D. André (alternate)

6. ORGANISATION OF THE CPVO



In December 2018, the CPVO employed 49 persons: nine officials, 35 temporary agents and five contract agents. 12 nationalities from the EU Member States were represented.

Under the general direction of its president, assisted by the vice-president, the CPVO is organised internally into three units and the quality audit service responsible for the quality auditing of EOs. This service is under the administrative responsibility of the president while being independent with regard to its audit operations.

The Technical Unit has the following principal tasks: general coordination of the various technical sectors of the CPVR system; reception and checking of applications for protection; organisation of technical examinations or takeover reports; organisation of variety denomination examinations; preparation for the granting of rights; maintenance of the CPVO's registers; production of official technical publications; relations with applicants, national offices, stakeholders and international organisations; active participation in international committees of technical experts; and cooperation in the development of technical analysis and studies intended to improve the system (namely CPVO R & D projects). Moreover, advice is given to the Member States in relation to variety denomination proposals received within the framework of national listings and national plant breeders' rights (PBR).

The Administration Unit consists of the following four sectors.

- The administrative sector, which deals with the organisation of the CPVO's publications and the reporting of the CPVO's activities to the European Commission.
- The accounting sector, which deals with the management of financial transactions; treasury management; maintenance of the budgetary and general accounts and preparation of budgets and financial documents; and the management of the fees system.
- The IT sector ensures that the CPVO runs smoothly in computing terms. Its tasks include analysis of the CPVO's hardware and software requirements; design, development and installation of new programmes specific to the CPVO; development and maintenance of the CPVO's websites; installation of standard programmes; maintenance of computer installations and their administration; ensuring the security of the computer system; running the helpdesk; and interinstitutional cooperation in computing.
- The human resources sector deals with the administration and management of the CPVO's human resources in compliance with the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union (hereinafter referred to as the staff regulations).

The Legal Unit provides legal advice to the president and other staff members of the CPVO, in principle on matters related to the CPVR system but also on questions of an administrative nature; provides legal interpretations and opinions and also draws up draft legislation; participates in various CPVO committees, thus ensuring that EU procedures and legislation are respected; manages the administration of objections to applications for CPVRs; and provides the secretariat of the CPVO's Board of Appeal. The Legal Unit is also responsible for the public procurement and the administration, management and monitoring of the CPVO's inventory of movable property and buildings, and the administration of logistical and operational resources with a view to ensuring the smooth functioning of the CPVO. A communication sector, integrated in the Legal Unit as of 1 January 2019, is responsible for external communication, publications, exhibitions, etc.

The data protection officer (DPO) role, which used to be filled internally in the CPVO, is now outsourced and managed through a service level agreement with the EUIPO, with the help of a CPVO coordinator.

The QAS is responsible for verifying that EOs meet the quality standards required for providing services to the CPVO in the area of testing the compliance of candidate varieties with the DUS criteria, in addition to novelty.

In 2018, the CPVO hosted seven trainees who joined the CPVO under the traineeship procedure to allow young university graduates to gain experience in the CPVO for a period of 6 or 12 months. As of 31 December 2018, four of them were still present. The CPVO also had one interim agent (contract for a limited period of time) in the Administration Unit and the Register, and two IT external consultants were present in the CPVO (one full-time and the other on a half-time basis).



CPVO staff members, January 2019



Alina Ceban
Trainee —
Legal Unit (Registry)



Laura Farci
Trainee —
Administration Unit



Angela Martinez Lopez
Trainee — Legal Unit



Carmen Mera Fuentes
Trainee — Legal Unit



Kristina Saprykinaite
Trainee — DPO



Juan Antonio Vives Valles
Trainee — Legal Unit



Delphine Lamat
Interim agent — Registry/
Administration Unit



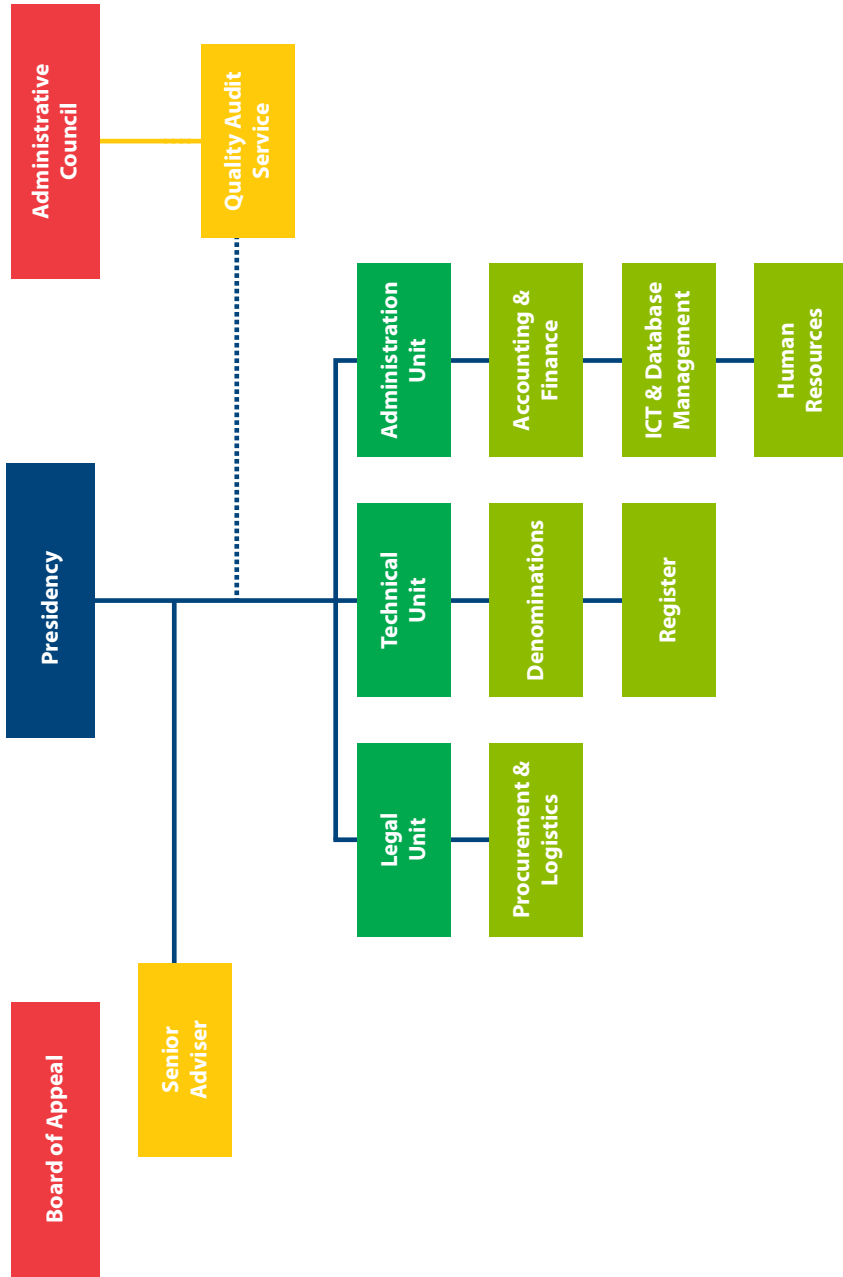
Maël Godard
External consultant —
Administration Unit
(IT sector)



Renaud Chollet
External consultant —
Administration Unit
(IT sector)

In 2018, the CPVO prepared a social report with information concerning the turnover, work environment and social aspects of the CPVO. The different headings covered in the report were employment (staff members, recruitment procedures, staff joining or leaving the CPVO, promotions, absenteeism, gender balance), working conditions (hours worked, part-time work, parental leave, teleworking), training (language training, IT training, other training) and professional relations (Staff Committee). The CPVO's social reports from 2006 to 2016 can be consulted on the CPVO website ('About us/What we do/Reports/Social reports'). From 2017, the social report is an integrated chapter in the 'Consolidated Annual Activity Report' included in the reports section of the CPVO website.

ORGANISATION CHART OF THE CPVO



PRESIDENCY



President
Martin Ekvad



Vice-President/Head of the LU
Francesco Mattina



Senior Adviser
Dirk Theobald



Assistant to the presidency
Laurence Dumont



Quality Audit Team Leader
Sergio Semon

QUALITY AUDIT SERVICE



Head of the AU
James Moran



Accounting
Anne-Marie Fernandez



Accounting
Patrick Lecoq



Accounting
Ekaterina Mantziaris



Accounting
Paul Sescu



Accounting
Christophe Yakovleff

ADMINISTRATION UNIT (AU)



Evaluation/Internal Audit and Control
Anna Verdini



Human resources
Cyrille Antoine



Human resources
Valérie De Caestecker



Human resources
Roseline Fagel



Human resources
Deirdre Killeen



Training/Public relations
Fabienne Santoire



Information technology
Sébastien Beaughier



Information technology
Yohann Larouelle



Information technology
Alexandru Mihai



Information technology
Laura Naite



Information technology
Marc Rouillard



Information technology
Juan Manuel Sanchez Navas

TECHNICAL UNIT (TU)



Head of the TU
Gerhard Schuon



Deputy Head of the TU
Jean Maison



Assistant to the Head of the TU
Aline Nogues



Agricultural species
Anne Weitz



Biomolecular techniques
Cécile Collonnier



Denominations
Carole Bonneau



Denominations
Rudi Caes



Denominations
Bénédicte Legrand



Fruit and ornamental species
Urszula Braun-Mlodecka



Ornamental species
Jens Wegner



Ornamental species
Laetitia Denécheau



Vegetable species
Céline Morineau



Register
Pierre-Emmanuel Fouillé



Register
Nadège Grantham



Register
Mathilde Saint-Jean



Technical Unit assistant
Ghislaine Guilbert



Technical Unit assistant
Francesca Rampazzi



Technical Unit assistant
Laurence Theodore



Assistant to the LU
Marleen Van de Meulebroeke



Legal affairs
Montserrat Garcia-Monco Fuente



Legal affairs
Orsola Lamberti



Board of Appeal
Anna Gardener



Procurement and logistics
Thierry Cluzeau



Procurement and logistics
Véronique Doreau



Procurement and logistics
Isabelle Lanteri



Procurement and logistics
Manuel Teixeira

LEGAL UNIT (LU)

7. QUALITY AUDIT SERVICE

The Quality Audit Service (QAS) implements the CPVO's quality audit programme. It carries out regular assessments at EOs to check whether they fulfil the entrustment requirements when testing candidate varieties against the DUS criteria. The assessments relate to any work in relation to DUS activities for species within the EOs' scope of entrustment.

7.1. Assessment of examination offices

A total of 10 regular assessments were carried out in 2018 between June and October. Some additional scope-extension requests were also integrated in the regular audits. No surveillance audits were initiated. The assessments were based on the updated version (3.0) of the entrustment requirements that were adopted at the end of 2015. The assessments carried out in 2018 saw numerous non-conformities being raised, although remedying action was subsequently taken by the pertinent EOs.

The entrustment recommendations in 2018 to the members of the AC were all positive. Five of these related to assessments carried out in the second half of 2017 (AC of March 2018) and the other five related to five assessments carried out in June and July (AC of September 2018). The remaining five assessments from 2018 are to be presented as entrustment recommendations to the AC in March 2019.

7.2. Audit programme

The 2018 assessments were part of the third audit cycle (2016-2018) since the inception of the programme in 2010, thereby bringing that particular cycle to an end.

The AC adopted an audit fee scheme in 2014 to share the audit-related costs evenly between the network of EOs and the CPVO on a 50 : 50 basis. Concurrent with the triennial audit programme, the fee level is specified for a 3-year period. All entrusted EOs opted for an annual payment of a third of the respective fees for the 2016-2018 cycle. The invoicing is prior to the on-site visiting period. In 2018 there were a number of instances of EOs not being able to pay on time due to bureaucracy reasons, which meant a delay in fixing the assessment dates for certain EOs. In spring 2018 the CPVO commenced the review of the audit fee for the 2019-2021 cycle. With the experienced gained from the 2016-2018 cycle, the CPVO came to the conclusion that the audit fee created undue work and problems for the CPVO as well as for EOs. The CPVO thus proposed to the AC to suppress the audit fee and this was agreed upon unanimously by the AC in September 2018.

The pool of technical experts in 2018 comprised 30 individuals after the tragic death of Joël Guiard in June. 10 technical experts were involved in assessments initiated in 2018, meaning that just one expert was required per assessment. During the summer, QAS launched a call for tender for technical experts for the 2019-2021 assessment cycle. There was a high response rate to the call and in September 2018 the AC approved 36 QAS technical experts for the forthcoming triennial cycle. Three of the approved experts

are United Kingdom nationals, so in principle these cannot be utilised for assessments after the Brexit date. With the consequent loss of two United Kingdom ornamental experts, leaving just seven ornamental experts who are nationals of Germany and the Netherlands, QAS has launched a new call for tender to recruit further ornamentals experts from other EOs entrusted in this sector. Training on quality auditing for all appointed QAS technical experts will take place in Paris in April 2019, before the on-site assessments commence for the 2019-2021 cycle.

Interest in the audit programme from outside the Member States has triggered activities for disseminating information and providing training. Assistance in this respect was given in Peru and China in 2018 and it is foreseen that further activities will take place with OAPI and China in 2019.

Finally, in February 2018 Sergio Semon took up the role of QAS Team Leader from Gerhard Schuon, who had set up and successfully managed the QAS system since its inception in 2008.

List of QAS qualified technical experts for the 2019-2021 cycle

Technical expert		Organisation	Member State	Crop sector	Already TE in 2015-18?
Bašta	Lubomír	Central Controlling and Testing Institute in Agriculture (UKSUP)	Slovakia	agricultural	Yes
Bimova	Pavla	Central Institute for Supervising and Testing in Agriculture (ÚKZÚZ)	Czechia	agricultural	No
Bonthuis	Henk	Retired	Netherlands	agricultural	Yes
Bravi	Romana	CREA-DC	Italy	vegetable	No
Cechova	Lydie	ÚKZÚZ	Czechia	agricultural	No
Chatzigeorgiou	Alexandra	Ministry of Rural Development and Food	Greece	agricultural, vegetable	Yes
Corbel	Anne-Lise	GEVES	France	agricultural	Yes
Corsi	Giovanni	CREA-DC	Italy	agricultural	No
Csurös	Zoltán	National Food Chain Safety Office (NÉBIH)	Hungary	agricultural	No
de Greef	Henk	Naktuinbouw	Netherlands	ornamental, vegetable	Yes
De Salvador	Flavio Roberto	CREA-OFA (EO)	Italy	fruit	No
Diaz Morant	Miguel	OEWS	Spain	agricultural	Yes
Dimitrov	Dilyan	Executive Agency for Variety Testing, Field Inspection and Seed Control	Bulgaria	agricultural, vegetable	No
Escolano García	Antonio	OEWS	Spain	agricultural, vegetable	Yes
Giulini	Anna	CREA-DC	Italy	agricultural	No
Haegens	Raoul	Naktuinbouw	Netherlands	ornamental, vegetable	No
Hoffman	Marco	Naktuinbouw	Netherlands	fruit, ornamental	No
Kowalczyk	Bogna	Research Centre for Cultivar Testing (Coboru)	Poland	agricultural, vegetable	Yes

Technical expert		Organisation	Member State	Crop sector	Already TE in 2015-18?
Leclair	Clarisse	GEVES	France	agricultural	Yes
Menne	Andrea	Bundessortenamt (BSA)	Germany	ornamental	Yes
Miceli	Claudia	CREA-DC	Italy	agricultural	No
Papworth	Hilary	National Institute of Agricultural Botany (NIAB)	United Kingdom	ornamental	Yes
Povolná	Andrea	ÚKZÚZ	Czechia	agricultural, fruit	Yes
Riemer	Karin	BSA	Germany	agricultural, ornamental	Yes
Rukavina	Ivana	Croatian Centre for Agriculture Food and Rural Affairs	Croatia	agricultural	Yes
Schulte	Erik	BSA	Germany	fruit	Yes
Scott	Elizabeth	NIAB	United Kingdom	agricultural, ornamental	Yes
Sicard	Georges	GEVES	France	agricultural, vegetable	No
Szani	Zsolt	NÉBIH	Hungary	agricultural, fruit	Yes
Taferner-Kriegl	Jutta	Bundesamt für Ernährungssicherheit	Austria	agricultural	Yes
Tams	Swenja	BSA	Germany	agricultural, fruit, ornamental, vegetable	Yes
Titone	Patrizia	CREA-DC	Italy	agricultural	No
Turnbull	Cheryl	NIAB	United Kingdom	agricultural	No
Urquia Fernandez	Nuria	OEV	Spain	fruit	No
van Dijk	Amanda	Naktuinbouw	Netherlands	ornamental, vegetable	No
van Leeuwen	Marian	Naktuinbouw	Netherlands	vegetable	No

8. RESEARCH AND DEVELOPMENT PROJECTS

In this section, the CPVO provides updated information on candidate projects, projects underway and follow-up measures taken in 2018 on projects already concluded.

8.1. Revision of the CPVO R & D procedure

The revised R & D procedure includes a new element which is the timeline in relation to the receipt, assessment and decision on R & D project proposals. The procedure becomes applicable as of 2019 for funding in 2020. To apply for co-funding in a given year x , the final project proposal must have reached the CPVO on the 1 May of the previous year $x - 1$.

Timeline		
1	Recommended date for reception of project proposal	R = 15 March
2	Confirmation of reception	R + 1 week
3	Request to applicant to answer questions and/or complete information or decision on refusal	R + 3 weeks
4	Final proposal	F = 1 May
5	Advice of ad hoc working group for the integration of molecular data into DUS testing and/or expert group	F + 4 weeks
6	Conclusion advisory group	F + 7 weeks
7	Decision president	F + 8 weeks
8	Financial commitments and contract drafted	F + 11 weeks
9	Signed contract	F + 13 weeks

All applications need to be filed using the template available on the CPVO website.

8.2. Situation as regards candidate projects

Tomato

The proposal for 'The creation of a joint EU database with DNA data of Tomato' received by the CPVO in September 2017 and finally withdrawn by the applicant due to extensive comments made by some of the vegetable experts, was substantially revised. It was submitted in September 2018 to the CPVO by Naktuinbouw under the title 'International harmonisation and validation of a single-nucleotide polymorphism (SNP) set for the management of tomato reference collection'. Its evaluation according to the new R & D procedure was still ongoing by the end of 2018. The project is coordinated by Naktuinbouw and partners are all entrusted EOs for Tomato: GEVES, Coboru (Poland), NÉBIH (Hungary), the National Research Institute for Agriculture and Food Research and Technology (INIA) (Spain), the National Authority for Animal Health (DGAV) (Portugal) and CREA. In addition, the DUS Testing Centre of the Chinese Ministry of Agriculture as well as

the Korean Seed and Variety Service are involved and participate in the project on their own funding. The ESA is also partner to the project.

Oilseed rape

This is the follow-up project of the project mentioned below called 'Test of the potential use of SNP markers on oilseed rape varieties'. It is called 'Developing a strategy to apply SNP molecular markers in the framework of winter oilseed rape DUS testing' and was submitted by the project coordinator GEVES at the end of September 2018.

Based on the results of a pre-project started in 2016 and finalised in 2018, in collaboration with GEVES and NIAB (United Kingdom), a set of 500 SNPs was selected and tested on different matrices. From this pilot project, the SNP set and primer design for KasPAR assay have been developed and are now available to work on the possibilities of DUS use on oilseed rape species. In addition, the project confirmed the possibility to reliably use bulk samples of seeds in that species.

This first follow-up project continues this work and aims to produce large and consistent molecular data on a wide number of winter oil seed rape varieties to reach an optimised SNP set. Based on that it aims to develop a method to use genetic data by testing the existing UPOV model and by developing new ones well adapted for this species, both from historical field data.

The approaches will be tested on the two different testing systems GAIA in France and COY in Germany. The final results will be presented and discussed with experts from all entrusted EOs which were also partners to the pre-project.

It had the approval of the agricultural experts group, since it was foreseen as a follow-up project and since ultimately all entrusted EOs will use the results of the project, if the outcome is positive.



Tomato



Oilseed rape

8.3. Situation as regards ongoing projects

‘Setting up of a database with the descriptions and photos of melon varieties of common knowledge. Setting up of a management system of this database that can be used as a blueprint of comparable future databases’

This project is coordinated by Naktuinbouw, with the following partners: GEVES, INIA/OEW, UKSUP (Slovakia) and DGAV. It was approved in December 2017 for a duration of 2 years starting from 2018. The kick-off meeting was organised at Naktuinbouw in August 2018 but progress had not been made as expected since then, Naktuinbouw announced in December 2018 (at the meeting with EOs) that a delay would be requested in January 2019.

The project aims to develop a common database containing administrative data, variety descriptions and photos stored within all the CPVO's entrusted EOs for melon to facilitate the transfer of information useful for the setup of DUS trials.

‘Ring tests for strawberry’

2018 was the 2nd year of assessment of varieties included in the project. The participants, which are the CPVO, BSA (Germany), Coboru, DGAV, OEW and the breeders' representative — the International Community of Breeders of Asexually Reproduced Ornamental and Fruit Varieties (Ciopora), met in the fields in Poland and Germany in June. They looked at the varieties and discussed a number of flower and fruit characteristics of the current TP.

The project was presented at the UPOV technical working party for fruit crops meeting in November 2018 in Santiago de Chile, Chile, and a revision of the UPOV technical guidelines for strawberry has been triggered.

The results of the 2nd year of observations are being compiled and a final discussion is foreseen before the end of 2019.

‘Harmonisation of resistance tests to diseases for DUS testing 3 (Harmores 3)’

This project is composed of two parts with a total duration of 3 years (2017-2019). Part 1 (duration of 1 year) was approved in June 2016; an annual meeting for the project partners took place at the GEVES headquarters in May 2017 in France and the final report was delivered to the CPVO in November 2017. Part 2 (duration of 2 years) was approved in October 2016 and formally started in November 2017 straight after the finalisation of Part 1 of the project. An annual meeting took place in June 2018 at Naktuinbouw in the Netherlands. Both parts had to be slightly modified due to the withdrawal from the project of one of the partners, Palacký University (Czechia).

This project, which is a follow-up of a previous project, is coordinated by GEVES, with the following project partners: Naktuinbouw, INIA, ÚKZÚZ (Czechia), NÉBIH, CREA

(Italy), Science and Advice for Scottish Agriculture (United Kingdom), Centre Technique Interprofessionnel des Fruits et Légumes (France) and the ESA.

The project aims to harmonise the resistance tests in terms of reference material (isolates and varieties), test conditions and notation scales, and to propose new harmonised and robust protocols to the CPVO for subsequent adoption in the technical protocols of the species in question. A focus for the Harmores 3 project is on intermediate resistance, which makes it more challenging than the previous projects, but for which harmonised protocols and reproducible results are of great importance.

The project aims to harmonise, at the European Union level, resistance tests for seven vegetable diseases.

- *Meloidogyne incognita*/tomato.
- *Fusarium oxysporum* f. sp. *lycopersici* Race 0 (ex 1).
- *Fusarium oxysporum* f. sp. *lycopersici* Race 1 (ex 2).
- *Erysiphe pisi*/pea.
- Powdery mildew/melon (*Podosphaera xanthii*).
- *Fusarium oxysporum* f. sp. *melonis* race 1.2/melon.
- *Fusarium oxysporum* f. sp. *melonis* race 2/melon.

The final meeting will take place in May 2019 and the final report for Part 2 of the project is expected to be delivered before the end of 2019.

‘Integration of molecular data into DUS testing in Durum wheat’

This project started in 2018. The objective is to combine genotypic and phenotypic data to optimise the reference collection management by investigating the use of SNP markers of a commercial DNA chip.

In early June the project coordinator, the Austrian Agency for Health and Food Safety (AGES), invited the project partners (CREA-DC, GEVES, INIA and NÉBIH with the ESA as observer) to share the first results obtained on genetic data and, based on these results, agreed on the trial setup at the different partner EOs for the gathering of the phenotypic data. A field visit and discussions are planned to be held in June in Milan, Italy. The final report is expected for December 2020.

‘Developing molecular markers allowing the distinction of apple mutants’

The objective of this project is to identify genetic and epigenetic markers that can be correlated to the fruit phenotype. Investigations will focus on Gala mutants.

If the results from the first 2 years are successful, these selected markers will be used to test the stability across tree ages, sites and years for different varieties in a follow-up project.

Ultimately, this project aims to produce a collection of genetic and/or epigenetic markers allowing the prediction of apple traits and the distinction of mutants with well-defined thresholds already at a very early stage (fresh grafts, before fruits appear).

8.4. Finalised projects

‘Construction of a European potato database with varieties of common knowledge and its implementation in the potato DUS testing system (Potato III)’

This project (with a duration of 2 years) was approved in early March 2016. It is a follow-up of the previous R & D projects: ‘Construction of an integrated microsatellite and key morphological characteristic database of potato varieties in the EU common catalogue’ and ‘Construction of a European potato database as centralised collection of varieties of common knowledge’.

This project was coordinated by the BSA and involves the eight other entrusted EOs for potato: Naktuinbouw, Science and Advice for Scottish Agriculture, Coboru, OEW, Department of Agriculture, Food and the Marine (Ireland), AGES (Austria), ÚKZÚZ, UKSUP, as well as the CPVO and the ESA.

The objective of the project was to continue the work on filling the EU database for potato with morphological characteristics, molecular data and lightsprout pictures of all listed and protected varieties in the EU, and beyond, where material was available. In addition, agreements were developed and signed between the partners to allow and pursue the collaboration in the future, defining the rights and obligations of each partner.

The final report was received in summer 2018, the database is in use for the DUS test of potato varieties.



Apples



Pelargonium

‘Test of the potential use of SNP markers on oilseed rape varieties’

This project aimed to examine the potential use of SNP markers as a tool for the management of the oilseed rape (*Brassica napus* L.) reference collection.

The project was coordinated by GEVES, with the following project partners: Animal and Plant Health Agency (United Kingdom), NIAB, BSA, Coboru, Department of Variety Testing (Denmark), INIA, UKSUP, ÚKZÚZ and the ESA.

The objectives were:

- Selection and validation of a suitable set of SNP markers from the 1 536 free-access SNPs;
- Method optimisation (assess the use of bulk of plants or seeds instead of individual plants).

The main objective of the project is to select a reliable marker set as well as an applicable procedure for routine genotyping, ideally to be used on a bulk sample. A protocol to genotype different varieties with marker combinations was proposed and a project would follow with the aim of combining genotypic and phenotypic data to optimise oilseed rape reference-collection management (see chapter above on candidate projects).

The final report was received in spring 2018.

‘Case study on minimum distances between *Pelargonium* varieties’

This is a new project approved in October 2018. It is a follow-up project of an earlier study on minimum distances between vegetatively reproduced ornamental and fruit varieties. The initial project consisted of a reassessment of 50 varieties already granted PVRs using fewer characteristics. Ciopora expressed concern about shrinking distances between varieties to the point that in trade some varieties no longer can be distinguished from each other. The result of the earlier case study, which did not involve observations on real plants, but was conducted as a paper study, did not give a clear picture on the feasibility of the Ciopora approach to establish distinctness on fewer characteristics.

For the new project, Ciopora has preselected seven pairs of *Pelargonium* varieties and one group of three *pelargonium* varieties, which have a similar phenotype, in total 14 varieties. All of these varieties are or were protected by a CPVR. These seven pairs of varieties shall be grown in a trial at the BSA and the distinctness shall be re-evaluated and discussed on the basis of the mock protocol. In a meeting Ciopora will discuss jointly with the BSA, the breeders and the CPVO a possible re-evaluation of the characteristics used to establish distinctness between varieties. The results of the study are expected for October 2019.

9. BUDGET

9.1. Out-turn

The budget out-turn for 2018 remains rather stable compared to 2017, thanks to the rise of the level of the annual fee in 2017. A slight decrease in administrative expenditure also contributed to the stability of the budget out-turn. Operational spending significantly increased due to the high number of examinations carried out.

Net out-turn for the year 2018		(million EUR)
Budgetary revenue (a)		17.63
Budgetary expenses (b)		16.43
Budgetary out-turn (c) = (a) – (b)		1.20
Non-budgetary receipts (d)		0.10
Net out-turn for the budgetary year 2018 (e) = (c) + (d)		1.30

The net out-turn for the year was approximately EUR 1.30 million positive and stable compared to the previous year showing a net out-turn of EUR 1.37 million.

9.2. Revenue

The CPVO's revenue comprises various fees paid by clients applying for and holders of CPVRs, other revenue (from administrative operations) and income from interest on bank accounts. The total revenue collected in 2018 was EUR 17.63 million.

	Variation (%)	2018 (million EUR)	2017 (million EUR)
Fees	+ 9.45	17.50	15.99
Bank interest	– 45.78	0.03	0.06
Other revenue	– 22.64	0.10	0.13
Total revenue	+ 8.98	17.63	16.18

The total fees received in 2018 amounted to EUR 17.50 million, representing an increase of 9.45 % in comparison with the previous year. All fee types increased (annual, application, examination and other fees).

Bank interests continue falling as rates are extremely low; furthermore, the CPVO does not accept negative interests.

9.3. Expenditure

In 2018, the total amount of recorded expenditure and commitments carried over was EUR 16.42 million, compared with EUR 14.93 million in 2017.

	Variation (%)	2018 (million EUR)	2017 (million EUR)
Staff expenditure	+ 7.81	7.06	6.55
Administrative expenditure	- 5.68	1.30	1.38
Operational expenditure	+ 15.15	8.06	7.00
Total expenditure	10.00	16.42	14.93

The salary grid for the staff of the CPVO, being governed by the levels set by the Council of the European Union, is also subject to changes in line with inflation and career progression.

Continuous efforts have been made to decrease the administrative expenditure: approximately - 6 % in 2018 and - 30 % in 2017.

Operational expenditure consists mainly of remuneration for EOs. This increase is due on the one hand to a higher number of applications than in the previous years with a corresponding increase in the number of examinations. On the other hand, the testing phase for upfront payments (payment of the examination cost at the beginning of the examination process) contributes also to the increase of the examination expenditure this year.

9.4. Conclusion

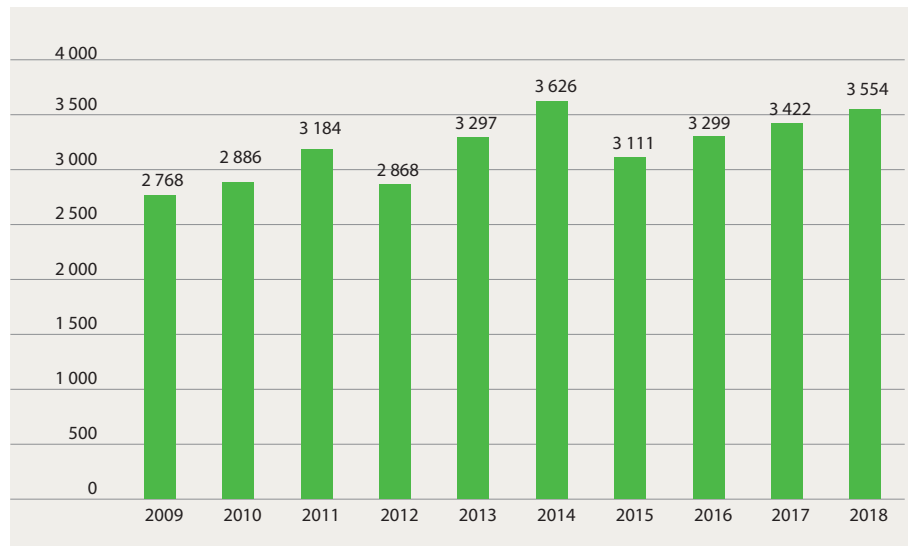
The net results of 2018 and 2017 are more or less equivalent with a slight difference of EUR 0.07 million.

10. TECHNICAL DEVELOPMENTS IN THE SYSTEM

10.1. Applications for Community plant variety protection

In 2018 the CPVO received 3 554 applications for Community plant variety protection (PVP), which represents an increase of 3.9 % compared to the previous year. Graph 1 shows the evolution of the number of applications received by the CPVO (all figures are based on the date of arrival of the application documents at the CPVO). This is the second highest number in the history of the CPVO. During the first 10 years, the CPVO observed a growing number of applications each year (figures not shown). Since then, the application numbers seem to have stabilised; the annual changes are probably not to be understood as a trend but rather as chance fluctuations.

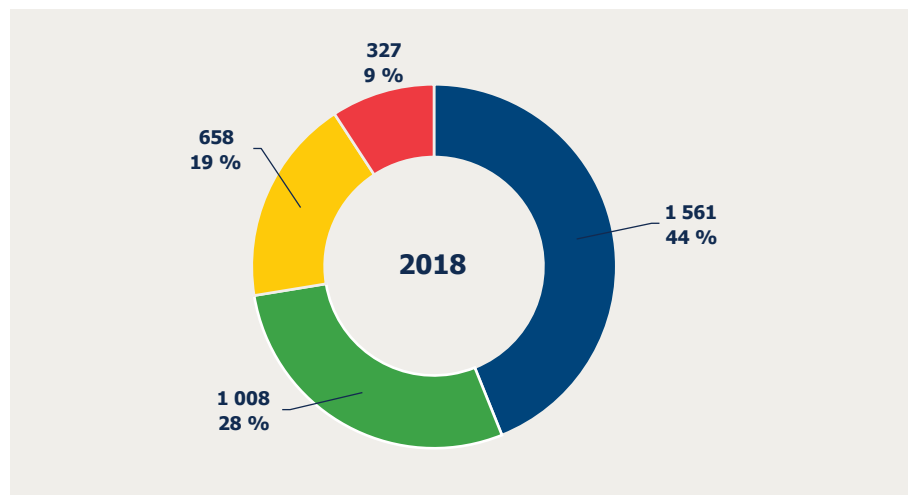
Graph 1
Evolution of the annual number of applications for Community plant variety protection (2009-2018)



Graph 2 represents the shares of the crop sectors in relation to the number of applications received in 2018.

Graph 2
Shares of application numbers per crop sector in 2018

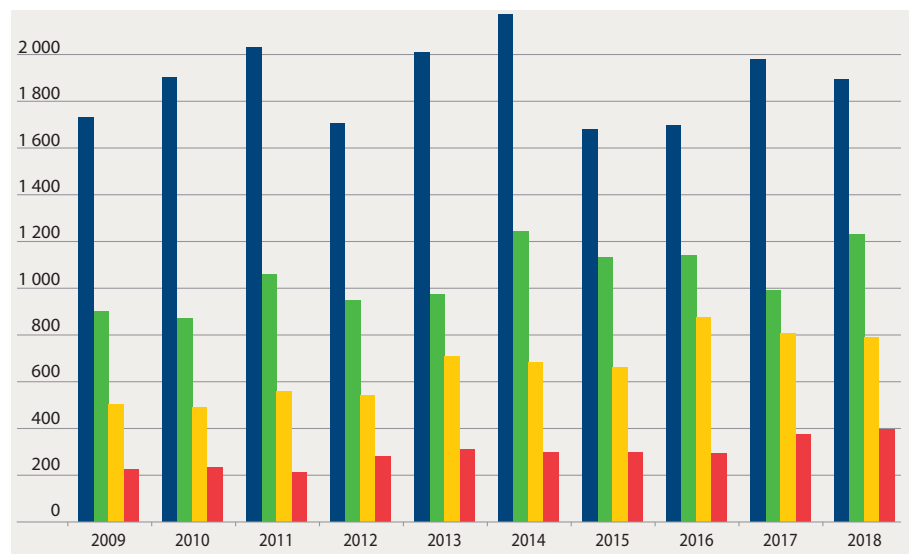
- Ornamental
- Agricultural
- Vegetable
- Fruit



Graph 3 shows the evolution of the number of applications per crop sector since 2009. Despite the fact that the total number of applications shows only minor variation from year to year, the variation within the four crop sectors may be more important. In 2017 the CPVO observed a particularly sharp increase in application numbers in the fruit sector with + 69 applications (+ 28.4 %) and in the ornamental sector with + 233 applications (+ 16.7 %). The other sectors showed a corresponding decrease: agricultural crops – 121 applications (– 12.9 %) and in the vegetable sector – 58 applications (– 8.0 %). In 2018, the CPVO saw a particular increase in application numbers for the agricultural sector with + 192 applications (+ 23.5 %) and a slight increase in the fruit sector with + 15 applications (+ 4.8 %) and decreases in the ornamental – 68 (– 4.1 %) and vegetable sector – 7 (– 1 %).

Graph 3
Evolution of application numbers
per crop sector (2009-2018)

■ Ornamental
■ Agricultural
■ Vegetable
■ Fruit



Applicants

In 2018, 672 applicants filed applications for CPVRs, 18 more than in 2017. The following tables list, for each crop sector, the 15 most frequent users of the Community system and their respective numbers of applications filed in 2018. These top 15 applicants have a relative share of applications ranging, similar to last year, from 88.82 % for vegetables, 60.12 % for agricultural and 54.43 % for fruit species, to as little as 39.53 % for ornamental species. This range not only reflects the degree of concentration in breeding, which is particularly advanced in the vegetable sector, but also shows that, in the case of ornamentals, a great number of 'small' breeders are in business and seeking protection for their varieties. The figures do not take into account possible controlling agreements between companies; the actual level of concentration may thus be higher.

Agricultural sector

Top 15 applicants	Country	Number of applications in 2018
Pioneer Overseas Corporation	United States	103
KWS Saat SE	Germany	88
RAGT 2n S.A.S.	France	65
Limagrain Europe S.A.	France	58
Syngenta Participations AG	Switzerland	43
Monsanto Technology LLC	United States	42
Deutsche Saatveredelung AG	Germany	41
Pioneer Hi-Bred International Inc.	United States	38
Caussade Semences S.A.	France	25
Norddeutsche Pflanzenzucht Hans-Georg Lembke KG	Germany	23
Nordsaat Saatzucht GmbH	Germany	20
KWS Momont Recherche S.A.R.L.	France	19
DLF Seeds A/S	Denmark	17
Secobra Recherches S.A.S.	France	14
Selgen A.S.	Czechia	13
Total		609

Vegetable sector

Top 15 applicants	Country	Number of applications in 2018
Rijk Zwaan Zaadteelt en Zaadhandel B.V.	Netherlands	150
Monsanto Vegetable IP Management B.V.	Netherlands	116
Nunhems B.V.	Netherlands	70
Syngenta Participations AG	Switzerland	70
Enza Zaden Beheer B.V.	Netherlands	67
Vilmorin S.A.	France	36
Bejo Zaden B.V.	Netherlands	26
HM.Clause S.A.	France	9
Hazera Seeds Ltd.	Israel	9
Maraldi Sementi S.a.s. di Maraldi Daniele & C.	Italy	7
Gautier Semences S.A.S.	France	5
Norddeutsche Pflanzenzucht Hans-Georg Lembke KG	Germany	4
RAGT 2n S.A.S.	France	4
Shamrock Seed Co. Inc.	United States	4
Semillas Fitó S.A.	Spain	3
Total		580

Fruit sector

Top 15 applicants	Country	Number of applications in 2018
Todolivo S.L.	Spain	38
CREA	Italy	28
Driscoll's Inc.	United States	15
Plantas de Navarra S.A. (PLANASA) - Sociedad Unipersonal	Spain	11
Florida Foundation Seed Producers Inc. (FFSP Marianna Office)	United States	11
Instituto Valenciano de Investigaciones Agrarias (IVIA)	Spain	11
Agro Selections Fruits S.A.S.	France	11
PSB Produccion Vegetal S.L.	Spain	8
Peter Stoppel	Germany	7
Oregon State University	United States	7
Università degli studi di Udine	Italy	7
V.I.F. S.A.R.L.	France	7
Sun World International LLC	United States	6
Next Progeny Pty Ltd.	Australia	6
C.I.V. - Consorzio Italiano Vivaisti - Società Consortile a r.l.	Italy	5
Total		178

Ornamental sector

Top 15 applicants	Country	Number of applications in 2018
Dümmen Group B.V.	Netherlands	122
Anthura B.V.	Netherlands	90
Piet Schreurs Holding B.V.	Netherlands	57
Deliflor Royalties B.V.	Netherlands	46
Syngenta Participations AG	Switzerland	38
Nils Klemm	Germany	34
Poulsen Roser A/S	Denmark	31
W. Kordes' Söhne Rosenschulen GmbH & Co KG	Germany	28
Van Zanten Breeding B.V.	Netherlands	28
P.G., D.T., T.E. and S.E. Kerley	United Kingdom	26
Suphachatwong Innovation Co. Ltd.	Thailand	26
Terra Nova Nurseries Inc.	United States	25
Florist Holland B.V.	Netherlands	24
De Ruiters Intellectual Property B.V.	Netherlands	22
Kolster Holding B.V.	Netherlands	20
Total		617

Applicants from outside the EU must appoint a representative with a registered office or domicile within the EU to handle their applications. Sometimes, mother companies located outside the EU appoint their daughter company in the EU (this is the case, for example, for Pioneer or Syngenta). EU applicants do not have such an obligation; however, some of them prefer to outsource the application procedure to an external agent. In 2018, 1 516 applications (42.66 %) were filed by 170 procedural representatives. The following table lists the 15 most active procedural representatives for 2018, having submitted 943 applications in total (in 2017, 839 applications were submitted by the 15 most active procedural representatives).

Name of procedural representative	Country	Number of applications in 2018
Royalty Administration International C.V.	Netherlands	265
Pioneer Génétique S.A.R.L.	France	126
Syngenta Seeds B.V.	Netherlands	108
Hortis Holland B.V.	Netherlands	75
Deutsche Saatgutgesellschaft m.b.H. Berlin	Germany	51
Hans-Gerd Seifert	Germany	43
Limagrain Nederland B.V.	Netherlands	35
Monsanto S.A.S.	France	35
WürttembergKunze	Germany	35
Plantipp B.V.	Netherlands	34
Syngenta UK Ltd.	United Kingdom	31
Ronald Houtman Sortimentsadvies	Netherlands	30
Priscilla Grace Kerley	United Kingdom	26
Andreas Gertz	Germany	25
Algemeen Octrooi en Merkenbureau B.V.	Netherlands	24
Total		943

10.1.1. Ornamental species

With 43.92 % of the applications received in 2018, ornamentals continue to represent the largest group of applications filed for CPVRs. In 2018 there were 68 less applications received than in the previous year.

A particularity of ornamentals is the great diversity of species. In all years, there were for many of them a rather low number of applications per species.

Table 1: Number of applications received per year for all ornamental species since 2014, with a total covering 1995-2018

	2014	2015	2016	2017	2018	Total (1995-2018)
All ornamental species	1 787	1 383	1 396	1 629	1 561	35 580

Table 2 shows the 10 most important ornamental crops over the last 5 years (the term ‘importance’ is always used in this text to refer to the number of applications received). Changes in the importance of most of these crops seem to be rather accidental. Roses and chrysanthemums remained by far the most important species in 2018. After 2 poor years, application numbers for *Phalaenopsis* varieties were on the rise again. In the longer run, one may reckon that *Phalaenopsis* will rise in ranking and that *Hydrangea* varieties may make it into the top 10 list.

Table 2: Number of applications received for the 10 most important ornamental species groups from 2014 to 2018, with a total covering 1995-2018

Species	2014	2015	2016	2017	2018	Total (1995-2018)
<i>Rosa</i> L.	181	161	185	169	242	4 453
<i>Chrysanthemum</i> L.	167	100	117	148	140	3 624
<i>Pelargonium</i> L'Hér. Ex Aiton	32	51	43	33	53	1 630
<i>Calibrachoa</i> Llave & Lex. and <i>Petunia</i> Juss.	89	78	50	102	72	1 495
<i>Lilium</i> L.	86	58	50	36	35	1 300
<i>Phalaenopsis</i> Blume and <i>xDoritaenopsis</i> hort.	113	44	51	134	112	1 223
<i>Gerbera</i> L.	48	39	30	30	54	1 150
<i>Dianthus</i> L.	40	26	35	60	35	1 015
<i>Impatiens</i> L. and <i>Impatiens</i> hybrids	12	19	10	12	12	978
<i>Anthurium</i> Schott	49	34	30	25	15	809
Total	817	610	601	749	770	

The CPVO may base its decision to grant CPVRs on a technical examination carried out under a previous application for either PBR or national listing and where the DUS examination has been carried out at an entrusted EO. Such a takeover of reports concerns less than 5 % of ornamentals, which is a considerably lower percentage than for the



Phalaenopsis



Pelargonium

vegetable or agricultural sectors and is due to the absence of any requirement for listing before commercialising ornamental varieties.

10.1.2. Agricultural species

The year 2018 showed an increase of 23.53 % in the number of applications in comparison with 2017. In 2018 agricultural varieties represented 28.36 % of all applications. The number of applications received for 2018 (1 008) is the third highest ever received in that sector.

Table 3 shows the number of applications received per year over all agricultural species since 2014, as well as the total figure for the years 1995-2018.

Table 3: Number of applications received per year for all agricultural species since 2014, with a total covering 1995-2018

	2014	2015	2016	2017	2018	Total (1995-2018)
All agricultural species	1 026	933	939	818	1 008	16 114

Table 4 shows the number of applications for the 10 most important agricultural species for the last 5 years.

Table 4: Number of applications of the 10 most important agricultural species from 2014 to 2018, with a total covering 1995-2018

Species	2014	2015	2016	2017	2018	Total (1995-2018)
<i>Zea mays</i> L.	333	299	201	179	262	4 783
<i>Triticum aestivum</i> L. emend. Fiori et Paol.	139	113	153	124	152	2 024
<i>Solanum tuberosum</i> L.	72	59	79	71	84	1 665
<i>Brassica napus</i> L. emend. Metzg.	115	127	126	94	103	1 560
<i>Hordeum vulgare</i> L. sensu lato	73	78	69	72	93	1 366
<i>Helianthus annuus</i> L.	82	61	86	53	59	1 069
<i>Beta vulgaris</i> L. ssp. <i>vulgaris</i> var. <i>altissima</i> Döll	18	17	21	9	19	364
<i>Lolium perenne</i> L.	18	18	14	20	19	358
<i>Triticum turgidum</i> L. <i>subsp. durum</i> (Desf.) Husn.	23	7	26	16	22	339
<i>Pisum sativum</i> L.	15	8	12	11	0	282
Total	888	787	787	649	813	



Maize



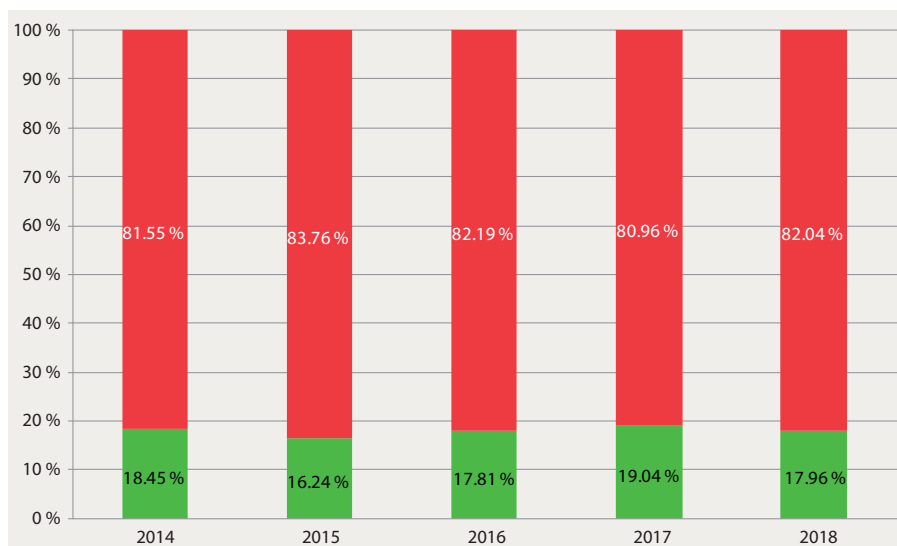
Potatoes

In the long term, the order of the species is essentially unchanged. The increase in oilseed rape may be explained by the higher number of hybrids in this species and by the fact that parent lines are also subject to applications for CPVR.

The ration takeover of reports to technical examination also remains stable. Since most of the applications are filed once the DUS report has been established in the framework of applications for national listing, the duration between application and granting is rather short, compared to applications where a technical examination needs to be organised, which takes generally two growing cycles for agricultural species.

Graph 4
Evolution of the percentage of the ratio of technical examinations to takeovers of DUS reports in the agricultural sector (2014-2018)

■ Technical examinations
■ Takeovers



10.1.3. Vegetable species

The year 2018 showed a decrease of 1.05 % in the number of applications in comparison with the previous year. In spite of this drop, the figure for 2018 was the third highest ever, with over 100 more applications than in 2015. Vegetable varieties represented 18.51 % of all

applications in 2018, which means that the percentage share of this sector amongst all CPVR applications has increased over time compared to the 16 % share it had a decade earlier. The distribution of applications in vegetable species in recent years is displayed in Table 5.

Table 5: Number of applications received per year for all vegetable species since 2014, with a total covering 1995-2018

	2014	2015	2016	2017	2018	Total (1995-2018)
All vegetable species	564	547	721	663	658	9 093

Table 6 shows the number of applications of the 10 most important vegetable species for the last 5 years.

Table 6: Number of applications of the 10 most important vegetable species from 2014 to 2018, with a total covering 1995-2018

Species	2014	2015	2016	2017	2018	Total (1995-2018)
<i>Lactuca sativa</i> L.	132	141	192	183	248	2 514
<i>Solanum lycopersicum</i> L.	128	134	127	161	116	1 346
<i>Capsicum annuum</i> L.	36	49	65	47	47	574
<i>Phaseolus vulgaris</i> L.	18	8	13	11	27	508
<i>Cucumis melo</i> L.	48	42	80	46	30	468
<i>Pisum sativum</i> L.	19	20	13	16	28	462
<i>Cucumis sativus</i> L.	30	28	45	32	37	414
<i>Brassica oleracea</i> L. convar. botrytis (L.) Alef. var botrytis	7	3	5	1	7	235
<i>Cichorium endivia</i> L.	11	10	10	8	8	196
<i>Allium cepa</i> (Cepa group)	7	10	25	8	6	191
Total	436	445	575	513	554	



Lettuce

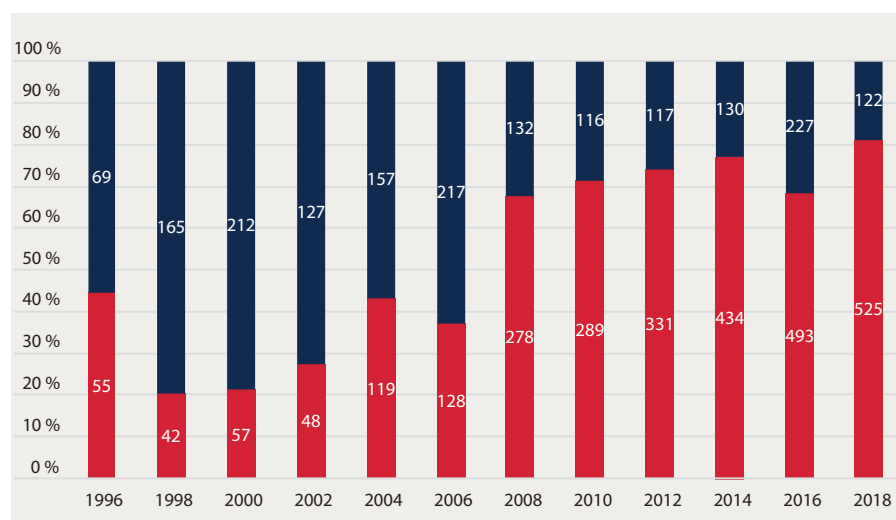


Turnip

The probable main reason as to why there has been an upsurge in CPVR vegetable applications in recent years is that vegetable breeders are now increasingly seeking dual listing/protection for many varieties. In the past, for the majority of commercial varieties, breeders would have applied for national listing only, with subsequent entry in the EU common catalogue. Nowadays we can see that there is a more systematic and pragmatic approach by vegetable breeders, with a national listing/national PBR application made initially and shortly afterwards an application being filed at the CPVO for the same variety. Under such instances, the CPVO is expected to be able to take over the technical report for the candidate variety from the national EO. For vegetable applications received in 2018, the CPVO requested 122 technical examinations to be carried out on its behalf and took over 525 technical reports from national authorities (Graph 5).

Graph 5
Evolution of the number of applications and percentage of the ratio of technical examinations to takeovers of DUS reports in the vegetable sector (1996-2018) every other year shown

■ Technical examinations
■ Takeovers
■ Number of applications



10.1.4. Fruit species

The number of fruit CPVR applications in 2018 remained at a high level. With 15 applications more than in 2017, it was the best year in the fruit sector. Although the top three species in the history of the CPVO until 2018 remained peach, strawberry and apple, the highest number of applications received in 2018 was for grapevine (50) followed by olives (39) and blueberries (38) whereas a significant decrease was noted for peach and apricot.

Table 7: Number of applications received per year for all fruit species since 2014, with a total covering 1995-2018

	2014	2015	2016	2017	2018	Total (1995-2018)
All fruit species	249	248	243	312	327	4 280



Vine



Strawberry

Table 8 shows the number of applications of the 10 most important fruit species for the last 5 years.

Table 8: Number of applications of the 10 most important fruit species from 2014 to 2018, with a total covering 1995-2018

Species	2014	2015	2016	2017	2018	Total (1995-2018)
<i>Prunus persica</i> (L.) Batsch	71	45	48	52	21	962
<i>Fragaria x ananassa</i> Duchesne ex Rozier	44	35	26	44	37	642
<i>Malus domestica</i> Borkh.	27	19	42	36	27	550
<i>Vitis</i> L.	10	24	16	34	50	305
<i>Prunus armeniaca</i> L.	18	17	24	16	8	304
<i>Rubus idaeus</i> L.	13	11	13	27	22	212
<i>Vaccinium</i> L.	20	13	10	22	38	204
<i>Prunus salicina</i> Lindl.	4	10	7	7	7	134
<i>Prunus avium</i> (L.) L.	1	9	4	6	12	128
<i>Pyrus communis</i> L.	5	2	2	5	5	85
Total	213	185	192	249	227	

In 2018, two fruit experts meetings were organised: one in February in France and the other in September in Czechia. The discussions focused on phytosanitary issues, organisation of apple testing, assessment of uniformity, progress in R & D projects, revision of the Japanese plum TP and the experience of EOs as regards the implementation of Council Directive 2008/90/EC of 29 September 2008. The meeting in Czechia was followed by a visit to the testing station in Lysice.

10.1.5. Origin of the applications

Since the creation of the CPVO applications have been received from 69 countries. Nearly every year more than one third of all applications received have originated from the Netherlands, underpinning the important role of the Dutch in the breeding sector. The

Netherlands is followed, quite some distance behind, by Germany, France and the United States. In 2018 only minor fluctuations were observed in the origin of applications. Table 9 gives an overview of the number of applications received from different Member States in 2018.

Table 9: Member States from which CPVR applications were filed in 2018

Member State of main applicant	Number of applications received in 2018
Netherlands	1 341
Germany	436
France	433
Spain	136
Italy	123
Denmark	102
United Kingdom	84
Belgium	57
Poland	38
Austria	22
Czechia	22
Hungary	11
Ireland	7
Slovenia	6
Sweden	4
Estonia	2
Portugal	2
Slovakia	2
Finland	1
Greece	1
Luxembourg	1
Total	2 831

Table 10 shows the application numbers for countries outside the EU.

Table 10: Non-EU countries from which CPVR applications were filed in 2018

Country of main applicant	Number of applications received in 2018
United States	331
Switzerland	161
Japan	75
Israel	37
Australia	30
Thailand	27
Canada	14

Country of main applicant	Number of applications received in 2018
New Zealand	13
Serbia	10
South Africa	7
Taiwan	3
China	2
Costa Rica	2
Ecuador	2
Sri Lanka	2
Argentina	1
Brazil	1
Colombia	1
South Korea	1
Mexico	1
Norway	1
Panama	1
Total	723

10.2. Grants of protection

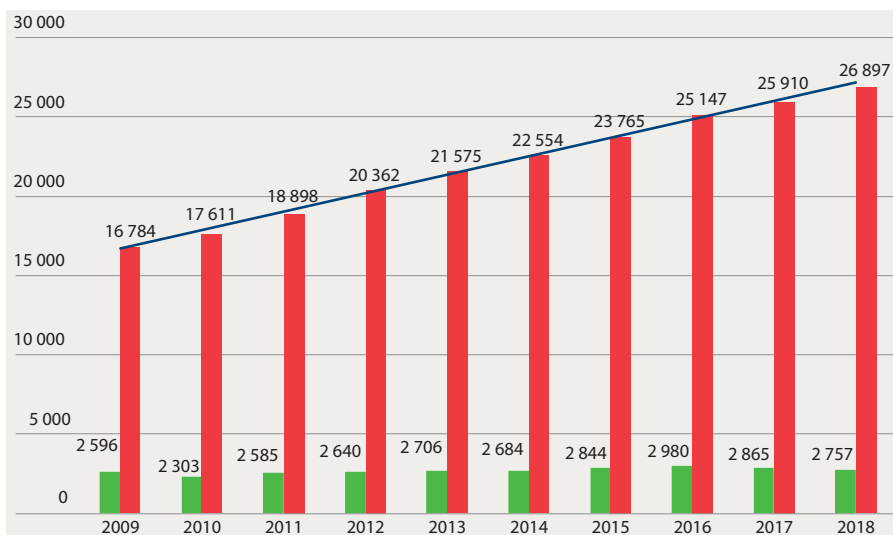
In 2018 the CPVO granted 2 757 titles for Community plant variety protection. As the number of applications seems to be stabilising, one may predict stable numbers for grants issued. A detailed list of all varieties under protection (as of 31 December 2018) is published on the CPVO website in the separate annex to this report.

By the end of 2018 there were 26 897 CPVRs in force. Graph 6 shows the number of titles granted for each year from 2009 to 2018 and illustrates the continuous increase in the number of varieties under protection within the Community system, which is due to the fact that number of rights terminated is still below the number of rights granted; in the long run an equilibrium can be expected.

Graph 6

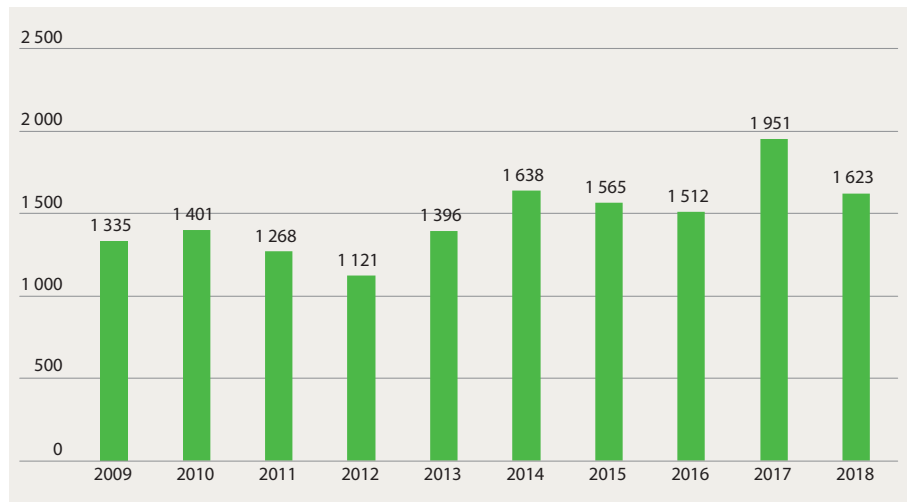
CPVRs granted and rights in force at the end of each year from those granted per year (2009-2018)

- Titles granted
- Rights in force the end of each year
- Linear (Rights in force at the end of each year)



The development of the number of CPVRs in force must be seen in conjunction with the number of rights surrendered (Graph 7). The number of rights granted still greatly outweighs the number of surrenders. As older varieties are replaced by newer ones, the number of surrenders is expected to approach more closely the number of grants. The regular increase in the number of surrenders is therefore not a surprise. No research has been conducted to identify the reasons for greater deviations from the linear trend; they might be associated with ups and downs in the economic conditions, mergers of companies and a subsequent consolidation of the variety portfolio or changes in the amount of the annual fee to be paid to keep a right in force.

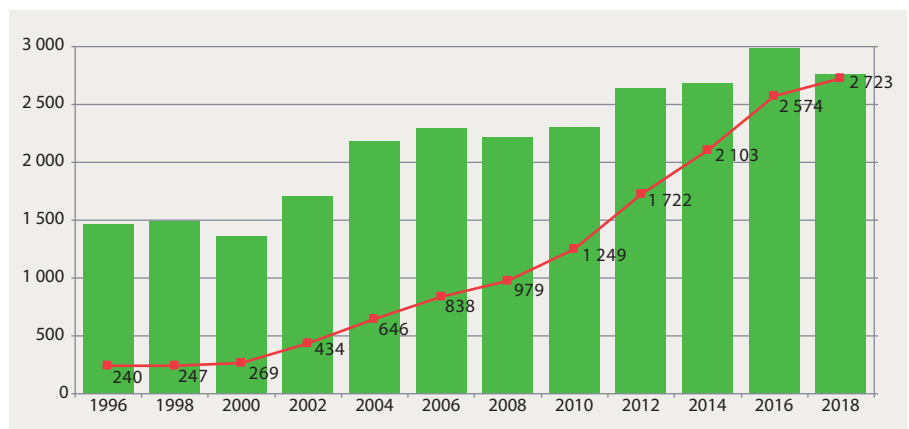
Graph 7
Number of surrenders of CPVRs
(2009-2018)



Graph 8 shows the number of rights granted in the years 1996-2018 and those still in force on 31 December 2018. A large number of rights are surrendered within a few years. The CPVR system is still too new to be able to say how many varieties will actually enjoy their full term of protection of 25 or 30 years. However, figures suggest that it will be a relatively small percentage of all the varieties once protected. This also suggests that the current period of protection might generally be quite well adapted to the needs of breeders.

Graph 8
Number of rights granted each year from 1996 to 2018 and those remaining in force on 31 December 2018 from those granted per year (every other year shown)

■ Number of rights granted
— Number of rights remaining in force



At the end of 2018, of the 50 394 rights granted in total, 26 897 (53.37 %) were still in force. Table 11 illustrates that fruit varieties are generally kept protected for a longer period and that, within each crop sector, the situation varies from species to species. There might be a number of reasons for this phenomenon, such as a change in consumer preferences, breeding trends, differences in intensity of breeding activities, the time and expense required to develop new varieties or a recent boom in plant breeding.

Table 11: Percentage of granted rights that were still in force on 31 December 2018

Crop sector	Species	Proportion (%)
Agricultural		58
	<i>Hordeum vulgare</i> L. sensu lato	50
	<i>Zea mays</i> L.	54
	<i>Triticum aestivum</i> L. emend. Fiori et Paol.	56
	<i>Solanum tuberosum</i> L.	64
	<i>Festuca rubra</i> L.	73
Vegetable		64
	<i>Cichorium endivia</i> L.	56
	<i>Lactuca sativa</i> L.	57
	<i>Solanum lycopersicum</i> L.	71
	<i>Capsicum annuum</i> L.	72
	<i>Daucus carota</i> L.	80
Ornamental		46
	<i>Gerbera</i> L.	19
	<i>Chrysanthemum</i> L.	38
	<i>Rosa</i> L.	49
	<i>Phalaenopsis</i> Blume & <i>Doritaenopsis</i> hort.	69
	<i>Clematis</i> L.	87
Fruit		77
	<i>Fragaria x ananassa</i> Duch.	64
	<i>Prunus persica</i> (L.) Batsch	71
	<i>Prunus domestica</i> L.	77
	<i>Malus domestica</i> Borkh.	79
	<i>Prunus avium</i> (L.) L.	89

10.3. Technical examinations

In 2018 the CPVO initiated 1 926 technical examinations, 178 less than in 2017. The decrease is linked to the decreasing number of applications in the ornamental sector. In the agricultural sector, a large number of technical examinations have already been carried out as part of the national listing procedure. If such a technical examination has been carried out by an entrusted EO, the CPVO can base its decision to grant CPVRs on this technical examination in the context of a national application.

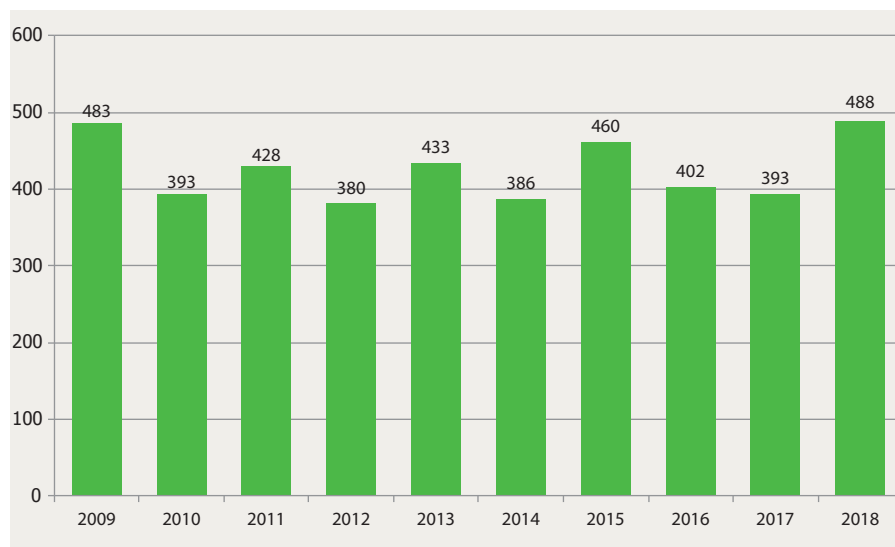
10.3.1. Sales of reports

National authorities from all over the world regularly base their decisions on applications for PVRs on technical examinations carried out on behalf of the CPVO (international cooperation, takeover of reports).

Graph 9 illustrates the number of reports the CPVO has made available to national authorities.

Graph 9

Evolution of the number of DUS testing reports made available to other PVR authorities (2009-2018)



By the end of 2018 the CPVO had provided 6 617 technical reports to 60 countries. During 2018, the five countries from which most requests emanated were Brazil, Colombia, Ecuador, Kenya and Morocco. In 2018, 47.83 % of requests concerned ornamental varieties, 40.36 % fruit varieties, 6.58 % vegetable varieties and 5.23 % agricultural varieties. In 2018 the CPVO processed 669 requests, which is the fifth highest number of requests ever received.

The CPVO has set up a flexible approach in respect of the agreed UPOV fee for making reports available. Requesting countries can pay this fee directly to the CPVO but they can also opt for the alternative, according to which the CPVO sends the invoice to the breeder. The report is always provided directly to the national authorities.

Table 12: The 10 countries that have bought the most DUS technical reports from the CPVO (1998-2018)

Country	Number of reports bought
Brazil	708
Colombia	655
Israel	584
Ecuador	563
Switzerland	445
Canada	419
Kenya	412
France	306
Turkey	285
Norway	262

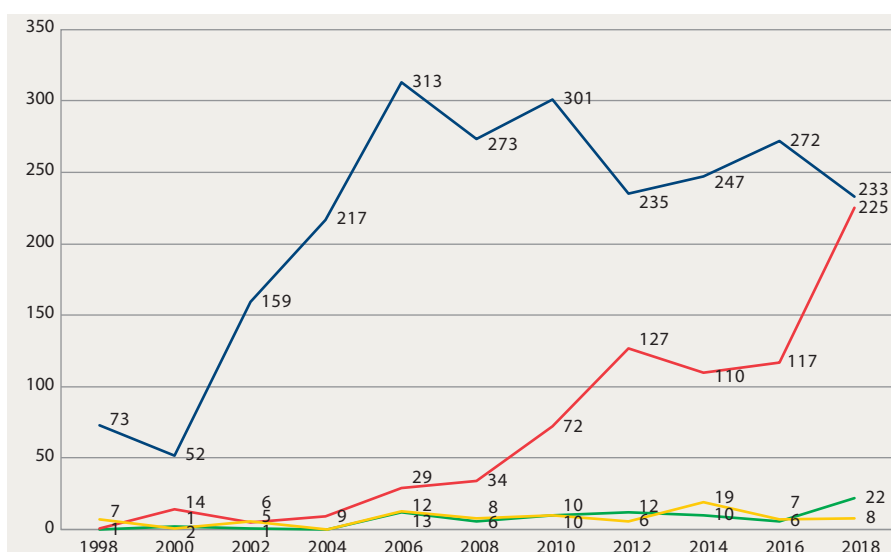
Graph 10 shows the evolution per crop sector of the number of DUS reports exchanged with national PVR authorities all around the world from 1998 to 2018. An increase in the fruit sector was noticeable in 2018. This increase is directly linked to the recent grants in combination with fruit varieties applied in multiple countries and those countries taking over the DUS report from the CPVO.

Since 1998, the CPVO DUS report for 13 fruit varieties has been taken over by 10 countries or more.

Graph 10

Evolution of the number of DUS testing reports made available to other PVR authorities per crop sector for the period 1998-2018 (every other year shown)

- Agricultural
- Ornamental
- Fruit
- Vegetables



10.3.2. Relations with examination offices

10.3.2.1. 22nd annual meeting with the examination offices

In December 2018 the CPVO held its 22nd annual meeting with its examination offices (EOs), which was also attended by representatives from the European Commission, the UPOV office and the breeders' organisations (Ciopora, ESA, the Dutch Association for the Plant Reproduction Material Sector (Plantum) and the European Consortium for Organic Plant Breeding (ECO-PB)), as well as by representatives from the non-EU PVR authorities from Switzerland and Norway. The main subjects of discussion were the following.

- Handling of discrepancies between the technical information provided in the application documents and the plant material submitted for DUS testing.
- Taking of photographs during visits to the growing trial.
- Proposal for a revision of the procedure on the acceptance of additional characteristics.
- Status and use of reserve plants in the ornamental and fruit sector.
- Resubmission of seed samples.
- Obtaining reference varieties for DUS testing and the revision of the technical verification procedure.
- The CPVO policy on the status of plant material used for DUS testing purposes.
- Technical trainings for DUS examiners.
- Confirming receipt of plant material (pilot project Naktuinbouw).

Furthermore, the participants were informed of the state of play of R & D projects and IT projects, such as the CPVO's bid for funding from the Horizon 2020/Invite programme, sending out material requests letters in all official EU languages or the calculation of costs by the EOs.

10.3.2.2. Preparation of the CPVO's protocols

In 2018, experts from the Member States' EOs were invited to participate in drawing up or revising TPs for DUS testing, which were either subsequently approved by the AC or can be expected to be approved in 2019. The following meetings were held.

- **Agricultural sector.** In 2018, the partially revised TPs for Cannabis and Sugarbeet components were adopted. The following protocols have been discussed for adoption in 2019: wheat, barley, field bean, sorghum and rye grass.
- **Vegetable sector.** In 2018, the protocols for lettuce, leaf chicory and cucumber were partially revised. These are all expected to be approved by the AC in March 2018.
- **Fruit sector.** The TP for Japanese plum was revised.
- **Ornamental sector.** The new TPs for *Hibiscus syriacus* L., *Eucalyptus* L'her and *Populus* L. were adopted as well as the revised TP for *Lavandula* L.

10.3.2.3. Crop expert meetings

The agricultural experts meeting (AEM) took place in September 2018 in Milan (Italy). With 41 participants the usually high attendance was even higher than in 2017. The discussion with experts was mainly on the elaboration of new TPs (see section above).

The meeting was held in Milan in order to visit the maize DUS trial located in Tavazzano with the experts. As agreed in 2017, a specific day at the AEM 2018 was dedicated to discussions on maize. These discussions were on the potential merger of the two existing databases of maize, the continental maize database, created by Germany, Spain and France, which has been up and running for 15 years, and the Atlantic maize database created by EOs in Czechia, Hungary and Slovakia. As a result of the discussions it was proposed by the experts that a merger does not necessarily provide the efficiency gains sought in relation to the input such a merger would require. For the purpose of integrating the two newly entrusted EOs which are not party to a database, it was agreed to organise a technical workshop to which all experts of entrusted EOs would participate in order to calibrate the experts in their assessment of observations, in this way contributing to a harmonised understanding and more comparable variety descriptions.

Also in relation to maize, it was agreed to investigate the possible replacement of the Food and Agriculture Organisation (UN) number, which today delimits entrustment for two EOs, by the time of flowering which was considered potentially more reliable. The results will be discussed at the meeting in 2019.

The Italian experts made a presentation to explain their breeders' participation system, which was then discussed with the aim of identifying potential changes to make it compatible with the entrustment requirements so that DUS results obtained by these means may be taken into account by the CPVO.

The experts discussed further uniformity issues in relation to triticale varieties, potentially new characteristics in oilseed rape varieties, the conditions for the resubmission of a new seed sample after the 1st year of testing and how to deal with situations where the two growing cycles had not been carried out in two subsequent cycles.

A meeting of ornamental experts was held in June in Budapest, in cooperation with the Hungarian EONÉBIH. The aim of the meeting was to inform examiners of the developments



Zucchini



Lettuce

in the work of the CPVO and to discuss items linked to the technical examinations (such as the status and use of the reserve plants, the assessment of uniformity for variegated plants, the influence of the environment on the expression of plant characteristics and the impact on the DUS decision or living collections). Some of the discussions held served as preparation for the annual meeting with all EOs.

There were two meetings of fruit experts in the course of 2018. The first one was organised in Paris in February and the second was hosted by the Czech EO ÚKZÚZ in Brno. The discussions included a number of items relating to conducting technical examinations (such as the status and use of the reserve plants, the exchange of information and plant material between EOs, organisation of apple DUS testing), the potential DNA storage of samples for enforcement purposes, plant health issues and R & D projects.

A meeting of vegetable experts was held on 3 and 4 December in Angers, France. In addition to the previously mentioned vegetable protocols, the group discussed numerous other items on DUS matters, particularly the observation of characteristics during multi-annual testing. In this respect an agreement was reached on launching a survey in the course of 2019. Following the AEM discussions, the group was also invited to reflect on (i) the possibility to include a paragraph concerning resubmission of a new seed sample after the 1st year of testing into the vegetable TPs (as it was done for the triticale) and (ii) how to deal with situations where the two growing cycles had not been carried out in two subsequent cycles.

An update on the advancement of the Harmores 3 project was presented to the group. The related final meeting will take place in May 2019 in Angers and the results will help to reach a conclusion on the use of an additional biomolecular method of observation for inclusion in both tomato and tomato rootstock protocols. The group also received a short update on the melon database project by Naktuinbouw and a presentation by GEVES on a potential new R & D project entitled 'Harmorescoll'.

The meeting ended with short updates on the need to find an EO entrusted for mushroom species and the use and revision of the common names in the marketing directives.

10.3.2.4. New species

In 2018 the CPVO organised three new-species inventories: the 2018-A procedure in February was launched as an 'extraordinary new species' inventory, with the aim of making it possible for EOs in the EU to show their interest in carrying out tests for the botanical taxa concerned in preparation for the University of Århus to stop DUS tests: for 40 taxa new EOs had to be found.

In April/May the 2018-B procedure and in November/December the 2018-C procedure were usual inventories in which 101 different taxa for which varieties have not yet been subject to an application to the CPVO have been published. As a result of these two new-species inventories, the AC of the CPVO entrusted new EOs for 85 of these new species in 2018. The exact list of those taxa is provided in Table 13.



Lilium



Maize

For the taxa for which no proposals have been received so far, the CPVO is exploring technical solutions, either at EU level or outside the EU, depending on the species.

Graph 11 shows the evolution of the number of taxa for which the CPVO has received applications for Community plant variety protection since 2008.

Graph 11

Evolution of the number of botanical taxa for which the CPVO received applications (2009-2018)

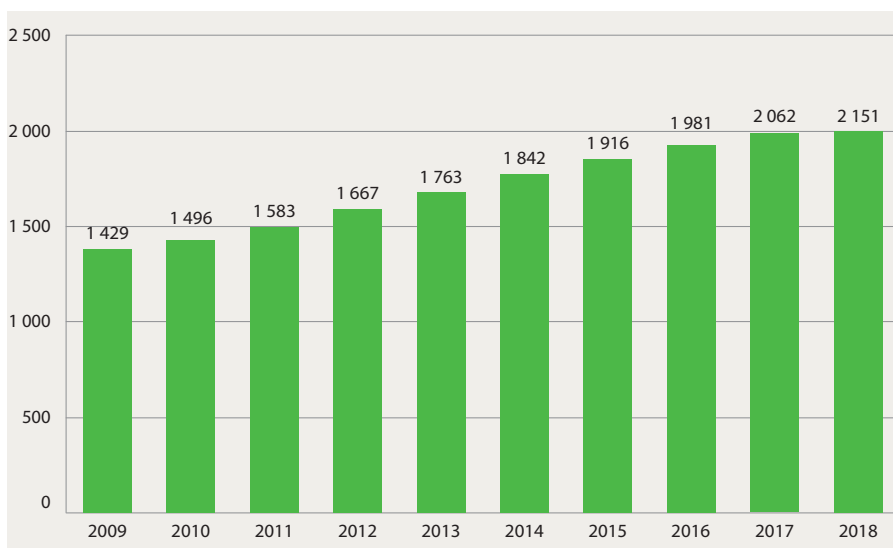


Table 13: List of new species for which examination offices were entrusted during the procedures 2018-B and 2018-C

Species
<i>Acer palmatum</i> Thunb. x <i>Acer pseudosieboldianum</i> (Pax) Kom.
<i>Acer platanoides</i> L. x <i>Acer truncatum</i> Bunge
<i>Acer truncatum</i> Bunge
<i>Adenanthos sericeus</i> Labill.
<i>Aechmea smithiorum</i> Mez x <i>Portea alatisepala</i> Philcox
<i>Aeschynanthus radicans</i> Jack x <i>A. tricolor</i> Hook
<i>Agastache</i> J. Clayton ex Gronov.
<i>Allium ampeloprasum</i> L.
<i>Allium senescens</i> L. subsp. <i>senescens</i> (syn. <i>A. senescens</i> L. subsp. <i>glaucum</i> (Schrad. ex Poir.) Dostál) x <i>A. tanguticum</i> Regel
<i>Aloe humilis</i> (L.) Mill.
<i>Aloe</i> L.
<i>Aristolelia chilensis</i> (Molina) Stuntz
<i>Aronia melanocarpa</i> (Michx.) Elliott
<i>Begonia pseudolubbersii</i> Brade
<i>Begonia venosa</i> Skan ex Hook. f.
<i>Begonia x erythrophylla</i> Neumann
<i>Buxus bodinieri</i> H. Lév. x <i>Buxus sempervirens</i> L.
<i>Buxus microphylla</i> Siebold & Zucc. var. <i>japonica</i> (Müll. Arg. ex Miq.) Rehder & E. H. Wilson x <i>Buxus sinica</i> (Rehder & E. H. Wilson) M. Cheng
<i>Buxus sempervirens</i> L. x <i>Buxus sinica</i> (Rehder & E. H. Wilson) M. Cheng var. <i>insularis</i> (Nakai) M. Cheng
<i>Cannabis sativa</i> ssp. <i>indica</i> (Lam.) E. Small & Cronquist (syn. <i>C. indica</i> Lam.)
<i>Clematis akoensis</i> Hayata
<i>Crinodendron hookerianum</i> Gay
<i>Crocosmia x crocosmiiflora</i> (Lemoine) N. E. Br.
<i>Cryptomeria japonica</i> (L. f.) D. Don
<i>Cucumis</i> L.
<i>Delairea odorata</i> Lem. (syn. <i>Senecio mikanioides</i> Otto ex Walp.)
<i>Dieffenbachia seguine</i> (Jacq.) Schott var. <i>seguine</i> (syn. <i>D. amoena</i> hort.)
<i>Echeveria affinis</i> E. Walther x <i>Echeveria atropurpurea</i> (Baker) hort. ex E. Morren
<i>Echeveria elegans</i> Rose x <i>Sedum morganianum</i> E. Walther
<i>Echeveria laui</i> Moran & J. Meyrán x <i>Echeveria pulidonis</i> E. Walther
<i>Enkianthus campanulatus</i> (Miq.) G. Nicholson
<i>Euphorbia lathyris</i> L.
<i>Eutrochium purpureum</i> (L.) E. E. Lamont var. <i>purpureum</i> (syn. <i>Eupatorium purpureum</i> L.)
<i>Festuca</i> L.
<i>Ficus auriculata</i> Lour.
<i>Helianthus annuus</i> L. x <i>H. argophyllus</i> Torr. & A. Gray
<i>Imperata cylindrica</i> (L.) Raeusch.
<i>Iris sibirica</i> L.
<i>Jamesbrittenia bergae</i> Lemmer
<i>Juglans major</i> (Torr.) A. Heller x <i>J. regia</i> L.
<i>Juniperus conferta</i> Parl.
<i>Juniperus pseudosabina</i> Fisch. & C. A. Mey.

Species

Juniperus semiglobosa Regel

Kalanchoe blossfeldiana Poelln. x *K. porphyrocalyx* (Baker) Baill.

Laburnum anagyroides Medik.

Malus Mill.

Nepenthes L.

Nicotiana glauca Graham.

Oxypetalum coeruleum (D. Don) Decne.

Paulownia elongata S. Y. Hu x *P. fortunei* (Seem.) Hemsl.

Penstemon digitalis Nutt. ex Sims

Penstemon Schmidel

Phedimus takesimensis (Nakai) 't Hart (syn. *Sedum takesimensis* Nakai)

Phlebodium aureum (L.) J. Sm. x *Pyrosia lingua* (Thunb.) Farw.

Phlox amplifolia Britton

Plantago lanceolata L.

Populus deltoides W. Bartam. ex Marshall

Populus maximowiczii A. Henry

Populus maximowiczii A. Henry x *Populus trichocarpa* Torr. & A. Gray

Populus x *canadensis* Moench (*P. deltoides* x *P. nigra*)

Prunus cerasus L. x *P. fruticosa* Pall.

Prunus incisa Thunb. x *P. xedoensis* Matsum.

Prunus L.

Rehmannia elata N. E. Br. ex Prain

Rhododendron catawbiense Michx.

Robinia pseudoacacia L.

Salvia farinacea Benth.

Salvia L.

Salvia x *sylvestris* L. (syn. *Salvia nemorosa* hort.)

Sanguisorba officinalis L.

Sansevieria bracteata Baker (syn. *S. aubrytiana* Carrière)

Schizophragma hydrangeoides Siebold & Zucc.

Silene flos-cuculi (L.) Greuter & Burdet (syn. *Lychnis flos-cuculi* L.)

Solanum muricatum Aiton

Sorbus latifolia (Lam.) Pers.

Sparganium erectum L.

Spiraea media Schmidt

Tilia tomentosa Moench

Triticum turgidum L. subsp. *dicoccum* (Schrank ex Schübl.) Thell. x *Triticum turgidum* L. subsp. *durum* (Desf.) Husn.

Typha domingensis Pers.

Typha x *glauca* Godr.

Viburnum cassinoides L.

Vicia benghalensis L.

Vicia pannonica Crantz

10.4. Technical liaison officers

The CPVO tries to have a close and efficient working relationship with its EOs. Therefore, in 2002 the CPVO formalised a network of contact persons on a technical level in the Member States, the technical liaison officers (TLOs). The TLOs play an important role in the CPVO's relationship with its EOs. A revision of the set-up of the TLO network was approved by the AC and the changes entered into effect from January 2016.

The role of the TLO can, in general, be defined as acting as the contact point for the CPVO at a technical level. In particular, this means the following.

- Invitations for the annual meeting with the EOs are, in the first place, addressed to that person.
- The TLO should be the person at EO level who is in charge of distributing information of technical relevance within the EO in respect of the CPVR system (e.g. informing crop-expert colleagues of conclusions from the annual meeting of the EOs).
- Technical enquiries, which are sent out by the CPVO to collect information, should be addressed to the TLOs. Examples include:
 - New species procedures, in order to prepare the proposal for the entrustment of EOs to the AC;
 - Questionnaires in respect of closing dates, quality requirements, the testing of genetically modified organisms.
- For communications of a general technical nature, the CPVO contacts the TLOs first. Specific problems, such as those relating to a certain variety, may be discussed in the first instance directly between the crop expert at the EO and the relevant expert at the CPVO.



Barley



Apricot

The list of appointed TLOs (as of 31 December 2018) was as follows.

Luca Aggio	CREA Centro di ricerca per la viticoltura/Wine Growing Research Unit Italy
Bronislava Bátorová	UKSUP Department of variety testing Slovakia
Pier Giacomo Bianchi	CREA-DC Italy
Alexandra Chatzigeorgiou	Hellenic Ministry of Rural Development and Food Directorate General of Agriculture Directorate of Propagating Material of Cultivated Plant Species and Plant Genetic Resources Greece
Mihaela-Rodica Ciora	Institutului de Stat pentru Testarea si Inregistrarea Soiurilor/State Institute for Variety Testing and Registration Romania
Björn Coene	Office de la Propriété Intellectuelle/Office for Intellectual Property Belgium
Zoltán Csürös	NÉBIH Directorate of plant production and horticulture Hungary
David Cummins	Department of Agriculture, Food and the Marine Ireland
Flavio Roberto De Salvador	CREA Centro di ricerca per la frutticoltura/Fruit Tree Research Unit Italy
Maureen Delia	Ministry of sustainable development environment and climate change Seeds and other propagation material unit Plant health directorate Malta
Gerhard Deneken	Tystofte Foundation Denmark
Dilyan Dimitrov	Executive Agency for Variety Testing Field Inspection and Seed Control Bulgaria
Barbara Fürnweger	AGES Austria
Lars Henrik Jacobsen	University of Aarhus — Aarslev Department of Food Science Denmark
Sigita Juciuviene	Ministry of agriculture Lithuanian state plant service Division of plant variety Lithuania

Marcin Król	Coboru Poland
Clarisse Leclair	GEVES France
Paivi Mannerkorpi	European Commission Directorate-General for Health and Food Safety Belgium
Kyriacos Mina	Ministry of agriculture, natural resources and environment Agricultural research institute Cyprus
Kaarina Paavilainen	Finnish food safety authority Finland
Teresa Maria Pais Nogueira Coelho	DGAV Portugal
Helena Rakovec	Ministry of agriculture, forestry and food Slovenia
Mara Ramans	Animal and Plant Health Agency United Kingdom
Beate Rücker	BSA Germany
Ivana Rukavina	Croatian Centre for Agriculture Food and Rural Affairs Croatia
Radmila Šafáriková	ÚKZÚZ Czechia
Bert Scholte	Naktuinbouw Afdeling Rassenonderzoek Netherlands
Elizabeth Scott	NIAB United Kingdom
Joakim Stefansson	Swedish Board of Agriculture Plant and Environment Department Plant Regulation Division Sweden
Agra Univer	Agricultural research centre Viljandi variety testing centre Estonia
Nuria Urquia Fernandez	OEV Ministerio de Agricultura, Alimentación y Medio Ambiente Spain
Johan van Waes	Research Institute for Agriculture, Fisheries and Food Eenheid Plant — Teelt en Omgeving Belgium
Marc Weyland	Agriculture technical services office Plant production service Luxembourg

11. VARIETY DENOMINATIONS

11.1. The CPVO Variety Finder

Maintained and developed by the CPVO since 2005, the web-based CPVO Variety Finder database contains information on registers of more than 60 countries with a general search tool. It also includes a similarity search tool to test the suitability of denominations.

The general principle is to update the database as soon as data are officially published. A memorandum of understanding has been signed with UPOV to share the task of collecting data from EU Member States and non-EU countries and ensure a regular data exchange.

In total, more than 1 million records originating from EU and UPOV members have so far been included in the Variety Finder.

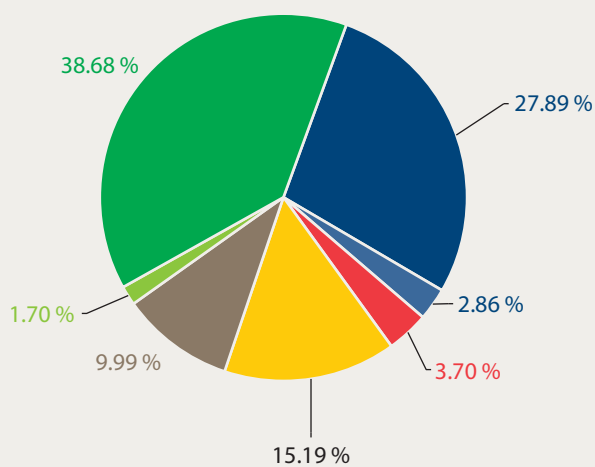
In 2018, 57 different authorities contributed to the database (27 EU countries and 23 non-EU countries)

An additional type of register has been added in the Variety Finder database corresponding to more than 20 000 fruit varieties from national registers. These are linked to the Fruit Reproductive Material Information System (Frumatis) database, being developed by the European Commission providing information on the varieties that can be marketed in the EU.

Graph 12 shows an overview of the content of the database with the number of records per type of register.

Graph 12
Number of records per type of register

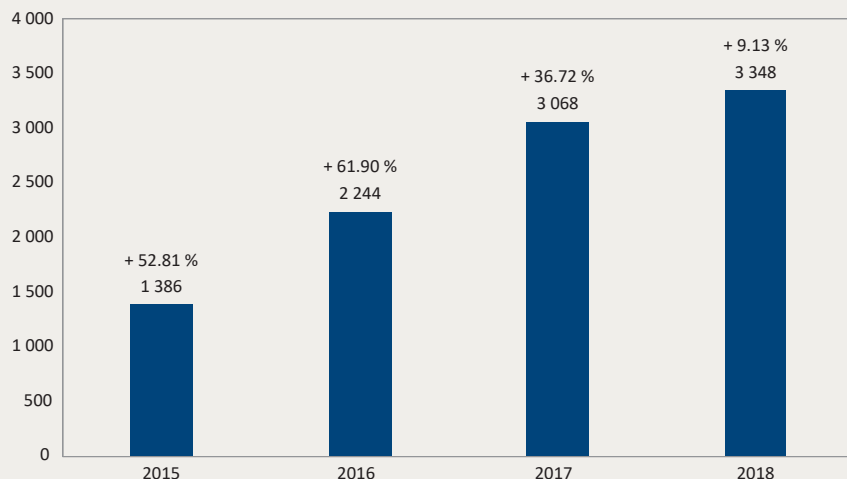
- Plant breeder's rights (PBR)
- Plant patent
- EUIPO trademarks
- Commercial registers
- Other registers (e.g. OECD)
- Frumatis
- National listing



Graph 13

Evolution in the number of users of both similarity and general search tools (2015-2018)

■ Number of users



The use of the Variety Finder has constantly increased over recent years. CPVO clients represent the biggest group of users with more than 50 % of the tests of similarity launched. Around 80 000 denomination similarity tests are launched every year. Over the last few years the number of users (national authorities, CPVO clients for CPVRs and the general public) has constantly increased, as is illustrated in the graph below, with a 9 % increase in the number of users in 2018 compared to 2017. The development of the retrieval tool, allowing general searches in the database developed in 2016, contributed to a large extent to these positive figures.

The European Commission and the CPVO are running a project to investigate the possibilities to develop a unique IT system for the purpose of implementing the marketing directives on plant reproductive material on the one hand and updating the CPVO Variety Finder on the other hand.

As follow-up to the large 2017 EU consultation on information currently requested for contributions to the common catalogues of varieties of agricultural and vegetable plant species, the CPVO Variety Finder and the Frumatis database, the working group met in February 2018 in Brussels.

The objective was to identify and review the needs for content and functionalities for this future IT system. Conclusions were made on many items with a better idea on which information will be pertinent for the future but also new needs for functionalities (e.g. extended search facilities and links).

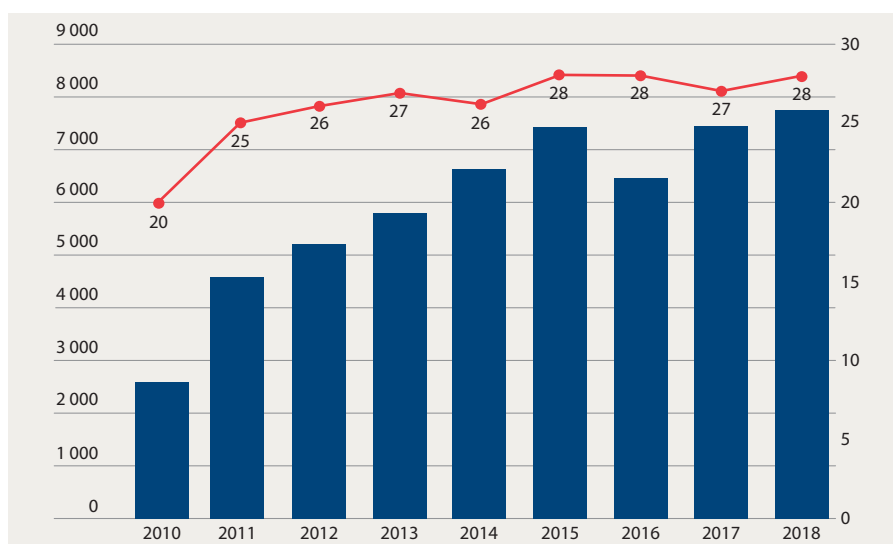
11.2. Cooperation in denomination testing: a constant interest reflected by an increasing use of the service

2018 exceeded the record level of 2017 with nearly 7 750 requests for opinion received. The active use of the service facilitates information exchanges between the Member States, the CPVO and other national authorities. This cooperation contributes to enhance the clarity, transparency and quality of the information available in the Variety Finder and aims at a convergent interpretation of the rules on the variety denominations.

Graph 14

Number of requests for opinion received and number of contributing national authorities (2010-2018)

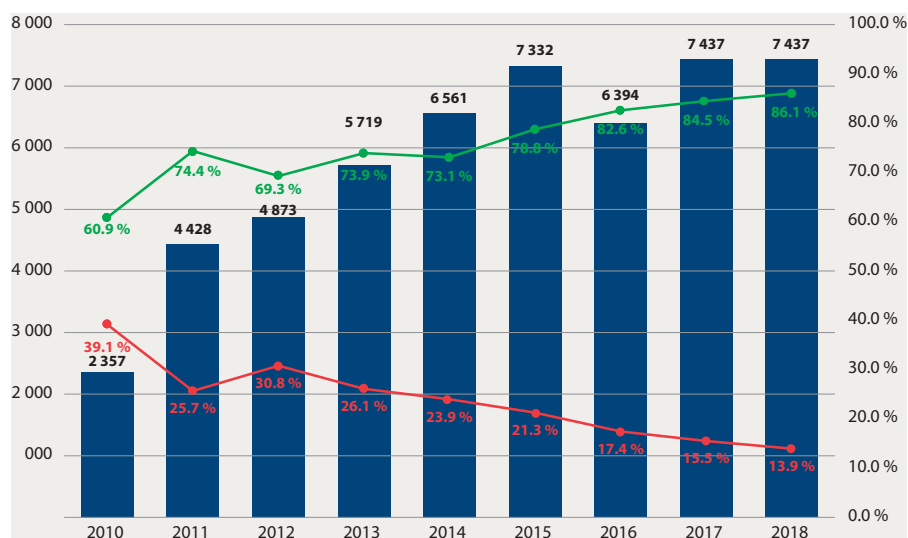
■ Number of requests for opinion
— Number of National Authorities



The average processing time was half a day (Monday to Friday only), a response rate that can be considered most satisfactory as it does not delay the internal procedures of the users. In this regard it is important to emphasise that the quality of information provided by the users at the time they submit their proposals and the sharing of information between the CPVO and national authorities play a major role in the processing time and often prevent observations that could be avoided as to the suitability of the proposals, as illustrated by Graph 15, which also shows the benefit of having a common interpretation of the rules on the variety denominations. In 2018 the number of observations continued to drop and fell below 15 %.

Graph 15
Share in the number of observations/no observations (2010-2018)

■ Number of analysis
— % of Observation
— % of No Observation



11.3. Revision of the guidelines on variety denominations

The AC agreed, in October 2015, on the establishment of a working group to discuss and prepare the revision of the current ‘Explanatory notes on variety denominations’ (adopted by the AC in November 2012) and to consider whether such amendments would have an impact on the guidelines currently in force and on Commission Regulation (EC) No 637/2009 of 22 July 2009 establishing implementing rules as to the suitability of the denominations of varieties of agricultural plant species and vegetable species.

This decision was triggered by the increasing number of situations where the actual explanatory notes do not provide clear guidance. The aim of such a revision is to discuss the actual criteria to assess the suitability of proposed variety denominations, to provide more clarity for stakeholders and to harmonise and increase the predictability of decisions on variety denominations.

The working group is composed of representatives from the EOs, the European Commission, Ciopora, ESA, Plantum, UPOV, the Koninklijke Algemeene Vereeniging voor Bloembollencultuur/Royal General Bulb Growers’ Association, the Royal Horticultural Society and the International Code of Nomenclature for Cultivated Plants.

Since the beginning of its mandate, the working group has worked on the revision of the guidelines and the explanatory notes and has met three times. The first meeting took place on 23 June 2016 in Paris, the second meeting took place on 5 October 2016 in Angers and the last one took place on 14 June 2017 in Paris.

The breeders' organisations as well as other participants in the first meeting expressed a wish to have more flexibility in the rules for acceptance of variety denominations. The participants also stressed their interest in effective harmonisation between UPOV, CPVO and the International Code of Nomenclature for Cultivated Plants.

Fruitful discussions took place during the aforementioned three meetings and the CPVO could explain the applied methodology and share with the participants its experience when providing advice to national authorities on the suitability of variety denominations.

A new version of the guidelines was adopted by the AC on the occasion of its meeting in March 2018. The AC took into consideration the impact of the amendment to the guidelines in Commission Regulation (EC) No 637/2009 and the fact that the same set of rules should apply to both varieties protected by a CPVR and varieties registered in the common catalogue. Therefore, the AC asked the European Commission to implement the adopted guidelines in Commission Regulation (EC) 637/2009 and decided that the revised guidelines for variety denominations will enter into force once the said regulation has been amended. This is expected to be the case in the course of 2019.

12. INFORMATION TECHNOLOGY

The information and communications technology (ICT) and database management team was reinforced in 2018 and is at full capacity. The vision of the CPVO as regards ICT is defined in relation to the four overarching programmes outlined below.

12.1. E-services

The e-services programme encompasses all of the various projects that will ensure that the CPVO's dealings with external stakeholders (clients, EOs and partners such as the EUIPO and UPOV) are online, transparent, paperless and, to the extent possible, involve a minimum of manual intervention in the procedures.

During 2018, work continued on the 'MyPVR' application which is the main client portal for the CPVO. Enhancements were also made to ensure that the links between the CPVO system and the UPOV applications allowed seamless transfer of data. The CPVO also implemented an exchange of data with the EPO.

12.2. Operational improvements

Operational tools cover all the IT applications necessary for the day-to-day business of the CPVO. As is the case every year, significant developments were made in 2018 with regard to internal operational tools that manage, inter alia, application processing, document management, human resources and finance. The CPVO leverages tools available in other institutions and in 2018 launched a project to be integrated in the European Commission's human resources system.

12.3. Communication tools

The CPVO website (cpvo.europa.eu), which was launched in 2016, continues to be developed to ensure responsiveness to the needs of the CPVO stakeholders.

12.4. Infrastructure and support

The project to virtualise all CPVO server infrastructure continued in 2018 and this prepares the CPVO well for a future move to a cloud-based infrastructure.

13. COOPERATION WITH THE DIRECTORATE-GENERAL FOR HEALTH AND FOOD SAFETY

13.1. Standing Committee on Community Plant Variety Rights

In 2018 there were no meetings of the Standing Committee on Community Plant Variety Rights.

13.2. Standing Committee on Plants, Animals, Food and Feed

13.2.1. Section 'Seeds and propagating material for agriculture and horticulture'

This European Commission committee met three times during 2018 in Brussels and staff members of the CPVO attended all three meetings as part of the European Commission delegation.

Of particular interest for the CPVO throughout 2018 were the following.

- Discussions on the administration of the common catalogues and the possible involvement of the CPVO, and in particular the European Commission/CPVO project on a unique EU IT system on plant varieties.
- Discussions on a working document on the update on the use of common names in Directives 2002/55/EC and 2008/72/EC.
- Presentation of the CPVO report on DUS testing of onions and shallots.
- Exchange of views on a draft Commission implementing directive amending Commission Directives 2003/90/EC and 2003/91/EC setting out implementing measures for the purposes of Article 7 of Council Directive 2002/53/EC and Article 7 of Council Directive 2002/55/EC respectively, as regards the characteristics to be covered as a minimum by the examination and the minimum conditions for examining certain varieties of agricultural plant species and vegetable species.
- Exchange of views on maintenance breeding of varieties and best practices applied in the Member States.
- Exchange of views on the approach to seed fraud.
- The update on Nagoya Protocol guidance for the breeding sector.
- Discussions related to a temporary experiment under Council Directive 2002/56/EC as regards seed potato tubers derived from true potato seed.
- Discussions relating to a temporary experiment providing for certain derogations for the marketing of populations of the plant species wheat, barley, oats and maize pursuant to Council Directive 66/402/EEC.
- Matters related to Organisation for Economic Cooperation and Development (OECD) seed schemes.

The CPVO informs the members of the standing committee on a regular basis of developments of interest at the level of the CPVO, in particular in respect of decisions taken by its AC on new or revised TPs for DUS testing.

13.2.2. Section ‘Standing Committee on Propagating Material of Ornamental Plants’

This European Commission committee met only once in 2018 and the agenda items were not of direct concern for the CPVO.

13.2.3. Section ‘Standing Committee on Propagating Material and Plants of Fruit Genera and Species’

Council Directive 2008/90/EC on the marketing of fruit plant propagating material and fruit plants intended for fruit production was adopted on 29 September 2008 and needs to be implemented by the European Commission.

One major issue in this directive is the obligation for the official listing of varieties of fruit plants for their commercialisation in the EU as of 1 October 2012. The directive also establishes that fruit varieties granted CPVRs will automatically be authorised for marketing within the EU without any further need for registration. Implementing rules entered into force on 1 January 2017.

The CPVO continues to participate regularly in meetings of standing committees and working groups organised by the European Commission on this subject. It was particularly active in discussions around the development of Frumatis, the European Commission database consolidating Member States and CPVO registers of varieties regulated by the fruit marketing directive.

13.3. Council working parties

Following an invitation from the Directorate-General for Health and Food Safety to join the European Commission representation, the CPVO participated in the following Council working parties in 2018.

- Coordination of EU positions as regards UPOV meetings (Council, Consultative Committee, Technical Committee and Administrative and Legal Committee).
- Coordination of EU positions as regards the OECD annual meeting.

14. EXTERNAL RELATIONS

14.1. Cooperation with external organisations

14.1.1. Breeders' organisations

Regular interaction with breeders' organisations is a top priority for the CPVO. The CPVO ensures it is in frequent contact with breeders' organisations, particularly those that represent the majority of users of the EU system. Ciopora, the ESA and Plantum are all key contributors to the work of the CPVO.

Representatives of these three organisations participate in the AC of the CPVO as observers and in all relevant meetings of technical experts organised by the CPVO. These organisations take an active part in and contribute to seminars and workshops organised by the CPVO. The breeders' organisations play an invaluable role in spreading information and knowledge on all aspects of the Community plant variety system throughout the EU.

The CPVO is most grateful for the very constructive and positive collaborations that it shares with these organisations and without which the CPVO could not communicate its work on PVRs to breeders.

In 2018 the CPVO attended the annual meetings of Ciopora and the ESA. The CPVO also attended the meeting the ESA organised with the EPO at the premises of the company Bejo Zaden in the Netherlands.

In bilateral meetings with the ESA as well as with Ciopora issues of mutual interest were discussed. Those discussions related amongst others to fee and cost aspects, the international strategy of the CPVO, the interface of PBR and patents, the new organic regulation and its potential consequences, the minimum distance project, enforcement issues and the publication of variety descriptions. It was concluded that such formal bilateral meetings should be organised on an annual basis.

14.1.2. The International Union for the Protection of New Varieties of Plants

The CPVO has participated in activities of the International Union for the Protection of New Varieties of Plants (UPOV) since 1996. In July 2005 the European Community (now the EU) became a member of UPOV.

During 2018, as members of the EU delegation, CPVO officials participated in meetings of the following UPOV bodies and committees:

- the UPOV Council;
- the Legal and Administrative Committee;
- the Technical Committee;
- the Consultative Committee;

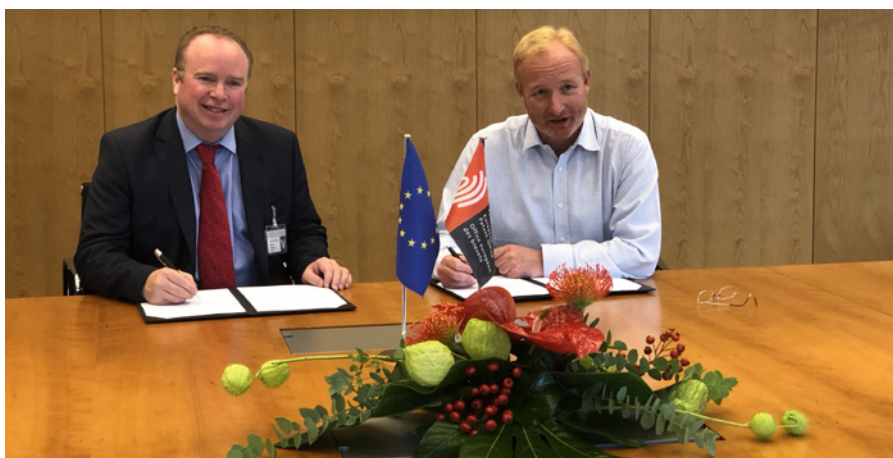
- technical working parties (agricultural crops, vegetable crops (hosted by the CPVO), fruit crops, ornamental plants and forest trees, automation and computer programs);
- the ad hoc working group on the development of an electronic application form;
- the ad hoc working group on the development of a variety denominations search tool;
- the ad hoc working group on a possible international system of cooperation;
- the ad hoc working group on variety denominations.

Senior officials of the UPOV office regularly attend meetings of experts or working groups organised by the CPVO dealing with technical and legal issues of common interest.

In several regions of the world where countries are members of UPOV, such as Asia, Africa, Latin America and the Caribbean, there is an emergent interest in knowing the details and results of PVR systems with a regional scope and learning from the experience accumulated. The CPVO frequently provides speakers for seminars and technical workshops organised by UPOV. Furthermore, several staff members of the CPVO also act as tutors in the various distance-learning courses offered by UPOV.

14.1.3. The European Union Intellectual Property Office

In 2018 the CPVO and the European Union Intellectual Property Office (EUIPO) continued their cooperation by way of reciprocally provided services. In particular, in May 2018 a representative from the CPVO attended a training course at the EUIPO on trademarks' examination practices and delivered a webinar organised in cooperation with the EUIPO academy on denominations under the CPVR system. In October 2018 a representative from the EUIPO trademarks operations department visited the CPVO for a bilateral training course on variety denominations testing and the use of Variety Finder, in particular in relation to the interpretation of the notion of closely related species. As regards the human resources field, the CPVO has continued offering internship opportunities to two trainees with an IP specialisation within the 'Pan-European Seal' joint internship programme with the EPO and the EUIPO, and has continued cooperation in the field of research in the domain of plant varieties within the European Intellectual Property Institutes Network innovation society joint doctorate to foster research in the field of IP leading to the award of several doctoral degrees. Moreover, in 2018 the CPVO continued to participate in the enforcement and legal working groups of the European Observatory on Infringements of Intellectual Property Rights (under the EUIPO), as well as in the plenary session. In this area the CPVO contributed to the update of the observatory national case-law database in the domain of enforcement of PVRs by national courts. Another area in which the CPVO has cooperated with the observatory included the submission of materials to the Virtual Training Centre in the domain of PVRs. As regards international cooperation activities, the CPVO has been actively involved in executing activities in partnership with the EUIPO under the IP Key Latin America, south-east Asia and China EU-funded projects. In the field of data protection, the DPO of the EUIPO has become the DPO of the CPVO.



Martin Ekvad (CPVO President) and Antonio Campinos (EPO President)

14.1.4. The European Patent Office

Following the signature on 11 February 2016 of an administrative agreement between the CPVO with the European Patent Office (EPO) to enhance their cooperation through the exchange of technical knowledge and best practices in the area of plant-related patents and PVRs, in 2018 the CPVO and the EPO completed the activities of the working group with the aim of studying how to make variety descriptions and technical questionnaires available to patent examiners in a searchable format for the purpose of prior art searches by patent examiners. The sharing of data started for the first time at the end of 2018 with updates sent on a monthly basis to the EPO. Moreover, the administrative agreement has been renewed for a further period of 3 years with an annual implementation plan to be started as of 2019.

14.1.5. Other EU institutions

The CPVO maintains regular external contacts by participating in meetings organised by the following.

- The European Commission Directorate-General for Human Resources and Security — implementation of the staff regulations.
- The European Commission Directorate-General for Budget — implementation of the new financial regulation.
- The European Commission Directorate-General for Trade — cooperation in the field of the EU-funded project IP Key with China, Latin America and south-east Asia.
- The committees on legal affairs and for agriculture and rural development of the European Parliament.

In addition, other fields of external activity can be mentioned, such as the following.

- The relevant standing committees of the European Commission.
- The Management Board of the Translation Centre for the Bodies of the European Union.
- The coordination of the EU agencies at management level.

- The annual coordination meeting of the Publications Office of the European Union with the EU agencies.
- The meetings of the DPOs of the EU agencies, as well as other working groups established under the umbrella of the coordination of EU agencies, such as the Inter-Agencies Legal Network and the Network of Agencies Procurement Officers.
- Cooperation with the European Union Agency for Law Enforcement Training and the European Union Agency for Law Enforcement Cooperation to raise the awareness of the law enforcement agencies about the infringement of PVRs in the framework of the Virtual Training Centre for police and customs officials and the operation OPSON to fight against the counterfeiting of foodstuff. This aims to enhance cooperation between the law enforcement and regulatory authorities involved in the field of PVRs.

14.1.6. Non-governmental organisations

The CPVO has contact and communicates with various non-governmental organisations active in the EU organic seed and variety sector. Representatives from ECO-PB attend the CPVO crop sector expert groups for agricultural and vegetable crops as well as the annual meeting of the CPVO with its EOs. Representatives of the International Federation of Organic Agriculture Movements and ECO-PB are also involved in the discussions on a future IT system for plant varieties.

The CPVO has become a stakeholder of the 'Liveseed' project and organised, in cooperation with Liveseed and ECO-PB, a workshop on heterogeneous material and organic varieties on 6 December 2018 in Angers.

The management of the CPVO met also with representatives of Arche Noah at their office in Brussels to exchange on issues of mutual interest.

14.2. Training and promotion of the Community plant variety rights system

14.2.1. CPVO international relations strategy

Following the adoption on 9 October 2014 of an international relations strategy, on 4 October 2017 the AC of the CPVO adopted the revised strategy. The new document builds on the 2014 strategy and introduces a broad framework of initiatives aimed at strengthening the importance of PVR in providing food security, supporting economic development in the rural sector and facilitating technology transfer. Furthermore, the new strategy underlines the CPVO's contribution to the harmonisation of the PVR system at the international level. Moreover, it aligns the objectives fulfilled by the CPVO with the European Commission's most recent initiative in the field of IPRs, namely the communication from the European Commission to the European Parliament, the Council and the European Economic and Social Committee 'Trade, growth and intellectual property — Strategy for the protection and enforcement of intellectual property rights in third countries' (COM(2014) 389 final) (the EU strategy), which serves as a basis for debate on securing better IPR protection in foreign markets, in cooperation



SIVAL 2018



IPM 2018

with non-EU countries (third countries). In the EU strategy the European Commission has aimed to set a revised strategy to promote IPRs and combat IPR infringements abroad, including in the field of PVR, and has acknowledged the importance of cooperation with the CPVO.

The CPVO's objective is to contribute to the EU's policies in the field of IPRs, so that European breeders can count on tools and practices that facilitate their access to emerging markets through the exchange of knowledge, and to support EU users on registration and enforcement overseas, in cooperation with EU Member States.

14.2.2. Participation in international fairs

The CPVO considers its participation in international fairs and open days at EOs to be a useful opportunity to promote the CPVR system, to have direct contact with applicants and to provide information to breeders. In 2018 the CPVO participated as detailed below.

- The Salon Sival, which takes place in mid-January in Angers, France, is a fair mainly for growers of horticultural crops and vine; the CPVO participated together with GEVES.
- At the end of January 2018 the CPVO attended the International Trade Fair for Plants in Essen, Germany. The stand was shared with experts from BSA, Naktuinbouw, NIAB and GEVES. Even though the fair is open to the entire field of horticulture, the focus is on ornamentals.

14.2.3. The African Regional Intellectual Property Organisation

Following the adoption of the Arusha Protocol, the CPVO collaborated with the African Regional Intellectual Property Organisation (ARIPO) secretariat, which is tasked with drafting the regulations for implementing the Arusha Protocol. In this context, the CPVO attended the experts review meeting that took place in June 2016 in Harare. In November 2016 a study visit of officials of the ARIPO office was hosted at the CPVO, during which the CPVR system was presented. The regulations for the implementation of the Arusha Protocol for the protection of new varieties of plants were adopted by the ARIPO Administrative Council in its 41st session on 20 November 2017. Following the adoption of the said



ARIPO Administrative Council, November 2018, Namibia

regulations, the CPVO and ARIPO formalised their cooperation on capacity building by signing an administrative agreement in Geneva on 15 December 2017. The CPVO attended the 42nd session of the ARIPO Administrative Council on 19 November 2018, in Namibia.

The major cooperation activities to be performed under the administrative agreement would contribute to supporting ARIPO's capacity building and technical cooperation on relevant issues in the area of PVP.

Another area of cooperation identified under the administrative agreement is the organisation of joint awareness and sensibilisation programmes on the development of a legal and administrative PVR system and its enforcement.

At the occasion of the ARIPO Administrative Council meeting in November 2018 the CPVO gave a presentation at a seminar on PVP organised by ARIPO in cooperation with UPOV and the United States Patent and Trademark Office (USPTO) on the benefits of a regional PVP system and the experience within the EU. Other speakers from Vietnam and Kenya reported on the situation in their respective countries.

14.2.4. The African Intellectual Property Organisation roadmap

In 2014 the African Intellectual Property Organisation (OAPI) became the second intergovernmental organisation and the 72nd member to join UPOV. OAPI adopted an ambitious 5-year roadmap, from 2015 to 2020, which they are eagerly pursuing. The CPVO, GEVES, GNIS, Naktuinbouw and the USPTO are hugely supportive of this initiative and are actively supporting its implementation.

OAPI operates a PVR system that covers the territory of its 17 Member States: Benin, Burkina Faso, Cameroon, Central African Republic, Chad, Comoros, Congo, Côte d'Ivoire, Equatorial Guinea, Gabon, Guinea, Guinea-Bissau, Mali, Mauritania, Niger, Senegal and Togo.

Together with partners in Europe, OAPI engaged in 2016 with the European Commission to get funds for the implementation of the roadmap. A decision of the European Commission was delivered at the end of 2018 to grant OAPI funds under the programme 'TradeCom II', the African, Caribbean and Pacific Group of States' Trade Capacity Building Programme. The European Commission will sign an agreement with OAPI in early 2019 and the activities will then be implemented over a period of 2 years. Other partners to this project are GNIS, GEVES, Naktuinbouw and UPOV.

14.2.5. IP Key China

14.2.5.1. Administrative arrangements with China

At the ninth national forum on agricultural intellectual property in Qingdao, China, on 15 November 2017, the president of the CPVO signed an administrative agreement with the two Chinese PVP authorities: the State Forestry Administration and the Development Centre of Science and Technology. The administrative agreement focuses on exchange and cooperation in administrative and technical matters in the context of the increasing demand for PVP in China. The number of applications that are close to the ones received by the CPVO and the increasing number of botanical taxa covered by the protection system require the creation of additional DUS test capacity. Therefore, many of the activities planned under the administrative agreements aim to increase the throughput by enhancing efficiency and qualifying new DUS centres. The implementation of the administrative agreement will be done in cooperation with EU EOs. Funding will be provided by the EU IP Key and Chinese authorities.

14.2.6. IP Key Latin America

In 2018 the CPVO has cooperated with the EUIPO, the Directorate-General for Trade, UPOV, the Instituto Nacional de Defensa de la Competencia y de la Protección de la Propiedad Intelectual (Indecopi)/National Defence of Competition and Intellectual Property (Peru) and the Instituto Ecuatoriano de la Propiedad Intelectual/Ecuadorian Institute of Intellectual Property (IEPI) in the implementation of the first annual working plan of the IP Key Latin America EU-funded project in Peru and Ecuador, with the aim to promote best practices and generate awareness about the protection of plant varieties. The activities were a regional seminar of two and a half days in Lima and a 2-day national seminar in Quito.

These seminars aimed to sensitise policymakers on the social and economic impact of PVP; enhance knowledge of plant varieties and its challenges; diffuse the scope and content of UPOV 1991 and increase the negotiation capacity of local stakeholders in the conclusion of license agreements. More importantly, this aims to create an international network of IP experts in PVP in the region that allows for ongoing exchange and cooperation. Participants in the Lima and Quito seminars were policymakers as well as local representatives of the examination authority in PVP, local breeders and the academia. Presentations were made by representatives from CPVO, UPOV, Indecopi, IEPI (Ecuador), Instituto Nacional de Investigaciones Agropecuarias (INIAP)/National Agricultural Research Institute (Ecuador), Instituto Nacional de Tecnología Agropecuaria (INTA)/National Institute of Agricultural Technology (Argentina) and INRA (France), as well as local experts and stakeholders.

Moreover, a workshop was conducted in Lima to promote discussions of best practices among the authorities in charge of conducting the examination of plant varieties and to train technical examiners on the conduct of the examination, to bring partner countries to the same standards of IP protection. Presentations were made by representatives from CPVO, UPOV, Indecopi, GEVES as well as technical examiners of Bolivia, Chile, Colombia, Ecuador and Peru.

Finally, a PVP awareness-raising video on the benefits of UPOV 1991 has been planned for completion in 2019.

14.2.7. IP Key south-east Asia

Vietnam

In 2018 the CPVO cooperated with the EUIPO to organise a study visit on PVP in Vietnam on 5-6 November for officials from Indonesia, Malaysia and Thailand. Co-organised by the Plant Variety Protection Office, Ministry of Agriculture and Rural Development of Vietnam, the activity highlighted the benefits of a strong PVP system and of membership to the UPOV convention.

A visit to the Vietnam National Seed Group in Ba Vi underlined the importance of PVP protection in stimulating research and development in the sector. Just outside of Hanoi, local plant breeder Nguyen Viet Ha showed how a farmer like him has evolved into a plant breeder. A meeting with representatives at the Tu Liem DUS testing station rounded off the study visit.

Indonesia

Immediately following the study visit in Vietnam, high-level officials from Indonesia, Malaysia, Thailand and Vietnam attended an IP Key south-east Asia conference in Yogyakarta, Indonesia, on 8-9 November 2018 to discuss PVP within the international framework. The conference highlighted the benefits and opportunities of PVP and of membership to the UPOV convention.



IP KEY SEA in Vietnam, November 2018

Representatives from IP Key south-east Asia, UPOV, the CPVO, the Ministry of Agriculture, Forestry and Fisheries of Japan and the USPTO have made presentations on the key features of the UPOV convention, as well as its implementation in the EU, Japan and the US. As already a member of the UPOV convention, Vietnam also shared its experience about acceding to the UPOV convention and the resulting benefits.

Philippines

The CPVO participated in the 11th East Asia Plant Variety Protection Forum meeting and PVP awareness seminar in Alabang Muntinlupa City, Philippines, from 31 July until 3 August 2018. The Vice-President of the CPVO gave a presentation on the experience of managing a CPVR regional system in the European Union.

India

On 22 and 23 February 2018 the CPVO attended an international workshop in New Delhi on India-EU collaboration in seed-sector development and PVP in partnership with the Protection of Plant Varieties & Farmers' Rights Authority (Department of Agriculture, Cooperation and Farmers Welfare, Ministry of Agriculture and Farmer's Welfare, government of India), the Department of Industrial Policy and Promotion (Ministry of Commerce and Industry, government of India), the German Federal Ministry of Food and Agriculture and the Dutch Ministry of Agriculture, Nature and Food Quality. The project has been funded under EU-India IP cooperation (the IPC-EUI programme) approved by the EU and the government of India in an addendum to the financing agreement in 2014, with the aim of reformulating the capacity-building initiative for trade development and attributing its implementation to the EUIPO. On 20 and 21 November 2018, the CPVO participated in another workshop as part of the same cooperation programme, which focused on molecular techniques used in DUS testing.

14.2.8. Universities

In 2018, the CPVO continued to cooperate with a network of universities with the aim of spreading awareness of PVR among students and academics. In this respect the CPVO continued to be one of the partner institutions of the European Intellectual Property Institutes Network innovation society joint doctorate to foster research in the field of IP. This has led to the awarding of several doctoral degrees, one of which is in the domain of plant varieties. Moreover, for the 4th year, the CPVO is continuing its collaboration with the universities of Alicante (Magister Lvcentinvs) and Strasbourg (Centre for International Intellectual Property Studies). Several successful internships have been granted to former students of both universities' master in IP law. In particular, the CPVO supports the Magister Lvcentinvs, the masters in IP of the University of Alicante that has implemented a special intensive course dedicated to PVRs. The CPVO cooperated with the Faculty of Law of the University of Alicante to deliver a specialised training course on PVRs for Spanish judges and prosecutors. The CPVO continues to collaborate with the École Supérieure des Sciences Commerciales d'Angers, school of management based in Angers, within the framework of the European sustainability

policies course, and with Wageningen University. In 2018 the CPVO signed a cooperation agreement with the Munich Intellectual Property Law Centre to strengthen cooperation in the field of research on PVRs. In the framework of this cooperation, a PhD researcher was offered a study internship at the CPVO. Finally, the CPVO started cooperating with Maastricht University with the aim of delivering a PVR course to the students of the master programme in IP rights.

The above partnerships highlight the importance the CPVO attaches to the training of PVR experts and its commitment to continue to attract the best minds to the field of PVRs. The CPVO is eager to attract the brightest aspiring IP experts to the field of PVRs and engaging with universities is seen as the right way to do this.

In addition, the CPVO continues to intervene on an ad hoc basis at universities within the EU to promote the PVP system and to raise awareness amongst students. In 2018 a lecture was given at the University of Natural Resources and Life Sciences in Vienna, Austria.

15. PUBLIC ACCESS TO DOCUMENTS

In 2001 specific rules on public access to documents held by the Parliament, the Council and the European Commission were introduced by the adoption of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents. In order for these rules to also apply to documents held by the CPVO, a new article, Article 33a, was introduced into the BR in 2003 by the adoption of Council Regulation (EC) No 1650/2003 of 18 June 2003 amending Regulation (EC) No 2100/94 on Community plant variety rights.

Article 33a contains the following elements.

- Regulation (EC) No 1049/2001 shall also apply to documents held by the CPVO. This provision entered into force on 1 October 2003.
- The AC shall adopt practical arrangements for implementing Regulation (EC) No 1049/2001. The AC adopted such practical arrangements on 25 March 2004. These rules entered into force on 1 April 2004.
- Decisions taken by the CPVO on public access to documents may form the subject of a complaint to the Ombudsman or of an action before the Court of Justice.

Regulation (EC) No 1049/2001 and the rules adopted by the AC (modified during the October 2014 meeting of the AC to reflect the new work organisation within the Legal Unit of the CPVO) are available on the website of the CPVO. Information on these rules and the forms to use when requesting access to a document are also published on the website of the CPVO.

The CPVO follows up on the implementation and application of the rules on public access to documents by reporting annually on information such as the number of cases in which the CPVO refused to grant access to documents and the reasons for such refusals.

Graph 16
Evolution of annual number of public access requests received by the CPVO over the last 10 years

■ Number of files concerned
— Number of requests

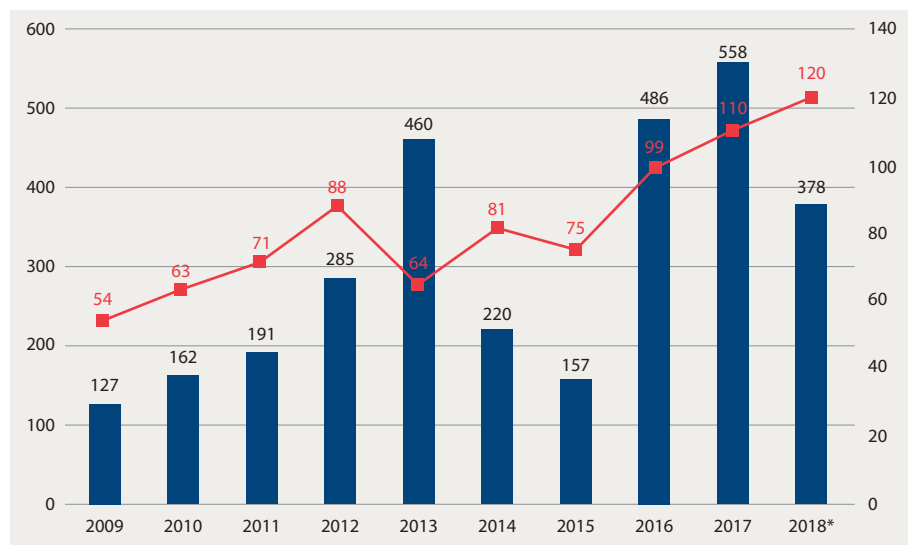


Table 14: Number of public access requests

Year of receipt	Number of requests for access received	Number of refusals	Reasons for such refusals	Confirmatory applications
2004	30	6 (partial)	Confidential technical questionnaire not sent	
2005	55	2 (partial)	Confidential technical questionnaire not sent	
2006	58	6 (partial)	Confidential technical questionnaire not sent	
2007	55	17 (partial)	Confidential technical questionnaire not sent/ information of commercial interest not sent	2 (successful)
2008	57	19 (partial)	Confidential technical questionnaire/photo/ assignment not sent	1 (unsuccessful)
2009	54	28 (partial)	Confidential technical questionnaire not sent/ information of commercial interest not sent/ photos not available	2 (successful)
2010	63	29 (partial)	Confidential technical questionnaire not sent/ information of commercial interest not sent	1 (unsuccessful)
2011	71	27 (partial)	Confidential technical questionnaire not sent/ information of commercial interest not sent	2 (1 unsuccessful and 1 successful)
2012	88	57 (partial)	Confidential technical questionnaire not sent/ information of commercial interest not sent	8 (3 unsuccessful and 5 successful)
2013	63	18 (partial)	Confidential technical questionnaire not sent/ information of commercial interest not sent	1 (unsuccessful)
2014	81	27 (partial)	Confidential technical questionnaire not sent/ information of commercial interest not sent	4 (1 unsuccessful and 3 successful)
2015	75	17 (partial)	Confidential technical questionnaire not sent	3 (2 unsuccessful and 1 successful)
2016	99	26 (partial)	Confidential technical questionnaire not sent	4 (successful)
2017	110	45 (partial)	Confidential technical questionnaire not sent	2 (1 unsuccessful and 1 successful)
2018	120	35 (partial)	Confidential technical questionnaire not sent	2 (1 unsuccessful and 1 successful)

16. REPORT OF THE DATA PROTECTION OFFICER

16.1. Legal background

On 11 December 2018, the Regulation (EU) No 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) 45/2001 and Decision No 1247/2002/EC, entered into force. This regulation was adopted for the purpose of complying with Article 16 of the Treaty on the Functioning of the European Union and for aligning the rules for EU institutions to the Regulation (EU) 2016/679 (General Data Protection Regulation). Article 16 of the treaty requires the application by the European Union institutions and bodies of the EU acts on the protection of individuals with regard to the processing of personal data and the free movement of such data.

'Processing of data' has quite a broad meaning and refers not only to transferring data to third parties but also to collecting, recording and storing data, whether or not by electronic means.

16.2. Role and tasks of the data protection officer

Regulation (EC) No 2018/1725 requires the nomination of at least one data protection officer (DPO) in the EU institutions and bodies. The DPO should ensure, in an independent manner, the internal application of the provisions in the regulation and that the rights and freedoms of the data subjects are unlikely to be adversely affected by the processing operations.

The role of the DPO has changed with the new regulation. It is now an advisory role to help the controllers in the institutions comply with the rules. The controllers keep a register of all the processing operations carried out by the CPVO and notified either to the DPO or to the European Data Protection Supervisor (EDPS). This register, which must contain information explaining the purpose and conditions of the processing operations, is accessible to any interested person.

In March 2018 an addendum to the memorandum of understanding between the CPVO and the EUIPO was signed to outsource the task of the DPO to the EUIPO. Mariya Koleva was nominated on 5 April for a duration of 2 years. A trainee in the CPVO was appointed to support the work of the DPO

Updates on the new regulation were made to the CPVO staff by the DPO during the year.

16.3. Report of the data protection officer for 2018

16.3.1. Consultation and review of data processing operations

Under the new regulation, the DPO responds to consultations related to privacy and data protection matters and revises the documentation of new or updated personal data

processing operations. By the end of 2018, the DPO responded to 40 consultations and reviewed 10 data protection records.

In 2018 continuous efforts were made to achieve a higher level of accountability, awareness and transparency at the CPVO, complying with the main principles established by the new data protection regulation. The CPVO controllers are becoming more aware of the due manner to demonstrate compliance and accountability, in terms of privacy and data protection.

16.3.2. Ensuring and demonstrating compliance

Another element of the DPO's responsibilities relates to assisting the delegated controllers (CPVO units and services) in ensuring and demonstrating compliance with the data protection rules before the EDPS.

Ensuring compliance via prior checks: in 2018 no notifications were submitted by the CPVO to the EDPS. Under the new revised regulation, the prior check obligation for the European Union institutions is abandoned; the principle of 'accountability' is introduced under which the EU institutions are responsible to ensure their compliance and being able to demonstrate it.

Demonstrating compliance via responding to complaints filed directly before the EDPS: in 2018 no complaints were filed before the EDPS which is of course a positive indication in terms of CPVO compliance with the data protection rules.

16.3.3. European Data Protection Supervisor website inspection

In July the European Data Protection Supervisor (EDPS) announced a remote inspection on the EU institutions' web services. The scope of the inspection defined by the EDPS, in accordance with their 'Guidelines on the protection of personal data processed via the web services provided by EU institutions, agencies and bodies', focused on:

- existence and accuracy of the privacy policy, cookie notices or similar policy documents;
- security of the personal data in transit between the web service and the terminal equipment of a data subject (HTTPS).

Actions were taken by the DPO together with the controller (IT service) to provide (within the time limit of 15 days) the list of the public HTML-based web services for individuals for which the CPVO is the controller or joint-controller and the usage statistics, such as monthly and/or annual numbers of visits or volume of unique visitors for those.

By the end of 2018 the EDPS inspection on the CPVO web services had not taken place.

16.3.4. Advice and information provided to data subjects and controllers

In 2018 the DPO facilitated the work of the CPVO business owners to comply with the new legislation in the most efficient manner (human and financial resources wise).

The DPO actions aimed to ensure:

- full legal compliance and highest level of transparency and security for the data subjects — staff members and external users — when they seek to exercise their rights;
- general awareness of the changes in the data protection rules and in particular, the CPVO's policies and procedures applying the data protection provisions in the CPVO's practices and activities;
- full transparency and accountability of the CPVO's policies, procedures and practices, in terms of personal rights, privacy controls and safeguards for individuals and in data breach circumstances also to the persons affected (so they can take steps to protect themselves).

The operational activities included:

- preparation of the detailed analysis to define the exact scope and nature of the operational adjustments by the CPVO delegated controllers in their respective areas;
- revision of the CPVO's processes/procedures and documentation, in light of the changes in the privacy and data protection rules, at the level of each and every unit to define the necessary amendments of the existing processes/procedures and documentation and/or the creation of new ones.

Various procedures and documentation required adaptation to ensure compliance when processing users' personal data by the CPVO. Main activities initiated by the DPO included an update of the structure and content of the new corporate data protection notice on the CPVO website; establishment of a procedure for dealing with 'complaints', 'requests' (related to privacy and data protection) and revocation of consent filed by users; revision of the CPVO policies and procedures on making available (publishing) users' personal data (within the scope of the IP related tasks and others); practical implementation of the new 'cookies' requirements; procurement procedures; breach handling and reporting.

16.3.5. Meetings of the data protection officer network in 2018

As a function common to all EU institutions and bodies, DPOs are now well established and meet within the framework of a DPO network twice a year. These meetings are organised to share know-how and best practices. They usually include a training module and a session with the EDPS.

The DPO of the CPVO participated in the meetings of the DPOs' network hosted by the European Parliament in May and December 2018 in Brussels.

17. APPEAL PROCEDURES

17.1. Composition of the Board of Appeal of the CPVO

The Board of Appeal of the CPVO is composed of a chair, an alternate chair and qualified members.

17.1.1. Chair and alternate of the Board of Appeal

Paul van der Kooij was appointed as Chair of the Board of Appeal for a term of 5 years by a Council Decision of 19 February 2018 (OJ C 65, 21.2.2018, p. 4). His past mandate ran from 18 December 2012 until 18 December 2017. His new mandate runs from 19 February 2018 until 18 February 2023. The position of his alternate, Sari Haukka, was renewed for a second term of 5 years by Council Decision of 16 June 2016 (OJ C 223, 21.6.2016, p. 5). Her mandate runs from 15 October 2016 until 14 October 2021.

17.1.2. Qualified members of the Board of Appeal

The AC of the CPVO at its meeting of 30 September 2015 adopted, in accordance with the procedure prescribed by Article 47(2) of Council Regulation (EC) No 2100/94, the following list of 22 qualified members of the Board of Appeal for a period of 5 years starting on 23 February 2016 and ending on 22 February 2021.

Table 15: List of qualified members (from 23.2.2016 to 22.2.2021)

1. Beatrix Bönisch	12. André Pohlmann
2. Richard Brand	13. Dirk Reheul
3. Paul de Heij	14. Kurt Riechenberg
4. Krieno Fikkert	15. Beate Rücker
5. Huib Ghijsen	16. Ivana Rukavina
6. Helen Johnson	17. Elizabeth Scott
7. Ofelia Kirkorian-Tsonkova	18. Péter Sipos
8. Michael Köller	19. Sven Stürmann
9. François Lallouet	20. Zsolt Szani
10. Stephan Martin	21. Hanns Ullrich
11. Miguel Angelo Pinheiro De Carvalho	22. Nicolaas Petrus van Marrewijk

17.2. Decisions of the Board of Appeal in 2018

The Board of Appeal took two decisions in 2018.

- On 13 March 2018, in appeal case A001/2017 ('Royal Braeburn'), the Board of Appeal found the appeal admissible but not well-founded. The CPVO non-cancellation Decision No NC 4 was upheld by the Board of Appeal. The costs of the appeal proceedings had to be borne by the appellant. The Board of Appeal decided to refund 50 % of the appeal fees to the appellant based on incomplete submission of information to the requestor.
- On 15 October 2018, in appeal case A009/2017 ('Siberia'), the Board of Appeal found the appeal not admissible. The CPVO decision of 23 October 2017 to reject the request to amend the expiration date of the CPVR in the Register was upheld by the Board of Appeal. The costs of the appeal proceedings had to be borne by the appellant.

Summaries and complete decisions are available in the CPVO PVR case-law database, on the CPVO website.

17.3. Further actions to the Court of Justice in 2018

In accordance with Article 73 of Regulation (EC) No 2100/94, a further action to the Court of Justice shall lie from decisions of the Board of Appeal.

17.3.1. New further actions in 2018

Case T-112/18 was lodged with the General Court on 23 February 2018 against decision A007/2016 of 14 September 2017 of the Board of Appeal of the CPVO for the apple variety 'Cripps Pink'.

Case T-737/18 was lodged with the General Court on 17 December 2018 against decision A009/2017 of 15 October 2018 of the Board of Appeal of the CPVO for the lily variety 'Siberia'

17.3.2. Rulings of the General Court in 2018

Case T-455/16 — 'Gala Schnico' — on 23 February 2018, the General Court dismissed the appeal brought against the decision of the Board of Appeal of the CPVO of 22 April 2016 (Case A005/2014) to uphold the Decision of the CPVO of 11 December 2014 to refuse an application for a CPVR to the variety 'Gala Schnico' for lack of uniformity. The General Court dismissed the action and ordered Schniga GmbH to bear the appeal costs.

17.3.3. Rulings of the Court of Justice in 2018

Case C-308/18 P — ‘Gala Schnico’ — on 8 November 2018, the Court dismissed the appeal as not well-founded. On 11 December 2014, Schniga GmbH, the plaintiff appealed the decision of the CPVO to refuse an application for a CPVR for the variety ‘Gala Schnico’ on the grounds of lack of uniformity. On 22 April 2016, the Board of Appeal rejected the appeal. The plaintiff brought an action before the General Court requesting the annulment of the decision of the Board of Appeal. The General Court dismissed the action. The plaintiff then lodged a further action on 7 May 2018 with the Court of Justice, contesting the judgment of the General Court on two main grounds, the incorrect interpretation by the General Court of the obligation of the CPVO to examine on its own motion, as established under Article 76 in conjunction with Article 72 of the BR, the CPVO should have proposed on its own motion an extension of the technical examination period of the candidate variety or a new location for conducting the examination. The plaintiff also contended that its right to be heard had not been respected. The Court of Justice found that, on both grounds, the action was not well-founded and ordered Schniga GmbH to bear the appeal costs.

17.3.4. State of affairs of the further actions lodged with the Court of Justice

Case No before the General Court	Contested decision	Variety denomination	Date of General Court ruling	Date of further appeal to the Court of Justice	Case No before the Court of Justice	Date of Court of Justice ruling
T-95/06	A001/2005	Nadorcott	31.1.2008	N/A	N/A	N/A
T-187/06	A003/2004	Sumcol 01	19.11.2008	29.1.2009	C-38/09 P	15.4.2010
T-187/06 DEP I	Non-payment of recoverable costs of the proceedings T-187/06	Sumcol 01	16.9.2013	N/A	N/A	N/A
N/A	N/A	Sumcol 01	N/A	7.2.2013	C-38/09 P-DEP	10.10.2013
T-133/08	A007/2007	Lemon Symphony	18.9.2012	28.11.2012	C-546/12 P	21.5.2015
T-134/08	A006/2007	Lemon Symphony	18.9.2012	28.11.2012	C-546/12 P	21.5.2015
T-135/08	A003/2007 and A004/2007	Gala Schnitzer	13.9.2010	15.11.2010	C-534/10 P	19.12.2012
T-177/08	A005/2007	Sumost 01	18.9.2012	28.11.2012	C-546/12 P	21.5.2015
T-242/09	A010/2007	Lemon Symphony	18.9.2012	28.11.2012	C-546/12 P	21.5.2015
T-367/11	A007/2010	Southern Splendour	21.10.2013	N/A	N/A	N/A
T-91/14	A004/2007	Gala Schnitzer	10.9.2015	23.11.2015	C-625/15 P	8.6.2017
T-92/14	A003/2007	Gala Schnitzer	10.9.2015	23.11.2015	C-625/15 P	8.6.2017
T-767/14	A007/2013	Oksana	13.7.2017	N/A	N/A	N/A
T-140/15	A010/2013	M02205	23.11.2017	N/A	N/A	N/A
T-425/15	A003/2010	Seimora	4.5.2017	N/A	N/A	N/A
T-426/15	A002/2014	Seimora	4.5.2017	N/A	N/A	N/A
T-428/15	A007/2009	Sumost 02	4.5.2017	N/A	N/A	N/A
T-177/16	A001/2015	Braeburn 78	5.2.2019			
T-445/16	A005/2014	Gala Schnico	23.2.2018	7.5.2018	C-308/18 P	8.11.2018
T-405/16	A006/2014	Tang Gold	<i>Withdrawn</i>			
T-765/17	A005/2016	Pinova	<i>Pending</i>			
T-112/18	A007/2016	Cripps Pink	<i>Pending</i>			
T-737/18	A009/2017	Siberia	<i>Pending</i>			

17.4. Appeals received by the CPVO and decisions reached by the Board of Appeal since its inception (statistics)

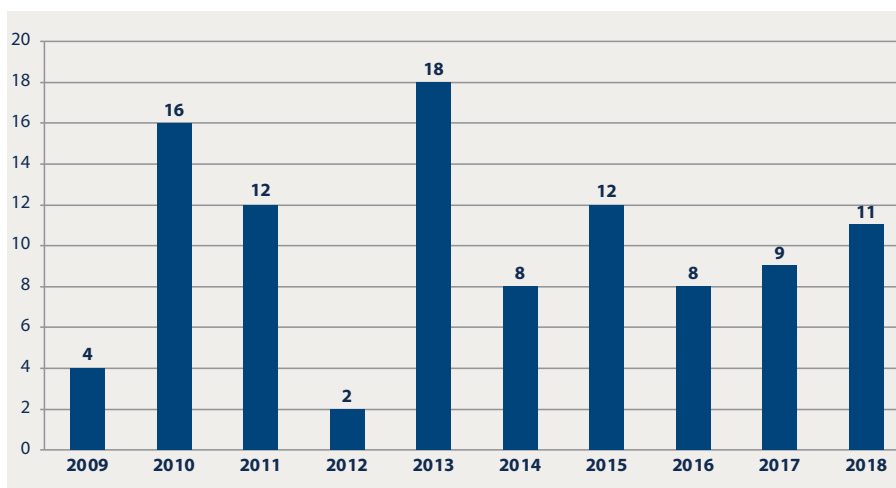
17.4.1. Number of appeals lodged per year between 2009 and 2018

A total of 185 appeals have been lodged with the CPVO since the opening of the CPVO.

The annual number of appeals received in the last 10 years is shown in Graph 17.

Graph 17

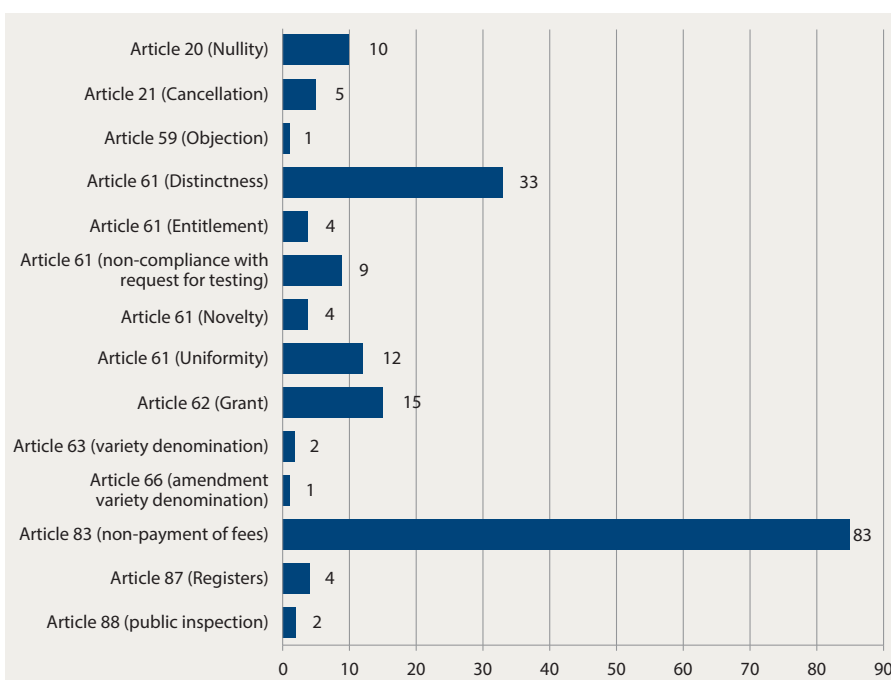
Number of appeal cases lodged per year with the CPVO between 2009 and 2018



17.4.2. Legal basis of the appeals lodged since 1996 (with reference to Council Regulation (EC) No 2100/94)

Graph 18

Legal basis of the appeal cases lodged with the CPVO since 1996

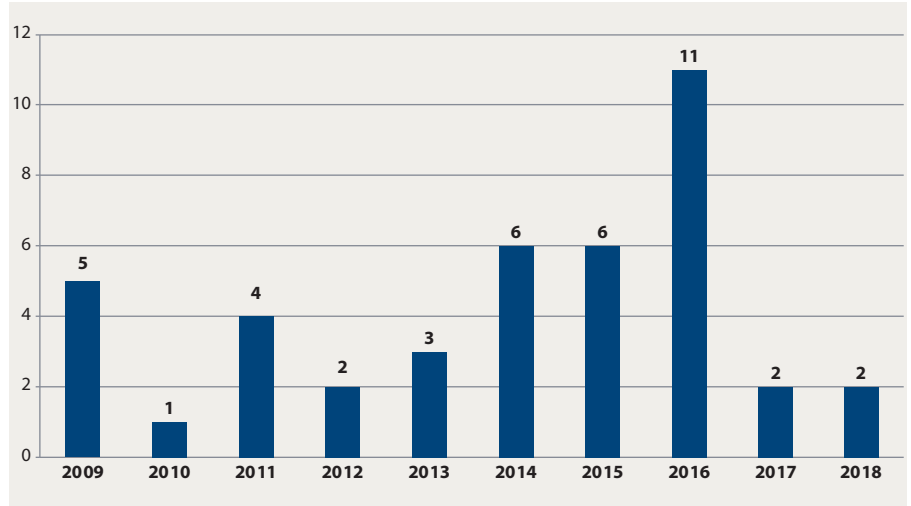


17.4.3. Decisions of the Board of Appeal per year

A total of 85 decisions were taken by the Board of Appeal of the CPVO between 1996 and 2018. The annual number of decisions taken in the last 10 years is shown in Graph 19.

Graph 19

Number of decisions reached by the Board of Appeal per year between 2009 and 2018

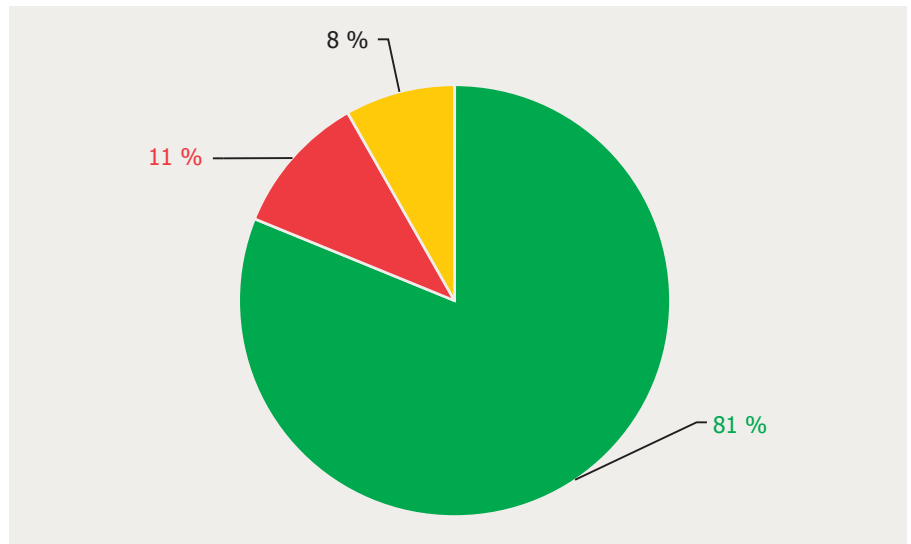


17.4.4. Outcome of the 85 decisions of the Board of Appeal (1996-2018)

Graph 20

Share of the total number of decisions of the Board of Appeal (1996-2018)

- Appeals partially upheld
- Appeals upheld
- Appeals dismissed



The references of the decisions taken by the Board of Appeal are given in the following table.

Year	Appeal case number and Board of Appeal decision date
1999	A002/1998 of 14.9.1999
2000	A001/1999 of 25.1.2000 A002/1999 of 19.5.2000
2001	A002/2000 of 27.3.2001 A004/2000 of 6.12.2001
2002	A005/2000 of 28.5.2002
2003	A005/2002 of 2.4.2003 A001/2002, A002/2002 and A003/2002 of 1.4.2003 A018/2002 of 14.5.2003 A008/2002, A009/2002, A010/2002, A011/2002, A012/2002 and A013/2002 of 15.5.2003 A017/2002 of 3.4.2003 A023/2002 of 8.10.2003 A031/2002 of 8.12.2003 A021/2002 of 9.12.2003
2004	A003/2003 and A004/2003 of 4.6.2004 A005/2003 and A006/2003 of 28.9.2004 A001/2004 of 16.12.2004
2005	A006/2004 of 15.6.2005 A005/2004 of 16.6.2005 A004/2004 of 18.7.2005 A001/2005 of 8.11.2005
2006	A003/2004 of 2.5.2006 A004/2005 of 13.10.2006 A007/2005 of 7.7.2006
2007	A001/2007 of 11.9.2007 A003/2007 and A004/2007 of 21.11.2007 A005/2007, A006/2007 and A007/2007 of 4.12.2007
2008	A011/2007 of 9.9.2008 A009/2008 of 2.12.2008 A001/2008 and A002/2008 of 4.12.2008
2009	A010/2007 of 23.1.2009 A004/2008 and A005/2008 of 21.4.2009 A010/2008 and A011/2008 of 8.10.2009
2010	A018/2008 of 15.3.2010
2011	A001/2010, A005/2010, A006/2010 and A007/2010 of 18.2.2011
2012	A009/2011 of 17.1.2012 A001/2012 of 10.10.2012
2013	A003/2007 and A004/2007 of 20.9.2013 (second decisions for the same cases further to remittal from the Court of Justice) A007/2011 of 23.4.2013

Year	Appeal case number and Board of Appeal decision date
2014	A006/2013 of 13.1.2014 A004/2013 of 4.4.2014 A008/2013 of 1.7.2014 A007/2013 of 2.7.2014 A016/2013 of 11.9.2014 A010/2013 of 26.11.2014
2015	A007/2009 of 24.2.2015 A002/2010 of 24.2.2015 A003/2010 of 24.2.2015 A002/2014 of 24.2.2015 A001/2015 of 15.12.2015 A002/2015 of 15.12.2015
2016	A001/2014 of 3.3.2016 A003/2014 of 3.3.2016 A005/2014 of 22.4.2016 A006/2014 of 29.4.2016 A007/2014 of 29.4.2016 A008/2014 of 29.4.2016 A006/2015 of 15.8.2016 A009/2015 of 22.8.2016 A005/2007-RENV of 2.9.2016 A006/2007-RENV of 2.9.2016 A007/2007-RENV of 2.9.2016
2017	A005/2016 of 16.8.2017 A007/2016 of 14.9.2017
2018	A001/2017 of 13.3.2018 A009/2017 of 15.10.2018

The detailed decisions of the Board of Appeal are available in the CPVO case-law database, on the CPVO website.

18. CONFLICTS OF INTEREST

In 2018 the CPVO continued its participation in the interagency task force on conflicts of interest organised by the Directorate-General for Health and Food Safety, with the aim of implementing the European Commission 'Guidelines on the prevention and management of conflicts of interest in EU decentralised agencies' (for members of the management board, executive directors, experts in scientific committees or other similar bodies and members of boards of appeal) of December 2013.

Apart from the decision-making process relating to the core business of the CPVO, there are other decisions and procedures in the CPVO in which impartiality and objectivity are very important, such as employment procedures, public procurement and providing funds for R & D projects. Regarding employment procedures in particular, CPVO staff members are subject to the staff regulations, which contain several provisions addressing situations of conflicts of interest. Nevertheless, over the years, procedures, provisions in agreements and declarations of absence of conflicts of interest have been introduced to remind the persons concerned about the importance of acting independently, in transparency and with integrity.

Having taken the European Commission guidelines into consideration, the AC adopted during its meeting in October 2015 a CPVO policy on prevention and management of conflict of interest. The policy was amended in 2017 and the proposed changes were approved by the AC at its first annual meeting of March 2018.

MAIN ACRONYMS AND ABBREVIATIONS

Acronym/Abbreviation	
A	
AC	Administrative Council of the CPVO
AEM	agricultural experts meeting
AGES	Österreichische Agentur für Gesundheit und Ernährungssicherheit/ Austrian Agency for Health and Food Safety (Austria)
ARIPO	African Regional Intellectual Property Organisation
B	
BR (basic regulation)	Council Regulation (EC) No 2100/94 of 27 July 1994 on Community plant variety rights
BSA	Bundessortenamt (Germany)
C	
Ciopora	International Community of Breeders of Asexually Reproduced Ornamental and Fruit Varieties
Coboru	Centralny Ośrodek Badania Odmian Roslin Uprawnionych/Research Centre for Cultivar Testing (Poland)
CPVO	Community Plant Variety Office
CPVR	Community plant variety rights
CREA	Consiglio per la ricerca in agricoltura e l'analisi dell'economia agraria/ Council for Agricultural Research and Agricultural Economics Analysis (Italy)
CREA-DC	Consiglio per la ricerca in agricoltura e l'analisi dell'economia agraria — Centro di sperimentazione e certificazione delle sementi/Council for Agricultural Research and Agricultural Economics Analysis — Research Centre for Plant Protection and Certification (Italy)
D	
DGAV	Direcção-Geral de Alimentação e Veterinária/Portuguese National Authority for Animal Health (Portugal)
DNA	deoxyribonucleic acid
DPO	data protection officer
DUS	distinctness, uniformity and stability
E	
ECO-PB	European Consortium for Organic Plant Breeding
EDPS	European Data Protection Supervisor
EO(s)	examination office(s)
EPO	European Patent Office
ESA	European Seed Association
EU	European Union
UIPO	European Union Intellectual Property Office (until 22.3.2016: Office for Harmonization in the Internal Market (Trade Marks and Designs))
F	
Frumatis	Fruit Reproductive Material Information System
G	
GEVES	Groupe d'Etude et de contrôle des Variétés et des Semences/Group for the Study and Control of Varieties and Seeds (France)
GNIS	Groupement national interprofessionnel des semences et des plants/French Association for Seeds and Seedlings (France)
I	
ICNCP	International Code of Nomenclature for Cultivated Plants
ICT	information and communications technology

Acronym/Abbreviation	
IEPI	Instituto Ecuatoriano de la Propiedad Intelectual/Ecuadorian Institute of Intellectual Property (Ecuador)
Indecopi	Instituto Nacional de Defensa de la Competencia y de la Protección de la Propiedad Intelectual/National Institute for the Defence of Competition and Intellectual Property (Peru)
INIA	Instituto Nacional de Investigación y Tecnología Agraria y Alimentaria/National Research Institute for Agriculture and Food Research and Technology (Spain)
INIAP	Instituto Nacional de Investigaciones Agropecuarias/National Agricultural Research Institute (Ecuador)
INRA	Institut National de la Recherche Agronomique/National Institute for Agricultural Research (France)
INTA	Instituto Nacional de Tecnología Agropecuaria/National Institute of Agricultural Technology (Argentina)
IP	intellectual property
IPRs	intellectual property rights
IT	information technology
N	
NÉBIH	Nemzeti Élelmiszerlánc-biztonsági Hivatal/National Food Chain Safety Office (Hungary)
NIAB	National Institute of Agricultural Botany (United Kingdom)
O	
OAPI	African Intellectual Property Organisation
OECD	Organisation for Economic Cooperation and Development
OEVV	Oficina Española de Variedades Vegetales/Spanish Plant Variety Office (Spain)
OJ	Official Journal of the European Union
P	
PBR	plant breeders' rights
Plantum	Dutch Association for the Plant Reproduction Material Sector
PVP	plant variety protection
PVR	plant variety rights
Q	
QAS	Quality Audit Service
R	
R & D	research and development
S	
SNP	single-nucleotide polymorphism
T	
TLO	technical liaison officer
TPs	technical protocols
U	
UKSUP	Ústredný kontrolný a skúšobný ústav poľnohospodársky/Central Controlling and Testing Institute in Agriculture (Slovakia)
ÚKZÚZ	Ústředního kontrolního a zkušebního ústavu zemědělský/Central Institute for Supervising and Testing in Agriculture (Czechia)
UPOV	International Union for the Protection of New Varieties of Plants
USPTO	United States Patent and Trademark Office



CPVO

Community Plant Variety Office

3 boulevard Maréchal Foch - CS 10121
49101 ANGERS CEDEX 2 - FRANCE
Tel. +33 (0)2 41 25 64 00 - Fax +33 (0)2 41 25 64 10
cpvo@cpvo.europa.eu - cpvo.europa.eu

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Служба на Общността за сортовете растения

Oficina Comunitaria de Variedades Vegetales

Odrůdový úřad Společenství

EF-Sortsmyndigheden

Gemeinschaftliches Sortenamnt

Ühenduse Sordiamet

Κοινοτικό Γραφείο Φυτικών Ποικιλιών

Community Plant Variety Office

Office communautaire des variétés végétales

Ured Zajednice za zaštitu biljnih sorti

Ufficio comunitario delle varietà vegetali

Kopienas Augu šķirņu birojs

Bendrijos augalų veislių tarnyba

Közösségi Növényfajtá-hivatal

L-Uffiċju Komunitarju dwar il-Varjetajiet tal-Pjanti

Communautair Bureau voor plantenrassen

Wspólnotowy Urząd Ochrony Odmian

Instituto Comunitário das Variedades Vegetais

Oficiul Comunitar pentru Soiuri de Plante

Úrad Spoločenstva pre odrody rastlín

Urad Skupnosti za rastlinske sorte

Yhteisön kasvilajikevirasto

Gemenskapens växtsortsmyndighet



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