



**SCREENING CHAPTER 12
FOOD SAFETY, VETERINARY AND PHYTOSANITARY POLICIES**

AGENDA ITEM 37- PLANT VARIETY RIGHTS

**Country Session: Republic of Turkey
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CONTENTS

- I. LEGAL BASIS
- II. ORGANISATION
- III. RIGHT OF PROTECTION
- IV. CONDITIONS OF PROTECTION
- V. DENOMINATION
- VI. RIGHTS OF HOLDER
- VII. FARMER PRIVILEGE



I. LEGAL BASIS



System of Plant Variety Rights

Main Arrangement:

Law no. 5042 on The Protection of Breeder's Rights on New Plant Varieties.

- Prepared and adopted in accordance with Directive 2100/94/EC, 1768/95/EC and UPOV Convention of 1991 .



Implementing Regulations :

- Protection of New Plant Variety Rights
- Farmers Privilege
- Rights of Breeders Working in Public Institutions.



Objectives:

- To encourage development of plant varieties,
- To protect Plant Variety Rights in Turkey and States party to UPOV in the extent of reciprocity principles
- To become member of UPOV in the framework of UPOV Convention in 1991;
 - Turkey was accepted to UPOV on 21th October 2004 .
 - 1991 UPOV Convention is due for ratification in the Parliament.



II. ORGANISATION



- Main responsible body: General Directorate of Protection and Control (GDPC) of MARA.

- Following bodies are also in charge:
 - Commission for Examination of Applications
 - Breeders' Right Registration Committee



III. RIGHT OF PROTECTION



Beneficiaries

- Turkish citizens,
 - Natural and legal persons residing or established in Turkey
- have the right to apply within the scope of UPOV Convention.



Duration of Protection

- 25 years from the day of registration of the breeder's right.
- 30 years for trees, vines and potatoes.

IV. CONDITIONS OF PROTECTION



Conditions of Protection for Varieties

Varieties which are;

- New
- Distinct
- Uniform
- Stable

protected by breeders' right provided that other legal requirements are fulfilled.



Novelty

- The variety should not be subject to trade in order to be accepted as “New”.

- The application should be filed;
 - Earlier than 1 year before the application date for domestic applications,

 - Earlier than 4 years before the application date, 6 years for trees and vine for foreign applications.



Distinctness (1)

- If it is clearly distinguishable from any other variety whose existence is a matter of common knowledge on the date of application or on the date of priority right.



Distinctness (2)

Common Knowledge;

- Provided that an application filed in any State has led to the granting of breeders right or entering the variety in the register.
- May also be determined by taking into account the commencement of variety exploitation or existence of a variety in a variety catalogue of a professional institution or inclusion in a reference collection.



Uniformity

If variety is sufficiently uniform in its relevant characteristics, except those possible variations that are subject to propagation method used.



Stability

If relevant characteristics of variety remain unchanged during the repeated propagation or at the end of particular propagation cycles.



V. DENOMINATION



Use Of Denomination

- A denomination of the protected variety becomes its common name,
- Suggested denomination for variety can not be against trademark legislation,
- If denomination is registered and used in Turkey or in a country that is a party to UPOV Convention, the application is made and used with the same denomination,
- Propagating material of the protected variety also has to be traded with the same denomination,
- The obligation of using a denomination continues even if the breeder's right ends.



Denomination Rules

- The suggested denomination for variety has to be different from other varieties,
- The denomination should not contain expressions contrary to public order and common morality,
- Previous rights of third persons about the use of protected variety are reserved,
- The suggested denomination for variety has not to be same or similar as the name of the other varieties belonging same or similar species.



VI. RIGHTS OF HOLDER



Rights Conferred on the Holder

Breeder's right shall confer on the holder following exclusive rights for protection of the variety:

- production or reproduction
- preparation for propagation
- placing on the market
- exporting or importing
- storage



Restrictions on Exercise of Breeder's Right

Breeder's rights can not be exercised for below purposes:

- non-commercial
- experimental
- breeding other varieties (except acts referred in Article 14 paragraph 5 of the Law).



VII. FARMER PRIVILIGE



- Except for hybrid and synthetic varieties, farmers have the right to cultivate protected varieties for non-trade purposes without paying a royalty.
- Small farmers growing maximum 92 tonnes of wheat or equivalent amount of crops may benefit from the farmers privilege

List of species subject to farmer privilege

Fodder crops

- Lucerne (*Medicago sativa* L.).
- Sainfoin (*Onobrychis sativa* L.).
- Vetch (*Vicia sativa* L.).
- Clover (*Trifolium* spp.).

Industrial Plants

- Cotton (*Gossypium* spp.).
- Tobacco (*Nicotiana tabacum* L.).
- Potato (*Solanum tuberosum* L.).
- Rape (*Brassica napus* L.).
- Peanut (*Arachis hypogaea* L.).
- Soybean (*Glycine Max* L.).

Cereals

- Wheat (*Triticum* spp.).
- Barley (*Hordeum vulgare* L.).
- Red rice (*Oryza sativa* L.).
- Oats (*Avena sativa* L.).
- Rye (*Secale cereale* L.).
- Triticale (*Triticosecale*).

Grain Legumes

- Common bean (*Phaseolus vulgaris* L.).
- Chickpea milkvetch (*Cicer arietinum* L.).
- Lentil (*Lens culinaris* Medik.).
- Field pea (*Pisum sativum* L.).
- Field bean (*Vicia faba* L.).



Number of Protected Varieties Registered

Vegetables	: 6
Wheat	: 12
Barley	: 7
Sunflower	: 1
Potato	: 1
Maize	: 1
Oats	: 1
<u>Triticale</u>	<u>: 2</u>
TOTAL	: 31

Source: MARA, 2006

THANK YOU FOR YOUR ATTENTION