

GUIDE TO PLANT VARIETY PROTECTION

Issued by the Croatian Centre for Agriculture, Food and Rural Affairs – Institute for Seed and Seedlings – Plant Variety Protection and Registration Department
(Administered within the Ministry of Agriculture, Fisheries and Rural Affairs)

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FACTS ABOUT PLANT VARIETY PROTECTION (PVP)

1. Legislation

Plant Variety Protection Law has been approved by the Parliament of Republic of Croatia in 1997. Amendments to the Law, which put Croatian Plant Variety Protection Law in conformity with the 1991 Act of the UPOV Convention, have been approved by the Parliament on June 2000. Implementing Regulations of the Plant Variety Protection Law and Decree on the (amount of) costs relating to the Plant Variety Protection have been published and entered in force in 2001.

On August 1, 2001, Croatia deposited the Instrument of Accession to the 1991 Act of the UPOV Convention.

Appendix I list the relevant legislation in force at the time this Guide was issued.

The purpose of this Guide is to explain in simple terms how the Plant Variety Protection scheme operates. However the Act and Regulations alone are authoritative, and should be studied by anyone desiring a full understanding.

2. What is Plant Variety Protection?

A grant of Plant Variety Rights for a new plant variety gives the holder the exclusive right to produce for sale and to sell propagating material of the variety. In the case of vegetative-propagated fruit and ornamental varieties Plant Variety Rights give the holder the additional exclusive rights to propagate the protected variety for the purpose of the commercial production of fruit, flowers or other products of the variety.

The holder of a grant of Plant Variety Rights may licence others to produce for sale and to sell propagating material of the protected variety. Holders of Rights commonly collect royalties from the commercialisation of their protected varieties.

As in the case with other types of proprietary rights, the holder of a grant may bring civil action against persons infringing his rights. For example the holder of Plant Variety Rights would be entitled to seek an injunction against, or if appropriate claim damages from, another person who without permission from the holder deliberately sold seeds or plants of the protected variety. Or action could be taken by the holder of Rights against someone who sold propagating material of another variety of the same genus or species using the denomination approved for the protected variety.

A protected variety with its grant of Rights, like other personal property, may be sold, mortgaged or assigned to another person.

While the protection given to a breeder by a grant of Plant Variety Rights is somewhat similar to that given to an inventor by a patent, there are significant differences between these two

forms of intellectual property rights. The term “patent” should not be used when referring to a variety protected by the Plant Variety Rights Act.

3. Limits or exceptions to Breeder’s Right

Other persons are free to:

- grow or use a protected variety for non-commercial purposes,
- use the plants or parts of the protected variety for human consumption or other non-propagating purposes, or
- use a protected variety for the purpose of plant breeding (although the repeated use of a protected variety for the commercial production of F1 hybrid seed is not permitted without authority of the holder of the Rights).

4. Why we have Plant Variety Protection

The development of a new variety is frequently a long and costly undertaking. By allowing the breeder to control the commercialisation of the variety, Plant Variety Rights gives the breeder a chance to recoup costs and profit from the breeding investment. Without the legal protection of Rights the breeder can very soon lose control of the commercialisation of the new variety to persons who had not contributed towards the breeding costs.

By providing an incentive to breeders, Plant Variety Protection encourages investment and effort into plant breeding in Croatia. The rights scheme also allows Croatia access to foreign-bred varieties that would not be released here by their breeders without the protection of the legislation. The result is that farmers, horticultural producers and home gardeners gain access to an increased number and range of improved varieties. Thus Plant Variety Rights benefit not only plant breeders, but also the public generally.

5. The kinds of plants in the Protection scheme

Plant Variety Protection is presently available for varieties of the following 15 species:

(*Triticum aestivum* L. emend. Fiori et Paol.) – Wheat, Soft Wheat

(*Hordeum vulgare* L. sensu lato) – Barley

(*Avena sativa* L.) – Oats

(*Zea mays* L.) – Maize

(*Helianthus annuus* L.) – Common Sunflower

(*Glycine max* L. Merrill) – Soya Bean, Soybean

(*Brassica napus* ssp. *oleifera* Metzg.) - Rapeseed

(*Beta vulgaris* L. ssp. *vulgaris* var. *altissima* Doell) – Sugar Beet

(*Solanum tuberosum* L.) – Potato

(*Medicago sativa* L.) - Lucerne, Alfalfa

(*Pisum sativum* L. partim) – Field Pea

(*Brassica oleracea* L. convar. *acephala* Alef. var. *viridis* L. +var. *medullosa* Thell.) - Fodder Kale

(*Pyrus communis* L.) – Pear

(*Populus* L.) – Poplar

(Salix L.) – Willow

By the expiration of period of 10 years from the 1st of September 2001, Plant Variety Protection will be available for all plant genera and species.

Note: Following international custom in the world of plant variety protection the word “variety” is used not in the sense of a “botanical variety” but rather as being synonymous with “cultivar” or “cultivated variety”.

6. Criteria used to determine eligibility for Protection

A grant of plant Variety Rights may be made for a variety if:

- it is new
- it is distinct (**D**)
- it is uniform(**U**)
- it is stable (**S**)
- an acceptable denomination (variety name) is proposed

a) New

A variety is considered to be new if propagating material, whole plants or harvested material of it has not been sold or offered for sale with the agreement of the owner:

- i) in Croatia for more than one year before the date of application, or
- ii) outside Croatia, for more than 6 years before that date in case of woody plants, or more than 4 years in case of non-woody plants.

The owner is expected to have taken every reasonable precaution to ensure that a sale had not taken place earlier than allowed.

The prior sale rules do not apply where:

- i) the sale is part of a contractual arrangement for the purpose of increasing the applicant’s stock or for carrying out evaluation trials or tests under which the whole of the material produced directly or indirectly and any unused propagating material becomes or remains the property of the applicant; or
- ii) plant material produced during the breeding, increasing of stock and trials or tests of the variety and not required for these purposes, is disposed of for non-propagating purposes.

b) *Distinctness*

The variety must be distinct from all commonly known varieties existing at the date of application, in one or in some combination of characteristics.

c) *Uniformity*

The variety must be sufficiently uniform.

d) *Stability*

The variety must remain true to its description after repeated propagation.

e) *Denomination*

Every applicant for Plant Variety Protection must propose a denomination for the new variety. The denomination should conform to internationally accepted guidelines (see Appendix II for the UPOV Recommendations on Variety Denominations). If the denomination proposed is not acceptable the Commissioner will reject it and require the applicant to propose an acceptable alternative.

7. *Term of Plant Breeder's Rights grants*

Plant Variety Rights are granted for a term of 20 years in the case of non-woody plants, or 25 years in the case of woody plants, beginning from the date when Rights are granted.

8. *Fees*

The obtaining of Rights involves the payment of fees. The fees are subject to occasional review and the Minister regulates it – the current fees are listed in Appendix V.

Payment should be made payable to the account no. of the Institute for Seed and Seedlings, Osijek with indication “Costs relating to the Plant Variety Protection”.

9. *Plant Variety Protection Office (PVP Office)*

The Institute for Seed and Seedlings administers the Plant Variety Protection scheme – Department for Plant Variety Protection and Registration (hereinafter: Institute – PVP Department). Staff will be glad to give advice on any aspect of the scheme covered in the Guide. You will appreciate that advice cannot be given on individual cases, which may later come forward for decision.

The Institute for Seed and Seedlings is located in Osijek, eastern part of Croatia.



Correspondence should be addressed to:

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Web site: www.hcphs.hr (see section 25)

10. Plant Variety Protection Commission

Commission for the protection of new varieties of plants:

- Chairmen of the Commission:
- Secretary of the Commission:
Ružica Ore, Institute for Seed and Seedlings, Osijek;
- Members:
Davorin Kajba, Faculty of Forestry, Zagreb;
Stjepan Havrda, Croatian Animal Breeding Center, Zagreb;
Katica Palčić-Jakopović, Minister of Agriculture and Forestry, Zagreb.

Commission for the Complaints:

- Chairmen of the Commission:
Višnja Gregić-Biondić, Minister of Agriculture and Forestry, Zagreb
- Members:
Ivan Đurkić, Institute for Seed and Seedlings, Osijek;
Ivan Ištok, Minister of Agriculture and Forestry, Zagreb.

11. DUS-testing

Any variety applied for plant breeder's rights is technically tested with regard to distinctness-uniformity-stability (DUS-test).

Crops tested in Institute for Seed and Seedlings

Varieties of the following kinds of crops are tested by the Institute for Seed and Seedlings in Osijek:

- winter wheat;
- winter and spring barley;
- winter and spring oat;
- winter and spring rye;
- winter triticales;
- winter *Triticum durum*.
- maize;

For all other kinds of plants tests are performed in other foreign partner Official Institutions or existing reports are purchased.

MAKING APPLICATION FOR PLANT VARIETY PROTECTION

12. Who can apply?

Only the owner of a new variety is entitled to a grant of Rights. The owner will be the breeder or discoverer of the variety, his employer, or his successor-in-title. An agent on behalf of the owner may make an application.

Applications may be made irrespective of the nationality or place of residence of the variety owner. (All applications however must indicate an address-for-service in Croatia).

Croatian breeders, whether they are individuals or large organisations, normally find it best to deal directly with PVP Office. Foreign breeders, on the other hand, will find it preferable to appoint a Croatian agent to attend to the details of application. Experience shows it to be best for all concerned if the agent appointed has first-hand knowledge of the new variety. The individual or organisation in Croatia primarily responsible for handling plant material of the new variety (e.g. importing, evaluating, bulking-up, and distribution) is often the obvious and appropriate agent for the PVR application. In the case of an abroad crop variety the agent could be a local seed company, or in the case of a fruit or ornamental variety a local nursery.

a) Application made through agent

An application made by or through agent will be accepted provided the Commissioner can be satisfied that the agent has the necessary authority to act for the owner. An authorisation based upon the model in Appendix III would be acceptable.

b) Application made by successor-in-title

An applicant claiming to be the successor-in-title of the breeder must supply to the Commissioner documentary evidence sufficient to establish that the applicant has indeed become the variety owner.

13. How to apply?

To make an application send or deliver to the Institute – PVP Department the following:

- An application form, fully and legibly completed in Croatian.
- A completed technical questionnaire applicable to the particular genus according to UPOV Technical Guidelines. (Application and questionnaire forms may be obtained from the Institute - PVP Department. Application forms and the most commonly used questionnaire forms may also be obtained from the web site.)
- An authorisation (in case when an application is made by or through agent)

- In the case of fruit, ornamentals and tree varieties, colour photographs representing the variety. Details of the photographic requirements will be found on the application form.
- In the case of arable crop a sample of seed as specified in Appendix IV.
- Payment of the appropriate fee should be made payable to the account no. of the Institute for Seed and Seedlings, Osijek with indication “Costs relating to the application for Plant Variety Protection” before publication in the Official Journal of Institute.

An application cannot be accepted until such time as the application form, technical questionnaire, (an authorisation), fee, and as required seed sample or photographs, **arrive** at the Institute. If these items are posted it is not possible to allow applicants the benefit of the date postage.

14. When to apply ?

First check that you actually have a variety. A single plant does not constitute a variety. Application should not be made until there has been successful propagation of the new variety and any selection for uniformity and stability completed.

If material of the variety has already been sold you must make application before the time period permitted for prior sales, referred to in section 6(a), expires.

In the case of varieties that are evaluated by the Institute for Seed and Seedlings in Osijek (see section 11) certain closing dates apply. To ensure that your variety will be included in the coming season’s trial application must be made by the closing date indicated below.

Agricultural crops

Winter wheat, barley, Oat, rye, triticale and Triticum durum	Make application by 15 April.
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Spring barley, Oat and rye	Make application by 15 July.
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Maize	Make application by 1 September.
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15. Priority

It may be possible for a breeder who has already made application for Rights in another UPOV country (see section 30) to claim “priority” in respect of the earlier application. Such a claim must be made when making application in Croatia by completing the relevant section on the application form. If there has been more than one application in other countries,

priority may only be claimed for the first application. A further provision is that the first application should have been no earlier than one year before the date of application in Croatia.

The advantage of claiming priority is that the date of the first application becomes regarded in effect as the application date in Croatia. This may give applicant precedence over competitors that he would not otherwise have enjoyed.

16. Provisional Protection

Provisional protection gives an applicant interim protection of the candidate variety while the application is under consideration. The provisional protection applies to all applications from date of publication in the Official Journal of the Institute - Croatian Plant Variety Protection Journal until the date on which rights are granted. If rights are granted, applicants will be entitled to reasonable compensation for acts done by others, during this period, which would infringe the breeder's rights if done after rights are granted.

It automatically applies once an application has been made and ceases to have effect when the Commissioner issues or refuses a grant. While Provisional Protection is in effect, an applicant who has released his variety into commerce is entitled to take legal proceedings against anyone whose actions would constitute an infringement if rights had been granted.

There is however an important provision – if Rights are eventually refused the Provisional Protection becomes void *ab initio*, or in other words was never of value.

What does Provisional Protection mean in practical terms? If the applicant can readily identify and distinguish the variety and is reasonably certain that Plant Breeder's Rights will be granted, he should with confidence be able to sell reproductive material of the new variety knowing that he will be able to take effective legal action to protect his interests should infringements occur. However whether it is eligible for Rights, the Provisional Protection would be of questionable value. In these circumstances the wisest course of action for the applicant might be to not commercialise the variety until the Commissioner makes his final decision.

PROCESSING APPLICATIONS

17. What will be required of the applicant after application has been filed?

Depending upon the kind of variety and the procedure followed applicants may be required to supply further information and/or plant material. While PVR Office staff will give specific advice to applicants, the following will give a general indication of the requirements.

a) Agricultural crops

Crops tested in trials in the Institute for Seed and Seedlings - Osijek Section 11 indicates the crops that are tested in trials in the Institute - Osijek conducted by the PVP Department. There is normally no need for applicants to supply further information and material in addition that supplied at the time of application.

Applicants may be required to supply varieties for the PVP Department reference collection.

b) Fruit and trees

As indicated in section 11 testing of fruit and trees varieties usually occurs at specified test centres. Applicants will be requested by the staff of the centre to supply plants for evaluation.

Applicants may be required to supply plants for the PVP Department reference collection.

18. Evaluation of applications

Evaluation for PVP is based upon assessment of growing plants of the new variety. In order to establish that it is usual to compare plants of the new variety growing alongside plants of the most similar varieties. There must be a sufficient number of plants to properly assess uniformity and stability. A detailed botanical description of the new variety is also prepared.

With all applications the applicant will be informed of the necessary arrangements and when to pay the trial or examination fees.

19. Grant of Plant Breeder's Rights

If the variety meets the criteria for Plant Variety Protection, the Commission for the protection of new varieties of plants will give consent in the procedures of grant of Breeder's Rights and the Institute will issue to the applicant the grant of Plant Breeder's Rights.

WHAT THE HOLDER OF RIGHTS SHOULD KNOW

20. Annual fees

Although Plant Breeder's Rights are issued for a term of 20 or 25 years (see section 7), a grant will only remain in force as long as payment of the annual grant fee is made each year. Payment of the annual fee is due each year on the anniversary date of the grant. One month before the anniversary date the Institute for Seed and Seedlings will send an invoice for payment. If payment is not made by the anniversary date, another month will be allowed. If payment is not made by six months after the anniversary date the Commissioner is required to cancel the grant of Plant Breeder's Rights.

21. Territoriality of the rights

A title for protection only has legal effects on the Croatian national territory.

22. Management of protected varieties

It should be clearly understood that it is the responsibility of the applicant or grant holder to protect his interests in any protected variety. The issue of licences to grow and sell a protected variety and settlement of the terms of such licences, and the taking of action against infringements of the Rights, are the responsibility of the holder of the grant. The Commissioner or the Institute has no power to intervene in such matters except in connection with applications for the issue of compulsory licences.

23. Duties of holder of Plant Breeder's Rights

a) Maintenance of protected variety

The holder of Plant Breeder's Rights has the obligation to maintain the protected variety.

The holder of Plant Breeder's Rights must ensure that, throughout the period for which rights are in force, he is able to produce to the Institute propagating material which is capable of producing the protected variety.

The holder of Plant Breeder's Rights must provide to the Institute whatever information the Institute requires in order to satisfy that the holder is fulfilling the duty of maintenance of protected variety.

b) Compulsory licences

An application for the grant of a compulsory license may be filed after a period of five years following the grant of breeder's rights.

Any person may request the Institute to consider whether or not reasonable quantities of reproductive materials (plants, seeds, etc.) of a protected variety are available for purchase by members of the public at a reasonable price. The request must be accompanied by payment of the prescribed fee.

A compulsory licence permits its holders to produce for sale and to sell reproductive material of the protected variety.

In every such case the Institute will require the person to whom the compulsory licence is issued to pay a specified royalty to the holder of the Plant Variety Rights grant.

24. Change name, address or of ownership

Any holders of plant Variety Rights who have changed their name or address should notify the Institute of the fact promptly.

Any persons claiming to have become entitled to existing Plant Variety Rights, or to share in such Rights, must apply to the Institute with appropriate documentary evidence for registration of their title.

Failure or delay in notifying the Institute in the above cases could result in cancellation of the Rights following non-payment of the annual grant fee.

MISCELLANEOUS

25. PVP web site

If you visit the web site (www.hcphs.hr) you will be able to:

- Print off forms needed to file an application for the Plant Breeder's Rights (the applicant form and the most commonly used technical questionnaires).
- Read on screen, or print off, the updated "Guide to Plant Variety Protection".
- Print off the updated Plant Variety Protection Law (No. 131/97 and 62/00).
- Print off the updated Implementing Regulations of the Plant Variety Protection Law and Decree on the (amount of) costs relating to the Plant Variety Protection (No. 63/01 and 73/01).
- Print off a subscription form for the "Croatian Plant Variety Protection Journal".
- Search the PVR database. The data base is updated daily. You will be able to find the PVR of a particular variety by entering its denomination or commercial name (if it has one), or by entering the genus or kind of plant.
- Get a quick link to the UPOV web site. Among other things this will get the contact details of other plant variety protection authorities.

26. "Croatian Plant Variety Protection Journal"

The Institute publishes each quarter the "Croatian Plant Variety Protection Journal". The "Journal" contains details of applications for the grants of Plant Breeder's Rights, any withdrawal and rejection of the application, the decision of the grants of Plant Breeder's Rights, notice of legislative changes and information about plant variety protection in other countries. It is produced for several reasons:

- General information.
- Publication of details of applications and grants constitutes public notification which is required under the Law in order to inform persons who may wish to lodge formal objections (see section 28).
- To satisfy the requirements of UPOV. Exchange of journals between UPOV member States assists in particular in avoiding the duplication of approved variety denominations. The "Journal" is available by annual subscription.

27. Objections

Any person may lodge an objection in writing with the Commission for the Complaints:

- a) If the person considers that a proposed denomination should not be accepted.
The objection must be made three months of publication of the proposed denomination in the “Plant Variety Rights Journal”.
- b) Against an application or grant of Rights if the person considers that the applicant is not the rightful owner of the variety.
- c) Against an application or grant of Rights if the person considers that the variety is not new, or not sufficiently distinct, uniform or stable.

28. Appeals against decisions of the Commissioner

An appeal may be made against the making of a grant of Rights on the ground that it was made in contravention of the requirements in articles 7., 8., 9. or 25. of the Law.

An appeal may be made, within six months of the publication in the “Croatian Plant Variety Protection Journal”.

Such appeals should be made in writing to the Institute for Seed and Seedlings. For full details refer to articles 30, 31, 32, 33. and 33a. of the Plant Variety Protection Law (No. 131/97 and 62/00).

29. Offences

It is an offence under the Law to:

- (i) supply false information when making application for Rights;
- (ii) falsely claim someone to be an applicant or holder of Rights;
- (iii) falsely claim when selling material of a variety that the variety is protected by Rights or is the subject of an application; or
- (iv) sell reproductive material of a variety without using the approved variety denomination.

PLANT VARIETY PROTECTION INTERNATIONALLY

30. UPOV

UPOV (the International Union for the Protection of New Varieties of Plants) is the Geneva-based international organisation concerned with plant variety protection.

UPOV comprises 58 members. As of November 2001 the member States of UPOV were Argentina, Australia, Austria, Azerbaijan, Belgium, Belarus, Bolivia, Brazil, Bulgaria, Canada, Chile, China, Colombia, Croatia, Czech Republic, Denmark, Ecuador, Estonia, Finland, France, Germany, Hungary, Ireland, Israel, Italy, Japan, Jordan, Kenya, Kyrgyzstan, Latvia, Lithuania, Mexico, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Poland, Portugal, Republic of Korea Republic of Moldova, Romania, Russian Federation, Singapore, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Trinidad and Tobago, Ukraine, United Kingdom, United States of America and Uruguay.

The principal activities of UPOV are concerned with promoting international cooperation, mainly between the members of the Union, and with assisting countries in the introduction of plant variety protection legislation.

31. Obtaining Rights in another country

Croatian breeders wishing to obtain plant variety protection in another country must make application in that country. Because Croatia is a member State and confirm to the 1991 Act of UPOV Convention, Croatian nationals are entitled to apply for plant variety protection in all other member States. While making application in another country is a matter for the breeder to arrange, the staff of the Institute – Department for the Plant Variety Protection will give any advice they can – for example they can supply addresses, they may have information on fees, they can advise which countries offer Rights for a particular genus or species, etc.

APPENDIX I

Legislation governing the operation of Plant Variety Protection as at November 2001

Law

1. Plant Variety Protection Law (No. 131/1997).
2. Plant Variety Protection Law Alterations and Amendments (No. 62/00)

Regulations, Orders

3. Regulations on the registration in the Registers for the Protection of New Varieties of Plants (No. 63/01)
4. Regulations on the procedure and the conduct of tests for distinctness, uniformity and stability (DUS) of new varieties of plants for the purpose of granting the Breeders' Right (No. 63/01)
5. Decree on the (amount of) costs relating to the Plant Variety Protection (No. 63/01)
6. Regulations on the registration in the Registers for the Maintenance of Plants Varieties (No. 73/01)

International Agreement

As a member of UPOV (International Union for the Protection of New Varieties of Plants) Croatia recognises and conforms to the 1991 UPOV Convention.

APPENDIX II

UPOV recommendations on variety denominations adopted in Council in 1991 “slightly amended”

Recommendation 1.

Designations that do not show clearly enough their status of variety denomination are not suitable as generic designations and thus also as variety denominations. They may be the case in particular with designations that are identical or may be confused with other indications, in particular those that are commonly used in trade.

Recommendation 2.

- 1) Designation that the average user cannot recognise or reproduce in speech and/or writing are not suitable as generic designations and thus also as variety denominations.
- 2) In the case of varieties whose propagating material is exclusively marketed within a limited circle of specialists, as in the case of parent varieties for the production of hybrids, the average user should be taken to mean the average specialist in that circle.

Recommendation 3.

Designations whose use is to remain free are not suitable as generic designations and thus also as variety denominations. This may be the case in particular with designations which consist exclusively or predominantly of terms in everyday language whose recognition as variety denominations would prevent others from using them when marketing reproductive or propagating material of other varieties.

Recommendation 4.

Designations whose use may be forbidden in the marketing of propagating material of the variety are not suitable as generic designations and thus also as variety denominations. This may be the case in particular with:

- (i) designations in which the applicant himself has some other right (for instance a right in the name or a trademark) which he could assert under the legislation of the member State concerned to oppose use of the registered variety denomination, either at any time or at least after the expiration of protection;
- (ii) designations in which third parties have asserted a prior right;
- (iii) designations that are contrary to public policy in the member State concerned.

Recommendation 5.

Names and abbreviations of international organisations which are excluded by international conventions from use as trademarks or parts of trademarks are not suitable as generic designations and thus also as variety denominations.

Recommendation 6.

A designation is not suitable as a variety denomination on the ground of liability to mislead if there is a risk of it giving rise to misconceptions concerning the characteristics or value of the variety. This may be the case in particular with:

- (i) designations that convey the impression that the variety has particular characteristics which in reality it does not have;
- (ii) designations that refer to specific characteristics of the variety in such a way that the impression is created that only the variety possesses them, whereas in fact other varieties of the species in question also have or may have the same characteristics,
- (iii) comparative and superlative designations;
- (iv) designations that convey the impression that the variety is derived from or related to another variety when that is not in fact the case.

Recommendation 7.

A designation is not suitable as a variety denomination on the ground of liability to mislead if there is a risk of it giving rise to misconceptions concerning the identity of the breeder.

Recommendation 8.

- 1) A designation is liable to cause confusion and/or mislead, and therefore is not suitable, if it is identical or similar to a designation under which a variety of the same denomination class* has been made known or officially registered or under which reproductive or propagating material of that variety has been marketed.
- 2) Paragraph (1) is not to be applied where the variety made known or registered earlier or already marketed is no longer cultivated and its denomination has not acquired any particular importance, except where special circumstances nevertheless might make it liable to mislead.

*** Denomination class**

In most cases each genus is regarded as a separate denomination class. For example the genus *Rosa* (rose) is a denomination class and consequently a denomination proposed for a new rose variety should not be identical or similar to an existing rose denomination but may be identical or similar to a denomination given to a variety of any other genus.

There are however, notable exceptions to the common rule.

a) A number of similar genera may be grouped together to form a single denomination class. Examples are:

- the cereal genera *Avena* (oat), *Hordeum* (barley), *Secale* (rye), *Triticale* (triticale) and *Triticum* (wheat);
- the common grass genera;
- the pasture legume genera *Lotus*, *Medicago*, *Ornithopus*, *Onobrychis*, *Trifolium*.

b) Conversely a species, a subdivision of a genus, if very different from other species in the genus may be regarded as a denomination class in its own right. For example each of the following constitutes a separate denomination class:

- *Helianthus annuus*, common sunflower;
- *Helianthus tuberosus*, Jerusalem artichoke.

APPENDIX III

Recommended form for authorisation of agent

“PLANT VARIETY PROTECTION LAW 1997”

Authorisation of Agent

I/We hereby authorise

.....
to sign any application, notice or other document given, delivered to or served upon the Commissioner under or in accordance with the Plant Variety Protection Regulations 2001 and make all attendances upon the Commissioner relating to the plant variety(ies) with proposed denomination(s)¹

Signed:

Date:

Address:

.....

.....

¹ If a denomination has not yet been proposed give the breeder’s reference or temporary designation

APPENDIX IV***Seed to accompany application***

A seed sample must accompany the application. The quantity required is given below. Seed should:

- be fresh and of the highest possible viability. The table below gives the minimum germination level required;
- not have been subject to any chemical treatment;
- be free of disease and insect contamination,
- have purity meeting basic seed standards.

<u><i>Kind of Plant</i></u>	<u><i>Quantity of Seed (kg)</i></u>	<u><i>Other Material</i></u>	<u><i>Minimum Germination</i></u> %
Arable crops			
Wheat	8	300 ears	90
Barley	8	300 ears	90
Oats	6	300 panicle	90
Maize	6	-	90
Soybean	6	-	90
Sunflower	2,5	-	85

For other species contact the Institute – PVP Department

APPENDIX V

The amount of costs for the implementation of the procedure for the protection of new varieties of plants and the maintenance of the plant breeder's right shall be as follows:

1. application fee including the publication of the registration in the Official Journal of the Institute for Seed and Seedlings (hereinafter: Institute)	200,00 kn
2. fee for the issuance of the Certificate of Grant Plant Breeders' Right	550,00 kn
3. fee for lodging an objection against the grant	150,00 kn
4. fee for the entry of changes in the registers	150,00 kn
5. fee for granting the compulsory license	550,00 kn
6. fee for the surrounding of the plant breeder's right at the request of the holder of the right	150,00 kn
7. annual fee for the maintenance of the breeder's right:	
• first three years	250,00 kn
• 4 th year	300,00 kn
• 5 th year	350,00 kn
• 6 th year	400,00 kn
• 7 th year	450,00 kn
• 8 th year	500,00 kn
• 9 th year	550,00 kn
• 10 th year	600,00 kn
• 11 th year	650,00 kn
• 12 th year	700,00 kn
• 13 th year	750,00 kn
• 14 th year	800,00 kn
• 15 th year and every following years until the end of the period of protection	1.000,00 kn

The amount of costs for the technical examination of the distinctness, uniformity and stability of the variety (DUS testing) or acquisition of the results of the DUS testing of the variety from another country, signatory of UPOV Convention shall be as follows:

	KN PER VARIETY	
	1st year	2nd year
1. winter and spring wheat	2.800,00	2.800,00
2. winter and spring barley	2.800,00	2.800,00
3. maize	2.800,00	2.800,00
4. sugar beet, soya bean, oil rape, sunflower, forage crops and potatoes	3.500,00	3.500,00
5. acquisition of the results of the DUS testing of the variety from the Office responsible for the variety protection in another country of UPOV 2.000,00 kn		
6. for the verification of DUS testing, carried out by the applicant		800,00 kn

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