

SCREENING WITH CROATIA AND TURKEY

CHAPTER 12 – FOOD SAFETY, VETERINARY AND PHYTOSANITARY POLICIES



Title 6 – Phytosanitary

Chapter 4

Plant Variety Rights



The European Community Plant Variety Rights system

- A system for the protection of plant varieties was established by a Regulation of the European Community in 1994.
- The intellectual property rights granted under this system are valid throughout the territory of the Member States
- The system is run by the Community Plant Variety Office (CPVO), an official body of the EU which has been operational since 1995 and is now based in Angers (France).

Legal Basis

- **Basic Regulation:**
 - Council Regulation (EC) No 2100/94 on Community plant variety rights
- **Implementing Regulations:**
 - 3 Commission Regulations relating to:
 - Proceedings before the CPVO
 - Fees payable to the CPVO
 - The agricultural exemption

Implementation of the European PVR system

- **The Community PVR system co-exists with the National PVR systems of 21 EU member States. The applicant's choice : National or Community Rights**
- **The Community protection cannot be combined with national PVR or patent protection.**

The CPVO

- **CPVO Management**

The CPVO is managed by its President. His main duties are the implementation of the budget and to ensure the smooth running of the CPVO. He is assisted by a Vice-President.

- **Internal organisation**

The CPVO has two main Units :

- The Technical Unit
- The Administration and Finance Unit

Description of the CPVR system

- **One application**
- **One procedure**
- **One technical examination**
- **One decision**
- **One valid right covering the territory of the Member States of the European Union**

Description of the CPVR system

- in line with the UPOV 1991 Act, the EU became member of UPOV in July 2005
- Varieties of **all botanical genera and species** may be protected
- Definition and requirements of **novelty, distinctness, uniformity and stability**

Description of the CPVR system

- The concept of **essentially derived variety**
- The **breeder's exemption**
- **The agricultural exemption: Farm saved seed - only possible for varieties belonging to a limited list of 22 agricultural crops in well defined circumstances**

Eligibility of varieties

Community plant variety rights shall be granted for varieties that are

- Distinct**
- Uniform**
- Stable**
- New**
- and have a suitable variety denomination**

Novelty

- **A variety shall be deemed to be new if at the date of application, material of the variety have not been sold or otherwise disposed of to others by or with consent of the breeder**
 - **Earlier than 1 year before the application date within the territory of the EU**
 - **Earlier than 4 years before the application date for outside the territory of the EU**

Variety denomination

- **Possible impediments for the acceptance of variety denominations:**
 - **Prior rights**
 - **Difficult to recognise**
 - **Similarity**
 - **Liable to give offence**
 - **Misleading**
 - **Differs from the denomination under which the variety has already been registered**

Effects of Community plant variety rights

The following acts require the authorisation of the holder of the rights:

- Production or reproduction (multiplication)
- Conditioning for the purpose of propagation
- Offering for sale
- Selling or other marketing
- Exporting from the Community
- Importing to the Community
- Stocking for any of the above mentioned purposes

The holder may make his authorisation subject to conditions and limitations

Limitation of the effects of a Community Plant variety right

- **The Community plant variety rights shall not extend to:**
 - Acts done privately and for non-commercial purposes
 - Acts done for experimental purposes
 - Acts done for the purpose of breeding, or discovering and developing other varieties (breeders exemption)

Derogation from Community Plant Variety right

- **The agricultural exemption:**
 - Farmers are authorised to use for propagating purposes in the field, on their own holding the product of the harvest of a variety which is covered by a Community Plant Variety Right
 - Limited to a defined list of species
 - Subject to the payment of a remuneration to the holder of the right

Derogation: List of species

- Fodder plants:

- Chickpea milkvetch
- Yellow lupin
- Lucerne
- Field pea
- Berseem/Egyptian clover
- Persian clover
- Field bean
- Common vetch
- Italian rye-grass (Portugal only)

- Potatoes

- Cereals:

- Oats
- Barley
- Rice
- Canary Grass
- Rye
- Triticale
- Wheat
- Durum wheat
- Spelt wheat

- Oil and fibre plants:

- Swede rape
- Turnip rape
- Linseed with the exclusion of flax

Description of the CPVR system

- Applicants must be nationals of an EU Member State or of a UPOV contracting party or of other States subject to a Commission decision
- **Duration** of the Community right: **25 years** (30 for vines, trees and potato varieties)

EVOLUTION OF VARIETIES PROTECTED UNDER THE COMMUNITY SYSTEM SINCE 1996

