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1 A UNIFORM PLANT VARIETY RIGHT THROUGHOUT THE ENTIRE EUROPEAN UNION

A Community Plant Variety Right¹ (“CPVR”) is an intellectual property right, like a patent, but designed for plant varieties of which material is produced and commercialised. In the past, plant breeders had the opportunity to apply for national plant variety rights in most of the Member States of the European Union. Such protection was and is limited to the territory of each individual Member State; application for protection had to be made to the competent authority in each of these Member States.

Since 27 April 1995, plant breeders may ask for protection throughout the European Union by a single application to the Community Plant Variety Office (“the Office”); protection may be granted by a single decision of the Office.

2 COMMUNITY PLANT VARIETY OFFICE

The Office is an independent body of the European Union. It is exclusively responsible for the implementation of the regime of CPVRs.

The Office is located in Angers in France following a decision taken by the Council of the European Union. The Office is operational since 15 June 1995 and can be reached at the following address:

Community Plant Variety Office	
Post: B.P. 10121	Visits: 3, Boulevard Foch
FR - 49101 Angers Cedex 02	FR – 49100 Angers
France	France
Tel: 33-2-41 25 64 00	
Fax: 33-2-41 25 64 10	
E-mail: cpvo@cpvo.europa.eu	
Website: www.cpvo.europa.eu	

3 LANGUAGES

Applications to the Office and supporting documents shall be filed in one of the official languages of the European Communities. The language in which the application is filed defines the language of the procedure before the Office. Forms such as technical questionnaires are in most cases available in English, French, German, Dutch and Spanish and will be available in other official languages in due time. The certificate of the grant of a right will be issued in the language indicated by the applicant on the application form. Any of the official languages of the European Community may be used by a party for oral proceedings.

4 PUBLICATIONS

4.1 Official Gazette of the Office

The Official Gazette of the Office is issued every two months. It contains details of applications for, and grants of CPVRs, proposals for variety denominations, withdrawals of applications, decisions, termination of protection, appeals, a list of the applicants for and

¹ Created by Council Regulation (EC) No 2100/94 of 27.7.1994 on Community plant variety rights (OJ No L 227, 1.9.1994)

holders of CPVRs, original breeders of varieties and procedural representatives, proposed denominations and approved denominations and other relevant information. As from the publication date, provisional protection starts according to Article 95 of Regulation 2100/94.

A special issue (S2), in print in September, gathers CPVO requirements with respect to closing dates for applications and the submission requirements for plant material.

If you would like to receive the Official Gazette of the Office you should contact the Office or consult the Publications Office website (see Annex IV).

4.2 Annual Report

Every year the Office publishes an Annual Report which gives an account of the main activities of the Office for the previous year and contains in its Annex a list of protected varieties on the 31st of December together with the names of holders of CPVRs, original breeders of varieties and procedural representatives.

If you would like to receive the Annual Report please contact the Office or consult the Publications Office website (see Annex IV).

4.3 The Office's Website

The address is www.cpvo.europa.eu. This site contains, amongst other information, the structure of the Office, contacts, relevant legislation, notes for applicants, forms, applications and granted rights, and a regular update of the latest news. Please note that the Office uses this site for information purposes only. The information given is not legally binding.

As from March 2007, clients can consult their files through the CPVO Client Extranet.

5 APPLICATION FOR A CPVR – WHERE, HOW AND BY WHOM?

5.1 Where -

You may apply directly to the Office or to one of the national agencies of the Member States listed in the CPVO Gazette (Part B). The choice of the addressee is entirely up to the applicant. A date of application and a priority date may be allocated on the basis of the first date of receipt at either office. If the application is sent via a national agency, you should, however, be aware of the following:

- The national agency is not required to deal with your application; its role is limited to a "letter box" and to the transmission of the received documents to the Office.
- You must inform the Office directly that you have filed an application at a national agency. Not doing so could result in the allocation of a later application date.
- The application, the technical questionnaire, if applicable the confidential technical questionnaire and the photographs, shall be filed in **triplicate** at the national agencies (only required in duplicate when filing directly at the Office)
- Payment has in all cases to be made directly to the CPVO bank account.

5.2 How -

The Office will make forms available which must be filled in by an applicant for a CPVR. These forms may be ordered from the Office (when ordering please do not forget to indicate the language and species for which you need the forms). Forms are also deposited in the national agencies of the Office or may be downloaded from the Office's Website (see above). Your attention is drawn to the following forms:

a. Application form -

Serving as the basis for the date of application, along with the technical questionnaire; Please read the 'Notes on the completion of the application form', complete it very carefully and state 'not applicable' if so the case. Annex I gives useful explanations on the completion of this form.

b. Technical questionnaire

The Technical Questionnaire is serving as basic information necessary for carrying out the technical examination. The Office's Administrative Council has adopted test protocols for the most important species. Where the Administrative Council has not yet adopted such test protocols for certain genera and species of the plant kingdom, the general technical questionnaire of the Office should be used. In case of ornamental species, specific technical questionnaires for the crop type should be used (for example Pot Plants). For the most important species the technical questionnaires may be downloaded from the Office's Website. If the technical questionnaire you are looking for is not available online, please contact the Office.

c. Technical questionnaire (Confidential part) -

With this form, breeders of hybrid varieties can request confidential treatment of data relating to components.

d. Proposal for a variety denomination -

A proposal for a variety denomination does not have to be made when filing your application, but it should be made as soon as possible thereafter to avoid delays in granting a CPVR (please be aware that each proposal has to be published in the Office's gazette allowing 3 months for objections). Under the Council Regulation 2100/94 and the implementing rules found in Regulation 874/2009, the Office must reject an application where no proposal for a variety denomination has been received even if all other procedures, e.g. completion of the technical examination, have been completed.

e. Notification form -

This is only to be used if you filed through the national agencies and are hence required to inform the Office directly.

f. Details of Payment -

Serving as information for the Office in order to establish the purpose of any payments made by you to the Office. It is strongly recommended to use this form.

g. Submission of colour photographs for certain applications

It is an obligation, at the time of application, to provide colour photographs in duplicate annexed to the technical questionnaire for varieties of all fruit and ornamental species. Since the use of photographs is deemed necessary for the conduct of the technical examination, applicants are requested to provide a photograph of the plant as a whole,

and where pertinent a close-up photograph of the flower/fruit or any other relevant part of the plant (see the explanatory note available on the website of the office).

5.3 By whom -

An application for Community Plant Variety Rights may be filed by any natural or legal person or any body ranking as a legal person under the law applicable to that body. An application may be filed jointly by two or more such persons. Applicants from outside the EU must appoint a representative. Forms are available on the website. Attention: If the breeder is not the applicant, you must enclose a document in which the breeder has assigned his rights to the applicant. No application date will be attributed without an assignment from the breeder to the applicant.

The procedural representative

- **Party based outside the EU**

If you do not have an address within the European Union, you are required to appoint a procedural representative residing within the European Union in order to receive any communication from the Office. Under these circumstances, the procedural representative may not be your employee. A form for this purpose is also available via the aforementioned Office channels.

- **Party based in the EU**

If you have an address in the European Union, you are not obliged to appoint a procedural representative but you may do so if you wish. Under these circumstances, the procedural representative may not be your employee.

The legal representative

Where the applicant is a legal person (e.g. a company) rather than a natural person, the Office must be informed of the name and address of the natural person who is empowered under the applicable national legislation to represent the legal person.

6 ORIGINAL DOCUMENTS

All documents filed by parties to proceedings need to bear original signatures in ink, photocopies are not acceptable to the Office.

By way of derogation from this general rule, the following documents can be sent by fax or by e-mail exclusively to the following address: cpvo@cpvo.europa.eu whereupon the incoming date of this submission will be the official receipt date, provided that the original signed documents reach the office within one month of the receipt by the Office of the fax or the e-mail:

- an objection to the grant of a CPVR,
- a notice of appeal against a decision of the Office,
- a written statement setting out the grounds of appeal,
- a document sent in support of an application for a CPVR already filed, including a proposal for a variety denomination (NB – not an application form itself),
- a document sent in response to a letter from the Office setting a deadline for reply,
- a declaration of surrender of a CPVR/withdrawal of an application.

7 FEES - WHAT FOR, HOW MUCH, HOW AND WHEN TO PAY?

In December 2005 the Fees Regulation² was modified (by Commission Regulation (EC) n° 2039/2005 of 14 December 2005) with regard to the amounts to be paid for annual fees. The relevant amounts and details are shown in Annex II.

You must pay the relevant amount in EURO by bank transfer to the following bank account:

CREDIT AGRICOLE DE L'ANJOU ET DU MAINE:

Code banque 17906	Code guichet 00032	Numéro de compte 15866548000	Clé RIB 44
IBAN International Bank Account Number FR76 1790 6000 3215 8665 4800 044		BIC Bank Identification Code / SWIFT AGRIFRPP879	

The Office will **not** accept neither cash payments nor cheques.

All bank charges relating to payments made to the Office must be paid by the remitter, except if you make use of a cross-border credit transfer with reduced bank charges. This system applies to bank transfers made in EURO for a maximum of € 50.000 within the European Union, indicating CPVO's IBAN and BIC (see here above).

Time limits for the payment of fees are also shown in Annex II.

Particular attention should be paid to the application fee, which covers the administrative processing of your application (including the granting of the right) within the Office. You are required to proceed as follows: when you file your application for a CPVR, you should also instruct your banking establishment (or post office) to transfer the application fee of **900 EURO** to the Office's bank account. It is also strongly recommended to fill out the form "Details of Payment" in particular if you make a payment for several applications.

For all subsequent fees in relation to your application, the Office will send you a debit note, upon which the due date of payment will be clearly indicated.

The due date of payment reflects the date by which the payment of the fee must reach the Office's bank account. Payments, therefore, should be made sufficiently early so as to compensate for bank payment processing time which can be lengthy.

8 CHARGE ACCOUNTS

Since 1st January 2000 the Office offers the possibility for applicants to use a charge account. The payment of fees and surcharges due under the fees regulation can be executed by a charge account with sufficient funds which is held at the Office. Such a charge account, held in EURO, can be established on application and after signature of a contract between the applicant and the Office. Forms and explanations about the charge account are available with the Office as well as on its website.

² Commission Regulation (EC) n° 1238/95 of 31 May 1995, amended by Reg.(EC) n° 329/2000 of 12/02/2000, n° 569/2003 of 29/03/2003, n° 1177/2005 of 21/07/2005 and n° 2039/2005 of 14/12/2005 (see our website <http://www.cpvo.europa.eu> for more details)

9 PROCEDURAL ASPECTS

9.1 Forms of acknowledgement of receipt

9.1.1 The application is complete ‘R-Form’

Once your application has reached the office and all requirements according to Art. 50 of Council Regulation 2100/94 are fulfilled, the Office sends an acknowledgement of receipt to the applicant or if a procedural representative has been appointed, to the latter giving the date of application and the file number of the application. Please read this form carefully because, even though an application date has been allocated, **additional information may be required by the Office, when an ‘R-Form’ with remark(s) has been issued.** The file number should be used in all correspondence with the Office in respect of that specific variety.

9.1.2 The application is not yet valid ‘No-Form’

A ‘No-form’ is issued and sent to the applicant (or to the procedural representative) when the application does not fulfil the requirements laid down in Art. 50 of Council Regulation 2100/94. All missing information is specified in such a ‘No-Form’. An application date will only be allocated when all deficiencies are remedied within one month from the date of issue of the ‘No-Form’.

9.1.3 The ‘C-Form’

A ‘C-form’ is issued and sent to the applicant when the application fees were received 15 days after the issuance of the ‘R-Form’. The Office informs of the updated application date given as a result of late payment.

A ‘C-Form’ can also be sent to update the client on the file reception. If, for instance, all or part of the remedying information is sent in, the Office issues a C-Form, indicating all is now valid and complete or indicating what remains missing.

9.2 Publication

The Office publishes an Official Gazette every two months, which indicates the changes in the register of the Office over the previous two months.

Please be aware that only applications which are complete (i.e. having been allocated an application date) and for which the fee has been paid will be published in the Gazette. The publication of an application is important since it leads to the “provisional protection” conferred by Article 95 of Council Regulation 2100/94.

9.3 Technical examination

If no impediment is found in the application, the Office arranges for technical examination.

The technical examination of a variety for distinctness, uniformity and stability is conducted by the examination authorities who are entrusted by the Administrative Council of the Office to test allocated species.

The decision as to where such an examination of an individual variety should take place depends on the following criteria: geographical origin of the variety; origin of the applicant; practical experience and completeness of the reference collection of a possible examination authority in relation to the species to be tested. This decision is taken exclusively by the Office.

When such an examination authority has been selected, the applicant receives a request from the Office for the submission of plant material, indicating the type of material, the quantity and quality required, and the place where it has to be submitted. All questions related to the technical examination are clarified between the applicant and the Office, not

between the applicant and the examination authority. Any agreement made directly between the applicant and the examination office without the involvement of the Office is not binding on the Office and may jeopardise the entire procedure.

Please be aware that the non-submission of material may lead to the rejection of the application.

The applicant receives an interim report when there is more than one growing period, at the end of each growing period. For all technical examinations a final report is issued when testing is concluded. Applicants then have 2 months within which to comment on these reports to the Office.

9.4 “Take-over” of technical reports

If a technical examination has already been carried out, or is in the process of being carried out on a variety already benefiting from national plant variety rights or entered for national listing in a Member State of the European Union, the Office may consider the examination reports of the responsible authorities to be a sufficient basis for a decision on your application for a CPVR. However, this only applies to reports from countries which belong to the European Union or which are Members of the International Union for the Protection of New Varieties of Plants (UPOV) and where the technical examination was carried out under the same conditions as mentioned under point 9.3.

9.5 Closing dates for testing seasons

The Office determines closing dates and dates for the submission of plant material. A closing date is the latest date by which a complete application has to be filed at the Office in order to ensure the technical examination of this application in the next growing season. These closing and submission dates are published in the special issue S2 of the Official Gazette of the Office in autumn of each year. Any modification of these dates is published throughout the year in the normal issues of the CPVO's Gazette. Furthermore, this information is available on the website of the Office.

10 VARIETY DENOMINATIONS

These rules, as laid down in the document ‘Guidelines of the Administrative Council on Article 63’ available on the website of the Office, are very important rules which are based on Article 63 of the Council Regulation on Community Plant Variety Rights.

The procedure for approval of a variety denomination follows different steps. When the Office receives a proposal for a variety denomination, this denomination is checked by contracting examination authorities on behalf of the Office. If there is an impediment against this denomination the applicant is invited to submit a new proposal of a variety denomination. In case there is no impediment, it will be published in the Official Gazette. According to Article 59(4)(b) of the Council Regulation 2100/94, objections to the proposed variety denominations may be made within three months of their application. If neither an objection is received nor an observation from other examination authorities the variety denomination is ready to be approved. Once the denomination is approved and the variety is granted a right, this variety denomination has to be used obligatorily for all commercial purposes.

If a trademark is associated with the denomination, the variety denomination must be easily recognisable as such.

11 DECISION MAKING PROCESS

Once the technical examination has been finished, if no impediments in respect of the variety denomination have been discovered and the time limit for any comments from the applicant has elapsed, the draft report and technical description of the application is presented to an internal Committee of the Office for a decision. This Committee, acting under the authority of the President of the Office, is composed of two technically qualified members and one legally qualified member.

12 COMMUNITY PLANT VARIETY RIGHT

Once the right is granted, it is valid for a maximum duration of 25 years, or 30 years for vine, trees and potatoes, provided that the annual fees are paid.

13 APPEAL

According to Article 67 of Council Regulation 2100/94, an appeal could be made to the Board of Appeal against certain decisions of the Office. Notice of appeal shall be filed in writing to the Office within two months of service/publication of the decision (service in the case of an appeal by the addressee of the decision; publication in the case of an appeal by a third party), and a written statement setting out the grounds of appeal shall be filed within four months after the aforesaid service or publication.

The written form requires the signature in ink of the appellant or of his procedural representative.

One third of the appeal fee of 1500 € shall be due on the date of receipt of the appeal by the Office. The remaining two thirds shall be due, upon request by the Office, within one month of remittal of the case to the Board of Appeal.

14 SURRENDER OF RIGHTS/WITHDRAWAL OF APPLICATIONS

Surrenders and withdrawals must be in writing and signed by the applicant or the holder of the rights or by the person who is entitled to represent the applicant or the holder of the rights. The Office sends confirmations of surrenders and withdrawals.

14.1 Surrenders

In order to avoid liability for the next annual fee, a request for surrender needs to reach the Office **before** the anniversary of the date on which the right was granted. Once the anniversary date for the variety has passed, **the annual fee is due**.

14.2 Withdrawals

For applications where the technical examination is in progress, the fee for the technical examination will not be refunded. In order to avoid unnecessary examination fees where possible, the withdrawal of an application should reach the Office **before** the date for the submission of plant material has passed.

15 ENFORCEMENT OF RIGHTS

A holder of a CPVR is entitled to effect certain acts in relation to the protected variety. Others wishing to effect those acts must firstly obtain the authorisation of the holder, who may attach conditions and limitations to this authorisation. The acts in question are-

- (a) production or reproduction (multiplication);
- (b) conditioning for the purpose of propagation;
- (c) offering for sale;
- (d) selling or other marketing;
- (e) exporting from the Community;
- (f) importing to the Community;
- (g) stocking for any of the purposes mentioned under points (a) to (f).

The scope of the CPVR extends to harvested material of the variety (for example fruit and cut flowers which are imported into the Community) where these are obtained through the unauthorized use of variety constituents of the protected variety and where the breeder has not had the possibility to exercise his right at the place of production.

A derogation from the right is the so called “farm saved seed” exemption which is laid down in Article 14 of the Council Regulation and is applicable to certain agricultural species only. Article 15 lists five categories of acts which do not fall under the scope of the CPVR, the most important ones are mentioned below-

- (a) acts done privately and for non-commercial purposes;
- (b) acts done for experimental purposes and
- (c) acts done for the purpose of breeding, or discovering and developing other varieties;

16 CUMULATIVE PROTECTION PROHIBITED

The CPVR system is not intended to replace national systems but rather to exist alongside them as an alternative, indeed, it should be emphasized that it is not possible to simultaneously hold both Community and national plant variety rights in relation to that variety. Similarly, a CPVR cannot co-exist with a patent. Any national plant variety right or patent granted within the territory of the European Union for a variety in relation to which a CPVR already exists, will be ineffective. 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 suspended for the duration of the CPVR.

17 REQUEST FOR CERTIFIED COPIES OF EXAMINATION REPORTS, APPLICATIONS AND GRANTING DOCUMENTS

17.1 Request for certified copies of examination reports for the purpose of exchange of examination results amongst plant variety rights authorities

In case applicants file an application for plant variety rights for a given variety **subsequent to the Community plant variety rights application**, applicants have to make the authority of the country in question aware of the fact that a previous application has been filed at the Community Plant Variety Office (CPVO). Said national authority might itself organise a technical examination, or it might consider the possibility to take over the DUS examination report from the Community Plant Variety Office, in the framework of international cooperation in variety testing.

The Community Plant Variety Office can provide certified copies of DUS examination reports and annexed variety descriptions (in case of positive reports) when the technical examination has been carried out on behalf of the CPVO. The UPOV common practice is that **such reports are only exchangeable between national authorities for a price of 350 Swiss Francs (the equivalent of 240 Euros) and cannot be transmitted directly to applicants.**

The CPVO should first receive an official request (UPOV form) from the national authority interested to take-over the report. The Office will then prepare the certified copy of the report and variety description, if available. The Office sends the corresponding debit note to the applicant or company mentioned by the national authority on the request. After reception of the payment, the CPVO sends the requested report to the national authority by recorded delivery or by courier.

17.2 Request for certified copies of applications and granting documents for priority purposes or for legal proceedings

a- For priority purposes:

If you wish to claim priority based on a Community Plant Variety application, please make a request to the CPVO in writing indicating the CPVO file number and the country where the subsequent application for the same variety was made.

The Office will acknowledge receipt of it and e-mail the related debit note of €20 for up to 10 pages and €1 per page thereafter.

For active files (*varieties for which no final decision has been taken yet*), priority documents may contain:

- A covering letter (a declaration) containing i.e. the country where the certified documents will be sent.
- Certified filing documents
- Certified denomination proposal, if any
- Copies of photographs of the variety, if any
- An extract of the Register, if deemed necessary, to reflect changes as compared to filing documents.

For granted files (*varieties for which a Community right has already been granted*) priority documents may contain:

- A covering letter (a declaration) containing i.e. the country where the certified documents will be sent.

- Certified filing documents
- Copies of photographs of the variety, if any
- Certified copy of the certificate of the grant
- An extract of the Register, if deemed necessary, to reflect changes as compared to filing documents.

b- For legal purposes (for example, for infringement cases)

If you have to provide supporting documents to an authority in the form of a certified copy, for instance in infringement cases; please make a request to the Office. The Office may in such cases provide documents such as:

- the certificate
- the decision
- the variety description
- the photographs
- deeds of assignments
- an extract of the register to reflect any updated situation

ANNEX I

Notes on the completion of the Application Form

GENERAL

Please print or type the information to be filled in. It is important to fill in all fields of the forms, if not applicable, please state so.

COVER Page

Please indicate the botanical taxon and the provisional designation of the candidate variety.

The following notes refer to the numbering of the points in the application form:

POINT 1

The natural person duly authorised to represent a legal person should be the person legally entitled to act on behalf of the legal person and whose signature is binding on the legal person.

POINT 2

Where a procedural representative is obligatory (applicants not having a domicile, seat or establishment within the territory of the European Union), the procedural representative may not be an employee of the applicant.

If a procedural representative is not obligatory in your case, you may nevertheless appoint one. The person appointed may not be an employee.

You may make use of the Office's form "Designation of a procedural representative". Please note that this form needs to be signed by the duly authorized person.

POINT 5

The proposal for a variety denomination NEED NOT be made at the time of application; however, if it is not made at that time, it is recommended that it be made as soon as possible thereafter. In any event it should be proposed **using** the form "Proposal for a variety denomination". An indication just in the application form is not sufficient. A proposal for a variety denomination MUST be filed at the Office before receipt by the Office of the final results of the technical examination.

However, a provisional designation (breeder's reference) MUST be made at the time of application.

POINT 6

If the breeder is an employee, the entitlement to the Community plant variety right must be determined in accordance with the national law applicable to the employment relationship.

The relevant documentary evidence referred to should be attached, either in the form of the original or a copy certified by the issuing authority.

POINT 7

Please fill in all columns (if applicable)

"State" should be entered using the following codes:

EU member states:

AT = Austria, BE = Belgium, BG = Bulgaria, CY = Cyprus, CZ = Czech Republic, DK = Denmark, EE = Estonia, FI = Finland, FR = France, DE = Germany, EL = Greece, HU = Hungary, IE = Ireland, IT = Italy, LV = Latvia, LT = Lithuania, LU = Luxembourg, MT = Malta, NL = Netherlands, PL = Poland, PT = Portugal, RO = Romania, SK = Slovakia, SI = Slovenia, ES = Spain, SE = Sweden, UK = United Kingdom.

On 29th July 2005, the European Community became a UPOV member.

UPOV member states non EU members:

AL = Albania, AR = Argentina, AU = Australia, AZ = Azerbaijan, BY = Belarus, BO = Bolivia, BR = Brazil, CA = Canada, CL = Chile, CN = China, CO = Colombia, CR = Costa Rica, HR = Croatia, DO = Dominican Republic, EC = Ecuador, IS = Iceland, GE = Georgia, IL = Israel, JP = Japan, JO = Jordan, KE = Kenya, KG = Kyrgyzstan, MA = Morocco, MX = Mexico, NZ = New Zealand, NI = Nicaragua, NO = Norway, OM = Oman, PA = Panama, PY = Paraguay, KR = Republic of Korea, MD = Republic of Moldova, RU = Russian Federation, SG = Singapore, ZA = South Africa, CH = Switzerland, TR = Turkey, TT = Trinidad and Tobago, TN = Tunisia, UA = Ukraine, US = United States of America, UY = Uruguay, UZ = Uzbekistan, VN = Vietnam.

“**Date**” should be written in DAY/MONTH/YEAR format e.g. 02.03.05 = second of March 2005. Please indicate the date of the application, not the date of the granting or listing or patenting of the variety.

“**Authority**” you may indicate the authority by using the relevant abbreviation, e.g.:

CPOV = *Comité de la Protection des Obtentions Végétales* / FR

BSA = *Bundessortenamt* / DE

PVRO = *Plant Variety Rights Office* / UK

RvP = *Raad voor Plantenrassen* / NL etc.

For the “**Stage**” column, please use the following abbreviation:

A – application pending

B – application rejected

C – application withdrawn

D – plant breeders’ rights or patents granted ; or variety entered in official variety list.

POINT 8

A claim for priority must be based on the earliest previous application for a property right, filed by you or your predecessor in title, in a Member State of the EU or in a Member of UPOV. In order to qualify for a right of priority, this earliest previous application must have been filed within the 12 months prior to this application and must still exist. Copies of the previous application, certified by the responsible authority, must be received by the Office within 3 months of the date of application.

POINT 9

Please tick the box ‘yes’ or ‘no’ of **all three** questions 9a, 9b and 9c. If the question 9c is not applicable, please state so. In the case of a ‘yes’, please specify the exact date and country. The indication of a year only, e. g. “2005”, is not sufficient.

A CPVR can be granted only if the variety is novel. The variety will not be novel if it has been sold, or otherwise disposed of, or with the breeder’s consent:

- within the European Union earlier than one year before the date of application;
- outside the European Union earlier than four (4) years or, in the case of trees and vines six (6) years, prior to the date of application.

The applicant is expected to have taken reasonable precautions to ensure that sales or comparable disposals have not taken place earlier than allowed.

The following types of disposal of material of the variety will not damage novelty:

- Disposals to an official body for statutory purposes, or to others on the basis of a legal relationship, solely for production, reproduction, multiplication, conditioning or storage, provided that the breeder preserves the exclusive right of disposal and that no further disposal is made to others.

- Disposals of material which has been produced from plants grown for experimental purposes or for the purpose of breeding, or discovering and developing, other varieties and which is not used for further reproduction or multiplication, unless reference is made to the variety for purposes of that disposal ;
- Disposals due to, or in consequence of, the fact that the breeder has displayed the variety at an official or officially recognised exhibition.

POINT 10

If a technical examination either in relation to national listing or an application for a national property right in a Member State has already been carried out or is in the process of being carried out, such examination reports may be considered by the Office.

POINT 13 - APPLICATION FEE

The Application Fee of 900 EURO should be transferred to the bank account of the Office. Payment should be made **prior** to or **on** the date on which the application is filed. The payment should be detailed on the attached form “Details of payment” individually for each variety. Please be aware that the Office will not allocate a definitive application date when the payment has not reached the Office bank account or if the payment has not been identified by the Office due to incomplete information. A further consequence will be that the application will not be published in the CPVO’s Official Gazette.

POINT 14 - CHECKLIST OF FORMS / DOCUMENTS

Please tick the boxes to indicate which documents are enclosed.

ANNEX II

Fees structure

This fees structure refers to the fees Commission regulation (EC) No. 1238/95, amended by Regulation (EC) No. 329/2000, Regulation (EC) No. 569/2003, Regulation (EC) No. 1177/2005, Regulation (EC) No. 2039/2005 and Regulation (EC) No. 572/2008.

1. Application fee:900 EURO

Payment due: Payment of the application fee shall be made **prior** to or **on** the date on which the application is filed at the Office. If this payment is considered not to have been received at the same time as the application by the Office, the applicant will be notified of this in the form of acknowledgement and will be required to pay the application fee within two weeks of the date of issue of the form. The office will issue a new request for payment after the expiry of these two weeks. If the application fee is not received within one month of the date of issue of that new request, the application will be deemed abandoned.

In order to assist the Office with the processing of the payment of the application fee, please ensure that the following details are included on the bank transfer form: the denomination, the species and the fee type (application fee) of all the applications included in the payment.

If there is insufficient space on the bank transfer form itself, please send these details, together with the details of your payment (Remitter's name and address, date of payment, total value of payment in Euro), directly to the Office either via e-mail, fax or post.

2. Examination fees (see Annex III)

The examination fees are fixed under the current fees regulation. The fees due to be paid for each growing period depends on to which crop your variety belongs, the range is from 1,160 EURO as a minimum amount up to 2,500 EURO as a maximum. Each species is attributed to one of the existing 26 cost groups. The complete list of crops with the relevant cost group can either be found on our website or in the special issue S2 of the CPVO's Official Gazette.


Examination fees are due:

- a.) for each growing period
- b.) in the case of hybrids of certain agricultural crops, for each component of which an official description is not available and an examination is required,


The examination fees may not exceed three times the examination fee per variety.

Payment due:

First growing period: payment has to be made by the closing date for the receipt of the material for the technical examination.

 Attention is drawn to the fact that if payment is not received by that date at the latest, the examination will NOT go ahead.

Subsequent growing period(s): 1 month prior to the beginning of such period.

 If payment is not received by that date at the latest, the examination may be suspended, with the probable consequence that the variety will miss a growing season.

A debit note will be sent to you by the Office for each growing period.

3. Fees for taking over reports:240 EURO

Where the Office makes use of a report on the result of a technical examination of a variety carried out previously for official purposes in a Member State an administrative fee of 240 EURO is due.

Payment due:

30 days after the date of issue by the Office of the report fee debit note.

4. Annual fees

For the annual fees that fall due as from 1 January 2009, the annual fee has been increased to a flat rate of 300 EURO per variety and per year of protection.

Payment due:

The first annual fee shall be paid within 60 days of date of grant.

The annual fees due for the subsequent years shall be paid on the first day of the calendar month preceding the month in which the anniversary date of the grant falls.

Example:

Date of grant of a CPVR:	16.04.2006
Date by which 1 st annual fee must be paid:	15.06.2006

For the following years:

Date by which 2 nd annual fee must be paid:	01.03.2007
Date by which 3 rd annual fee must be paid:	01.03.2008
Etc.	

A debit note will be sent to you by the Office each year.

The annual fee is charged for each year of the duration of the CPVR. That year begins on the anniversary of the date on which the CPVR was granted. Therefore, if the holder of the right wishes to surrender his right, the notification of surrender must be received by the Office before the start of the new year of protection.

Continuing the example above:

If the Right holder wants to surrender the Right at the end of the 3rd year of protection, the notification of surrender **must reach the Office by 15th April 2009.**

Failure to notify the Office within the time limits prescribed will result in the following year's annual fee being due for payment.

Please note that the Office will not refund any payments which have been effected in order to keep a right in force.

5. Appeal fees:..... 1500 EURO

1/3 of the appeal fee is due from the appellant on the date of receipt of the appeal by the Office. The remaining 2/3 is due, upon request of the Office, within 1 month after remittal of the case to the Board of Appeal.

The appeal fee will be refunded, in the event of an interlocutory revision by order of the President and in other cases by order of the Board of Appeal, except when the success of the appeal is due to facts unavailable at the time of the original decision.

ANNEX III

Fees relating to technical examinations

Cost Groups		Fees (in EUR)
Agricultural group		
1	Regular crops	1,200
2	Vegetatively propagated crops	1,700
3	Oilcrops	1,340
4	Grasses	1,970
5	Beet crops	1,300
6	Fibre crops	1,160
7	Crops with special test arrangements	1,340
8	Other agricultural crops	1,340
Ornamental group		
9	Species with living reference collection, greenhouse test, long cultivation	1,700
9A	Species with living reference collection, greenhouse test, long cultivation and special phytosanitary conditions	2,140
10	Species with living reference collection, greenhouse test, short cultivation	1,610
11	Species with living reference collection, outdoor test, long cultivation	1,430
12	Species with living reference collection, outdoor test, short cultivation	1,300
13	Species without living reference collection, greenhouse test, long cultivation	1,430
13A	Species without living reference collection, greenhouse test, long cultivation with a further propagation step	2,140
14	Species without living reference collection, greenhouse test, short cultivation	1,160
15	Species without living reference collection, outdoor test, long cultivation	1,250
16	Species without living reference collection, outdoor test, short cultivation	1,340
17A	Ornamentals, seed propagated varieties, outdoor test	1,450
18A	Ornamentals, seed propagated varieties, greenhouse test	2,000
Vegetable group		
20	Seed-propagated species, outdoor test	1,430
21	Seed-propagated species, greenhouse test	1,790
22	Vegetatively propagated species, outdoor test	1,970
23	Vegetatively propagated species, greenhouse test	1,610
Fruit groups		
24	Trees	1,790
24A	Tree species with a large permanent living reference collection	2,500
25	Shrubs	1,790
26	Vine habit	1,790
27	Runners	1,970

ANNEX IV

Sales and subscriptions to the Official Gazette of the CPVO

Publications for sale produced by the Office for Official Publications of the European Communities (OPOCE) are available from our sales agents throughout the world.

How do I set about obtaining a publication?

Once you have obtained the list of sales agents, contact the sales agent of your choice and place your order.

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