



**CPVO**

Community Plant Variety Office

# Annual report 2011







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# 1. INTRODUCTION BY MARTIN EKVAD, PRESIDENT OF THE CPVO



Martin Ekvad

It is with pleasure that I introduce the Annual report of the Community Plant Variety Office (CPVO) for the first time. I was happy to take on the post, as of September last, of President of the CPVO at a stage when the Community system is growing and when the finances of the Office are in good shape. With almost 3 200 applications received, 2011 was a record year, with an increase of around 10 % in comparison to the previous year. By the end of the year, close to 19 000 varieties were protected. Based on these figures, and taking into account the very positive financial situation of the Office, it can be concluded that, by the end of the reporting year, the system was in very good shape.

As you will read in this report, in addition to its core business of handling the application procedure, the Office has been involved in many interesting projects, such as the organising of a seminar on enforcement in Hamburg, enhancing the Variety Finder database, managing R & D projects and improving the online application system. In this introduction, I would also like to highlight some information concerning the two ongoing evaluations initiated by the Commission which may impact the work of the Office in the coming years.

In October 2011, the Commission presented an evaluation of the Community plant variety system which had been ongoing for a little more than a year. I was happy to read the main conclusions of the evaluation, which were as follows: 'The evaluation has concluded that the CPVR system functions well overall, that stakeholders are happy with it and that they wish to retain the system in its current form, albeit with some carefully targeted adjustments.'

It is of course very important that the system is indeed working well so that the follow-up of the evaluation can concentrate on areas of improvement rather than changing the basis of the system. In the summary of the key messages of the evaluation report, areas of weaknesses are identified in particular in the operation of the agriculture exemption and the ease with which rights holders can enforce their rights. Concerns were also raised in relation to the interaction between the plant variety protection system and the patent system. The CPVO is ready to give active support to, and input into, areas in which the follow-up to the evaluation will be concentrated.

During the reporting year, the Commission has been working on the impact assessment for the seed and propagating material marketing legislation. The result may be that the Commission will propose new tasks for the CPVO. In its November meeting, the Administrative Council was informed by the Commission about the state of affairs in this regard.

I would also like to highlight that the seminar 'The impact of 15 years of CPVO activities', organised on the occasion of the end of the mandate of Bart Kiewiet, the first president of the CPVO, was a success. All stakeholders in the Community plant variety protection system were present. The EU Commissioner for Health and Consumer Policy, John Dalli, acknowledged the CPVO's successes since 1995 and congratulated Mr Kiewiet on the work carried out.

With regard to staff matters, it is important to note that the social report for 2011 was presented to the Administrative Council in its meeting on 20 March 2012. The Administrative Council confirmed the conclusion of the report: 'The CPVO has a good working climate with very low absenteeism. Part-time possibilities are well taken up and allow a more flexible work organisation and better reconciliation of work and family life. The investment in training has been rather limited until now, which is in line with the limited needs identified in the career development reports.'

I would like to conclude this introduction by thanking the staff of the Office for their hard work in contributing to the good results achieved in 2011.

**Martin Ekvad**  
*President of the CPVO*



Bart Kiewiet



EU Commissioner for Health and Consumer Policy, John Dalli

# 2.

## FOREWORD BY UDO VON KRÖCHER, CHAIRMAN OF THE ADMINISTRATIVE COUNCIL

### 2.1. Introduction



Udo von Kröcher

It is very pleasant for me to note that a record number of applications was received in 2011 and that more titles were in force by the end of 2011 than in any previous year. The financial crisis that has affected our continent for the past several years, and the reporting year in particular, has not, apart from a slowdown in 2009, affected the slow but steady growth of the Community system since it was set up in 1995. I hope that the breeding industry will be able to continue its creative work despite the difficult times.

The growth of the system, in conjunction with moderate spending, has led to the fortunate situation that the finances of the CPVO are in a very good state. As I pointed out in last year's annual report, further increases in the free reserve are not an objective, which is the reason why the Administrative Council, acting on a proposal by the CPVO President, decided to ask the Commission to take the necessary steps for a decrease in the application fee from EUR 900 to EUR 650 as of 2013. This decrease should lead to a deficit in the CPVO budget, which is estimated to bring the free reserve back to an acceptable level in a few years' time. Breeders' organisations have expressed their support for this proposal.

The year 2011 was a special one for the Office as Bart Kiewiet, its first president, in office since the setting up of the system, retired at the end of July. His departure, or rather his appreciated achievements, were celebrated in June 2011 with a seminar on the impact of 15 years of CPVO activities, in which the members of the Administrative Council participated. On behalf of the members of the Administrative Council, I would like to thank Mr Kiewiet for his work at the Office, which has been highly appreciated both by all of us and by all those who benefit from the PVR system.

I would like to thank the members of the Administrative Council for their valuable input during the year. I would in particular like to thank Nicole Bustin for her active participation and ability to find constructive solutions. Mrs Bustin, as a member of the French delegation, has been part of the Administrative Council since its first meeting, but will retire from this position as of 2012.

I would also like to express my gratitude to the staff of the Office for their important work and professional attitude.

## **2.2. Analysis and assessment of the authorising officer's report**

The President of the Community Plant Variety Office presented the authorising officer's report for the year 2011 to the Administrative Council at its meeting in Brussels on 20 March 2012.

The Administrative Council analysed and assessed the report and came to the following conclusions.

In 2011, the system encountered a 10 % increase in applications in comparison to 2010. As a result of this and the growing number of titles in force, the financial result was positive at EUR 0.8 million. The free reserve increased by EUR 0.7 million, amounting to EUR 6.8 million.

The Administrative Council takes note of the results of the internal audit. It will pay attention to the follow-up given to the recommendations through the action plans proposed by the Office.

The Administrative Council takes note of the information on *ex post* verifications, negotiated procedures and the confirmation of instructions.

The Administrative Council is satisfied with the declaration of the authorising officer that his report gives a true account, that he has been given reasonable assurances that the resources assigned to the activities described in his report have been used for their intended purpose and in accordance with the principles of sound financial management and that the control procedures put in place give the necessary guarantees concerning the legality and regularity of the underlying transactions.

The Administrative Council is satisfied that the President of the CPVO is unaware of any matter not reported which could harm the interests of the CPVO.

**Udo von Kröcher**  
*Chairman of the Administrative Council*

# 3.

## THE COMMUNITY PLANT VARIETY RIGHTS SYSTEM



*Vitis L.*

The introduction of a Community plant variety system in 1995 has proved to be a successful initiative that has been welcomed by the business community seeking intellectual property protection for new plant varieties.

The fact that protection, guaranteeing exclusive exploitation rights for a plant variety, is acquired in 27 countries through a single application to the Community Plant Variety Office (the Office) makes the Community system for protecting new varieties very attractive.

The Community plant variety 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 simultaneously to exploit a Community plant variety right (CPVR) and a national right or patent 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 Community plant variety system is found in Council Regulation (EC) No 2100/94 (hereinafter 'the basic regulation'). On receipt of an application for a CPVR, the Office must establish that the variety is novel and that it satisfies the criteria of distinctness, uniformity and stability (DUS). The Office may arrange for a technical examination to determine DUS, to be carried out by the competent offices in Member States or by other appropriate agencies outside the EU. In order 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 Office may, subject to certain conditions, accept the results of that examination.

Anyone may lodge an objection to the granting of a CPVR with the Office 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 basic regulation are not met (distinctness, uniformity, stability, novelty or entitlement), or that the proposed variety denomination is unsuitable due to one of the impediments listed in Article 63. Objectors become parties to the application proceedings and are entitled to access relevant documents.

Except in two specific instances where a direct action against a decision of the Office may be brought before the Court of Justice, a right of appeal against such a decision lies with a Board of Appeal consisting of a chairman, appointed by the Council of the European Union, and two other members selected by the chairman from a list compiled by the Administrative Council. The addressee of a decision, or another person who is directly and individually concerned by the decision, may appeal against it. After examining the appeal, the Board may exercise any power within the competence of the Office or refer the case to the Office, which is bound by the Board's decision. Actions against decisions of the Board may be brought before the General Court in Luxembourg. Decisions of the Board of Appeal and the Court are published on the Office's website.

The table in Chapter 19 shows 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 five 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 holder of the right, such authorisation may be made subject to conditions and limitations. Infringement of a CPVR entitles the holder of the right to commence civil 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 Office. Every two months, the Office publishes its *Official Gazette of the Community Plant Variety Office*, which also provides this information as well as other material. Information on applications and titles in force are also found in a database accessible on the Office's website.

The European Commission organised an evaluation of the CPVR system which was started in 2010 and finalised in 2011. As a follow-up to this evaluation, in 2012, the Commission will initiate an impact assessment for the purpose of identifying areas in which legislation should be changed in order to improve the system.

# 4. ONLINE APPLICATION SYSTEM

In March 2010, the CPVO launched its online application system, which allows applicants and procedural representatives to fill in electronic forms and send applications to the CPVO by electronic means. At that time, technical questionnaires were made available for only a few major species.

In 2011, efforts were made to increase the number of technical questionnaires available and, at the end of the year, nearly 100 were released online, offering the possibility to file online for nearly as many species as on paper. On the IT front, the software was also developed in order to improve its user friendliness with, for example, more possibilities to fold/unfold questions in such a way that the applicant only sees the questions that need a reply, taking into account the context of his application.

The validation features were also further developed in 2011: when an applicant fills in an application, a validation step is included in the system, drawing the attention of the user to the parts of the forms that are incomplete. This facility, linked to the online application system, provides a real advantage to applicants in comparison to applications on paper. As a result of this control system, the proportion of negative receipts denying an application date was significantly lower in cases of online application in 2011: 3.5 % versus 11 % on paper.

It should also be pointed out that an online application can potentially have an application date that corresponds to the date when it is sent to the CPVO, which confers a clear advantage in comparison to paper applications when the delays inherent to surface mail services are taken into account.

The release of IT software is always linked to promotion and training. In 2011, the Office organised several workshops with breeders and breeders' associations that provided the opportunity to explain in detail how the system works and also to receive feedback from the users. In general, suggestions can be implemented at relatively short notice, as the facility has been developed in-house and CPVO IT services have full control over the software. In particular, workshops were held in Belgium in March with the European Seed Association (ESA), in the Netherlands in May with Plantum, the Dutch association for the plant reproduction material sector, and in France in December with the Union Française des Semenciers (UFS), the French seed association for seed companies and plant breeders.

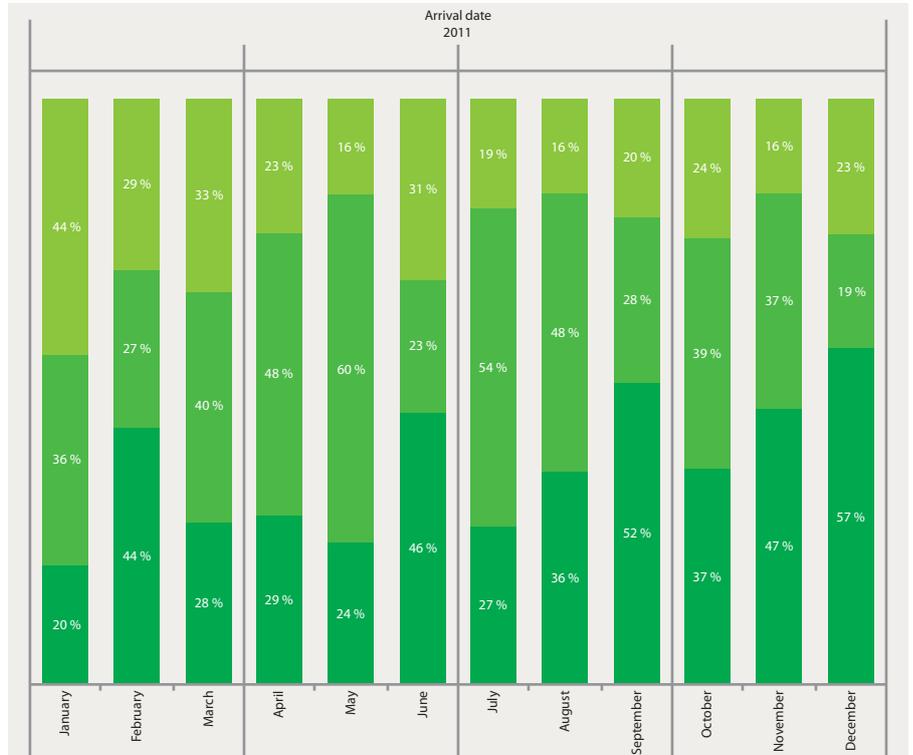
Graph 1 illustrates that, in 2011, the system has become quite popular with, on average, one third of all applications for Community plant variety rights filed online. In September and December, the majority of applications received by the CPVO were filed online.

**Graph 1**

Monthly evolution of the proportion of online applications received by the Office in 2011

**Applications**

- On paper where E-TQ does not exist
- On paper where E-TQ exists
- Online



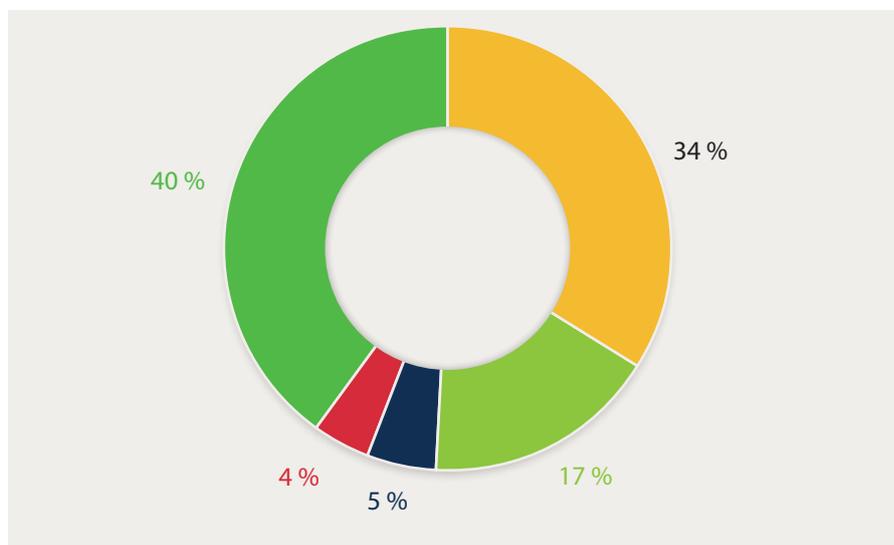
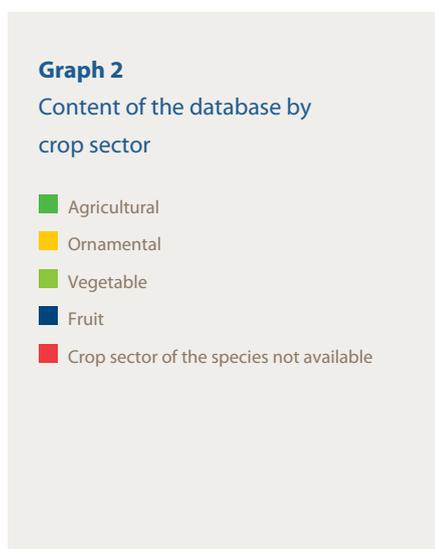
In 2011, the Office initiated a project to share this system with national authorities in the EU. The objective is to investigate under what conditions it would be possible to transfer the CPVO online application system to a neutral website (<http://www.plantvarieties.eu>) where it would be possible to apply for national listing or national plant breeders' rights in the participating countries. The principle will be that, once a variety has been applied in any procedure in the EU, it is possible to reuse the information in order to file another application for another procedure for that same variety. A pilot project has been set up with the Groupe d'étude et de contrôle des variétés et des semences (GEVES) in France and Naktuinbouw in the Netherlands.

# 5.

## THE CPVO VARIETY FINDER DATABASE

In May 2011, the 'Centralised database on variety denominations' was renamed the 'CPVO Variety Finder'. It contains national data on varieties applied for granted plant variety rights, national listings of agricultural and vegetable species and some commercial registers. In total, more than 720 000 denominations originating from EU and UPOV (International Union for the Protection of New Varieties of Plants) Member States have been included so far. The system includes a search tool with the purpose of testing proposed denominations for similarity, but also a retrieval tool to allow more general searches for details of varieties or species present in the database.

Graph 2 shows an overview of the content of the database by crop sector.



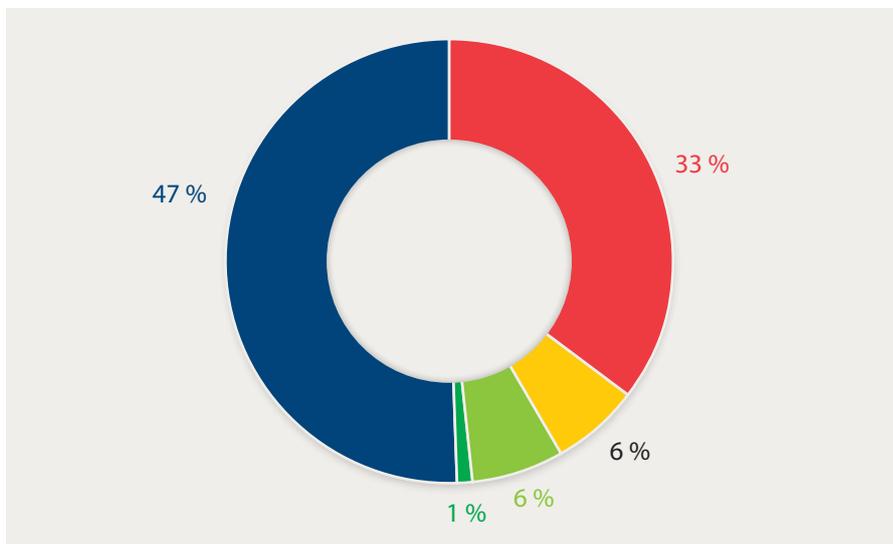
A key issue in a database is keeping the information it contains up to date, and the CPVO dedicates a half-time post to this task. The Office regularly receives contributions directly from EU countries and commercial registers, and via UPOV for non-EU countries. There has been a steady increase in the number of contributions submitted per year since 2005, with 354 files included in the database in 2011.

Once their relevance has been checked, the Office also regularly includes new registers in the Variety Finder. In 2011, the commercial register of woody and perennial plants available commercially in the Netherlands provided the database with more than 40 000 additional varieties (Graph 3).

**Graph 3**

Content of the Applied Plant Research (PPO) register, maintained by Wageningen University and Research Centre in the Netherlands

- Trees and shrubs
- Perennials
- Fruits
- Conifers
- Rootstocks for fruits



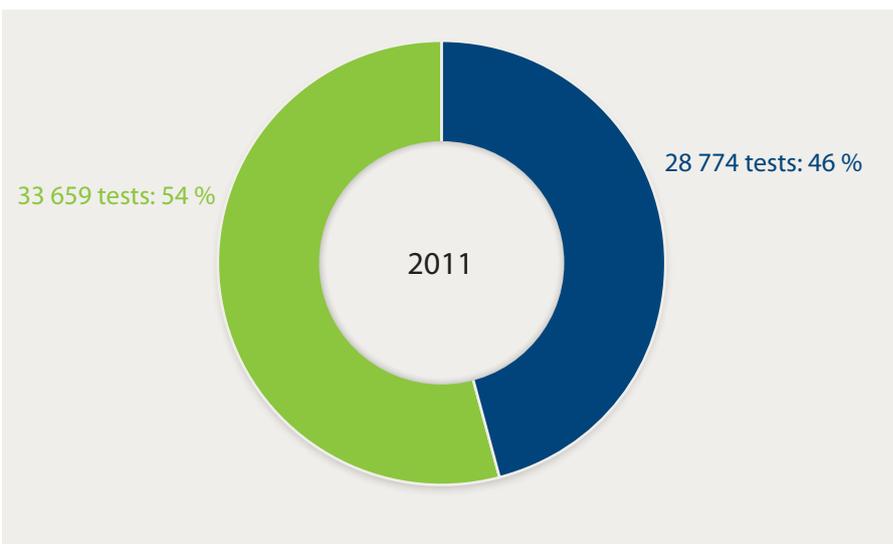
Since November 2011, the database has been freely available under the 'Databases' heading of the CPVO website. Identification is still necessary, therefore a login and password are provided promptly on request.

With nearly 60 000 tests performed in 2011, the database is a widely used tool, especially for testing the suitability of variety denominations. It is utilised by all stakeholders in similar proportions, as shown in Graph 4.

**Graph 4**

Number of tests for similarity performed by clients, EU national authorities and the CPVO in 2011

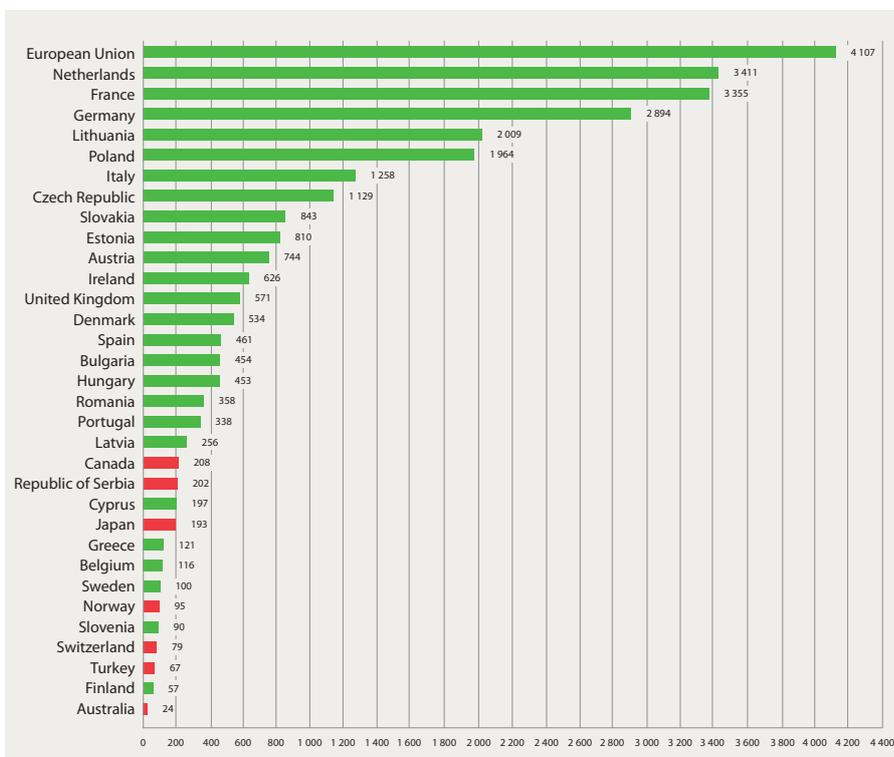
- EU national authorities and CPVO
- Clients



### Graph 5

Number of tests performed by country (international and national authorities) in 2011. European Union includes CPVO and the European Commission.

■ EU Member States  
■ non-EU Member States



The Variety Finder is mainly used by EU national authorities but within the framework of UPOV cooperation, the Office also promotes its use by non-EU authorities, some of which seem to consult the database on a routine basis for the assessment of the suitability of variety denomination proposals (Graph 5).

# 6. THE ADMINISTRATIVE COUNCIL

The CPVO is supervised by an Administrative Council comprising representatives of the Member States and the the European Commission and their alternates. The Administrative Council monitors the activities of the Office. In particular, it is responsible for examining the management report of the President, adopting the Office'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 Office and issue guidelines on technical examinations, committees of the Office and general matters.

The Administrative Council met three times in 2011, on 16 February, 22 and 23 June and 15 and 16 November.

An additional confidential meeting was held on **22 March 2011** in Brussels in order to get the opinion of the Administrative Council in respect of shortlisted candidates for the position of President of the CPVO and for the consultation of shortlisted candidates for the post of alternate Chairperson of the Board of Appeal of the CPVO. Additionally, the modification of the Administrative Council decision on the five committees of the CPVO was adopted by the Administrative Council members.

At the meeting on **16 February 2011** in Brussels, the members of the Administrative Council adopted the following.

- The authorising officer's report. This report was included in the Annual report 2010 and sent to the Court of Auditors.
- The discharge of the President of the CPVO for implementation of the 2009 budget.
- The list of 21 Board of Appeal members (10 technical and 11 legal staff) presented by the CPVO for the period from 23 February 2011 to 22 February 2016.
- The staff policy plan for 2012–14.
- The entrustment of the following examination offices:
  - (a) Food and Environment Research Agency (FERA) in the United Kingdom,
  - (b) Naktuinbouw in the Netherlands.



Administrative Council meeting, November 2011, Angers

- Two new technical protocols for *Anethum graveolens* L. (CPVO-TP 165/1) and *Brassica oleracea* L. var. *Sabellica* L. (CPVO-TP 090/1) and the correction of one technical protocol for *Asparagus officinalis* L. (CPVO-TP 130/2).
- Two partial revisions of existing protocols for *Gypsophila* L. (CPVO-TP 262/2 Corr.) and *Lactuca sativa* L. (CPVO-TP 013/5).
- Two technical protocols for *Triticum aestivum* L. emend. Fiori et Paol. (CPVO-TP 003/4 Rev.2) and x *Triticosecale* Witt. (CPVO-TP 121/2 Rev.1) with the 2010 amendments maintained for five years.
- The entrustment of the examination offices proposed by the CPVO for the testing of 21 new species.

The members of the Administrative Council also took note of:

- the report of the President of the CPVO with its statistics;
- the provisional accounts for 2010;
- the preliminary draft budget for 2012;
- the final assessment report for 2009 by Ernst & Young;
- the outcome of the working group on farm-saved seed, which focused on three main areas (access to information on the use of farm-saved seed collected by breeders, definition of 'small farmers' and definition of 'own holding').

At the meeting on **22 and 23 June 2011** in Angers, the members of the Administrative Council adopted the following.

- The supplementary amending budget for 2011 in accordance with Article 109(3) of the basic regulation.
- The amendment of the guidelines on variety denominations.
- The 2010 Quality Audit Service (QAS) report.
- The amendment to the QAS entrustment criteria.



Administrative Council meeting, November 2011, Angers

- The entrustment of the following examination offices:
  - (a) Oficina Española de Variedades Vegetales (OEV) in Spain,
  - (b) Direcção-Geral de Agricultura e Desenvolvimento Rural (DGADR) in Portugal,
  - (c) Bundessortenamt (BSA) in Germany,
  - (d) Centre wallon de Recherches agronomiques (CRA-W) in Belgium.

A conditional entrustment of the Centro di Ricerca per la Frutticoltura (CRA-FRU) in Italy was also adopted.

- Two new technical protocols for *Lolium* ssp. (CPVO-TP 004) and for *Festuca* ssp. (CPVO-TP 067) and the revision of CPVO-TP 141/1 for *Aster* L.
- The entrustment of the examination offices proposed by the CPVO for the testing of 18 new species.

The members of the Administrative Council also voted unanimously in favour of the creation of a new collection of rose variety DNA samples for a five-year trial.

The members of the Administrative Council also took note of:

- the report of the President of the CPVO with its statistics;
- the internal audit report;
- the 2010 management report by the President of the CPVO.

Furthermore, the members of the Administrative Council took note of the financial situation of the Office as of 21 June 2011 and agreed to discuss the fee structure in depth at the next Administrative Council to consider a possible revision of the level of the fees.

Finally, the report on the evaluation of the Community plant variety protection system carried out by the external contractor GHK was presented to the members of the Administrative Council by the European Commission representative. The report set out various possible options for the future. This report was also presented at the conference 'EU Plant Variety Rights in the 21st Century' held on 11 October 2011 in Brussels.

At the meeting on **15 and 16 November 2011** in Angers, the members of the Administrative Council adopted the following.

- A proposal to the Commission to reduce the application fee to EUR 650 as of January 2013.
- The draft budget for 2012.
- The entrustment of the Danish AgriFish Agency examination office.

- One new technical protocol for *Brassica napus* L. (CPVO-TP 036/2) with retroactive effect from 1 August 2011.
- The entrustment of the examination offices proposed by the CPVO for the testing of 32 new species.

The members of the Administrative Council also took note of the following.

- The report of the President of the CPVO with its statistics.
- The results of the European Conference on EU Plant Variety Rights in the 21st Century, which took place in Brussels on 11 October 2011. The European Commission shall consult the stakeholders on the action plan during 2012.
- The report on the financial situation of the CPVO as of November 2011. The out-turn for the end of 2011 was expected to be lower than that of 2010, but an extra 13 % in applications in comparison with the previous year was also expected.
- The three ongoing IT projects, namely:
  - (a) online applications;
  - (b) the pilot phase for filing national applications (breeders' rights and catalogue) online for maize and tomato species in cooperation with GEVES and Naktuinbouw;
  - (c) a pilot project to exchange documents electronically, to be launched by the end of 2011, in which France, Germany, the Netherlands and the United Kingdom are project partners.
- The CPVO's draft document on the registration of essentially derived varieties.

#### **Chairman of the Administrative Council**

Mr U. von Kröcher

#### **Vice-Chairman of the Administrative Council**

Ms B. Bátorová

#### **Members of the Administrative Council**

Belgium	Ms C. Vanslebrouck Ms M. Petit (alternate)
Bulgaria	Ms B. Pavlovska Alternate vacant
Czech Republic	Mr J. Staňa Mr D. Jurecka (alternate)
Denmark	Mr G. Deneken Mr E. Lawaetz (alternate)
Germany	Mr U. von Kröcher (Chairman) Ms B. Rücker (alternate) (until 16.8.2011) Mr H. Freudenstein (alternate) (from 16.8.2011)
Estonia	Ms L. Puur Alternate vacant
Ireland	Mr D. Coleman Mr J. Claffey (alternate)

Greece	Member vacant Mr K. Michos (alternate)
Spain	Ms A. Crespo Pazos Mr L. Salaices Sanchez (alternate)
France	Mr R. Tessier Ms N. Bustin (alternate)
Italy	Ms I. Pugliese Alternate vacant
Cyprus	Mr C. Christou Mr C. Nicolaou (alternate)
Latvia	Ms S. Kalinina Alternate vacant
Lithuania	Ms S. Juciuviene Ms D. Kirvaitiene (alternate)
Luxembourg	Mr M. Weyland Mr F. Kraus (alternate)
Hungary	Ms A. Szenci Alternate vacant
Malta	Ms M. Delia Mr C. Leone Ganado (alternate)
Netherlands	Mr M. Valstar Mr K. Fikkert (alternate)
Austria	Mr H-P. Zach Mr L. Girsch (alternate)
Poland	Mr E. Gacek Mr M. Behnke (alternate)
Portugal	Ms F. Alfarroba Mr J. Fernandes (alternate)
Romania	Ms A. Ivascu alternate vacant
Slovenia	Mr J. Ileršič Mr P. Grižon (alternate)
Slovakia	Ms B. Bátorová (Vice-Chairman) Mrs M. Jakubová (alternate)
Finland	Mr T. Lahti Mr M. Puolimatka (alternate)
Sweden	Ms C. Knorpp Mr T. Olsson (alternate)
United Kingdom	Mr A. Mitchell Mr R. Harris (alternate) (until 15.12.2011) Ms E. Nicol (alternate) (from 15.12.2011)
European Commission	Mr L. Miko Ms D. Simion (alternate)

# 7.

## ORGANISATION OF THE CPVO

In December 2011, the staff of the Office comprised 11 officials and 34 temporary agents. Eleven nationalities from the European Union's Member States were represented.

Under the general direction of its President, assisted by the Vice-President, the Office is organised internally into three units and two support services. There is also a third service responsible for the quality auditing of examination offices. This service is under the administrative responsibility of the President while being independent with regard to its audit operations.

**The Technical Unit** has as its principal tasks: general coordination of the various technical sectors of the Community plant variety rights system; reception and checking of applications for protection; organisation of technical examinations or takeover reports; organisation of variety denomination examinations; preparation for granting of rights; maintenance of the Office'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 analyses and studies intended to improve the system.

**The Administrative and Financial Unit** is active in two areas.

- Administrative Section: public procurement; organisation of the Office's publications; administration, management and monitoring of the Office's inventory of movable property and buildings; administration of logistical and operational resources with a view to ensuring the smooth functioning of the Office.
- Financial Section: management of financial transactions, treasury management, maintenance of the budgetary and general accounts and preparation of budgets and financial documents; management of the fees system.

**The Legal Unit** provides legal advice to the President and other members of staff of the Office, in principle on matters related to the Community plant variety rights 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 European Union procedures and legislation are respected; manages the administration of objections to applicants for CPVRs and provides the Secretariat of the Office's Board of Appeal.

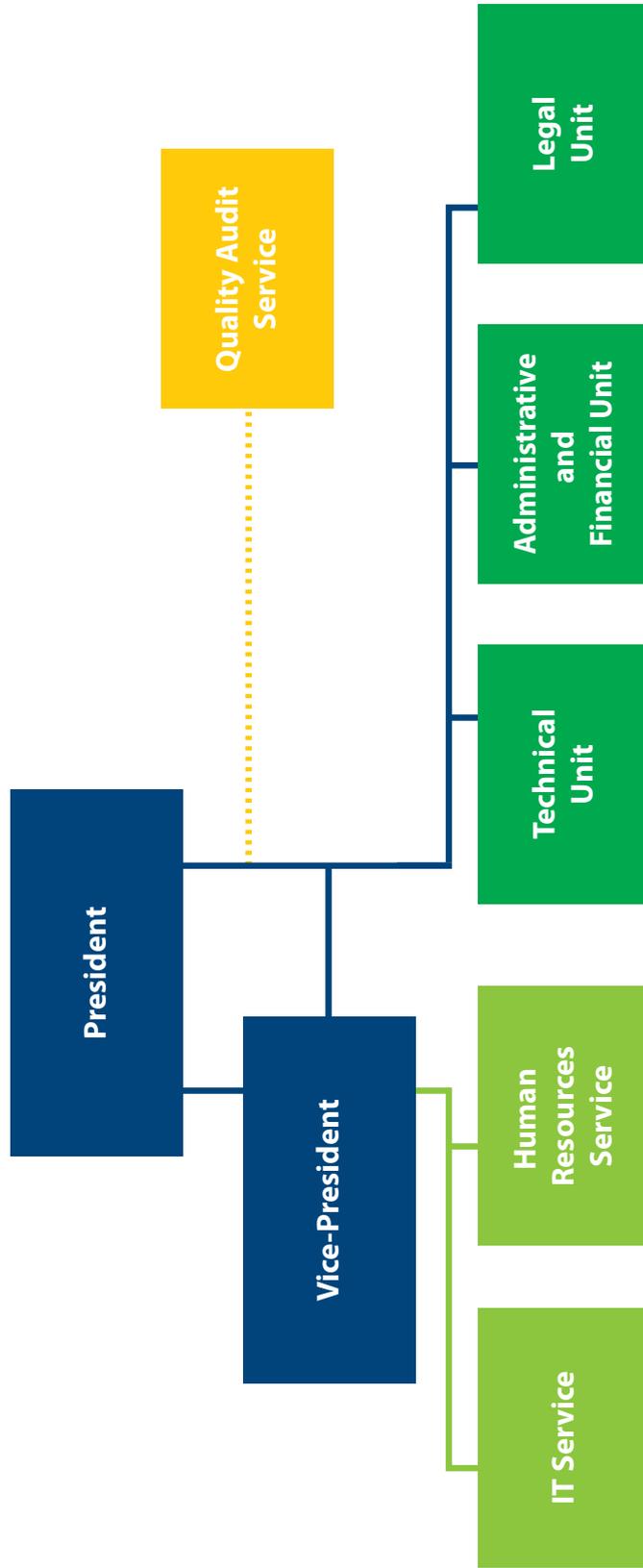
**The Human Resources Service** deals with the administration and management of the Office's human resources in compliance with the Staff Regulations of the European Commission.

**The IT Service** ensures that the Office runs smoothly in computing terms. Its tasks include: analysis of the Office's hardware and software requirements; design, development and installation of new programmes specific to the Office; development and maintenance of the websites of the Office; installation of standard programmes; maintenance of the computer installation and its administration; security of the computer system; helpdesk and interinstitutional cooperation in computing.

**The Quality Audit Service** is responsible for verifying that technical examination offices meet the quality standards required for providing services to the CPVO in the area of testing the compliance of candidate varieties with the distinctness, uniformity and stability (DUS) criteria in addition to novelty.

In 2011, 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 procedure, staff joining or leaving the CPVO, promotions, absenteeism, gender balance), working conditions (hours worked, part-time work, parental leave), training (language training, IT training, other training) and professional relations (staff committee). The CPVO social reports from 2006 to 2011 can be consulted on the CPVO website under the heading 'Annual reports'.

## ORGANISATION CHART OF THE CPVO



**PRESIDENCY**



**President**  
Martin Ekvad



**Vice-President**  
Carlos Godinho



**Assistant to the Vice-President**  
Cyrille Antoine



**Assistant to the President**  
Marleen Van de Meulebroeke



**IT Service**  
Sébastien Beugnier



**IT Service**  
Jean-Louis Curnier



**IT Service**  
Patrick Lecoq



**IT Service**  
Laura Naie



**IT Service**  
Marc Rouillard



**Human Resources**  
Deirdre Killeen



**Human Resources**  
Human Service  
Anna Verdini



**Head of AFU**  
Thomas Wollersen



**Accountant**  
James Moran



**General Services**  
Thierry Cluzeau



**Accounting**  
Valérie De Caestecker



**Accounting/Assistant to Quality Audit Service**  
Laurence Dumont



**Evaluation/Internal Audit and Control**  
Roseline Fagel



**Accounting**  
Anne-Marie Fernandez



**Assistant to the Head of AFU**  
Béatrice Hodet



**Mailroom/ Administration**  
Isabelle Lanteri



**Public Relations/ Denominations**  
Bénédicte Legrand



**Finances**  
Ekaterina Mantziaris



**Administration/ Logistics**  
Gil Oliveira



**Public Relations/ Training**  
Fabienne Santoire



**Mailroom**  
Manuel Soares Teixeira

**SUPPORT SERVICES**

**ADMINISTRATIVE AND FINANCIAL UNIT (AFU)**

**QUALITY AUDIT  
SERVICE**



**Quality Audit  
Team Leader**  
Gerard Schuon



**Head of TU**  
Dirk Theobald



**Deputy Head of TU**  
Jean Maisson



**Denominations**  
Carole Bonneau



**Fruit and ornamental  
species**  
Urszula Braun-Mfodecka



**Denominations**  
Rudi Caes



**Ornamental species**  
Laetitia Denécheau



**Register**  
Pierre-Emmanuel Fouillé



**Register**  
Anne Gardener



**Register**  
Nadège Grantham



**Ornamental species**  
Ghislaine Guilbert



**Assistant to the  
Head of TU**  
Aline Noguès



**Register**  
Ioana Piscol



**Register**  
Francesco Saldi



**Fruit and vegetable  
species**  
Sergio Semon



**Agricultural, fruit  
and vegetable species**  
Laurence Théodore



**Ornamental species**  
Jens Wegner



**Agricultural species**  
Anne Weitz

**LEGAL UNIT**



**Board of Appeal/  
Data Protection**  
Véronique Doreau



**Data Protection  
Assistant**  
Pierre Fallier

**TECHNICAL UNIT (TU)**

# 8.

## QUALITY AUDIT SERVICE

The Quality Audit Service (QAS) is responsible for verifying whether technical examination offices meet the quality standards required for providing services to the CPVO in the area of testing compliance of candidate varieties with the DUS criteria in addition to novelty. To this end, regular assessments are conducted at the examination offices and at the test sites involved in the technical work.

### 8.1. Assessment of examination offices

With a total of 12 assessment visits to examination offices in 2011, including two visits carried over from the previous year, the programme is well on track in view of completing a full set of audits in the first triennium. In addition to the audit team leader, 16 technical experts, appointed by the CPVO Administrative Council, participated in their respective fields of expertise. After evaluating the corrective measures implemented by examination offices in response to the assessment findings, the respective audit teams issued a recommendation to the Administrative Council. The Administrative Council took the entrustment decisions for eight examination offices, the others awaiting a recommendation being presented in 2012.

### 8.2. Review entrustment requirements

The criteria for entrusting examination offices for DUS testing work on behalf of the CPVO were initially approved by the Administrative Council in 2009. A review working group was set up in order to revise the document using the feedback from stakeholders and the experience collected during the first set of audits. A revised version was ultimately approved by the Administrative council in June 2011. The new version of the requirements and explanatory information for the 10 adopted change proposals were consequently made available.

### 8.3. Review audit manual

The procedure manual and related documents define the framework for the assessments conducted at examination offices. They provide information to all parties involved and are intended to guide assessment teams in their work. A revised version of the manual had already been approved in October 2010. In 2011, only associated operating procedures were reviewed, primarily to accommodate the changes from the entrustment requirements, but also to provide better transparency on the processes within QAS.

# 9.

## RESEARCH AND DEVELOPMENT

Following the rules established by the Administrative Council in 2002 and reviewed in 2009 for financial support to projects of interest to the Community plant variety rights system, the Office received several applications for co-financing R & D projects. In this chapter, the Office provides updated information about projects under way and follow-up measures taken in 2011 on projects already concluded.

**European collection of rose varieties:** As a follow-up to the project, after consultation with rose breeders and professional organisations, it was decided to keep a DNA sample from the original plant material submitted for each technical examination, on a compulsory basis. One purpose of this sample is the verification of the identity of material ordered in order to be grown as reference in a DUS test, comparing the DNA fingerprint of material received as a reference variety with the fingerprint of the DNA stored for that same variety. This sample could also be used in relation to the enforcement of rights on request of the breeder. In a future context, this sample could be used in the management of the reference collection.

A procedure setting out the details of the DNA sampling as part of the technical examination has been defined, on the basis of which a call for tender to select a laboratory was launched. In 2011, Naktuinbouw was entrusted for a period of four years. The sampling started during the course of the 2011 DUS trial: leaf samples of all applications for Community plant variety rights for cut flowers, pot and garden roses have been collected and DNA has been extracted and stored by the laboratory.

The cost of the sampling and the extraction will be supported by the Office.

As this is a pilot project, it is foreseen that a review will be undertaken after a period of two years, at the end of 2012.

**Management of peach tree reference collections:** This collaborative three-year project between the CPVO's entrusted examination offices for *Prunus persica* (France, Hungary, Italy and Spain) concluded in summer 2011. The project partners analysed a total of 510 peach varieties in their reference collections (including 12 common to all of them)



Rosa L. DUS trials, United Kingdom



Rosa L. DUS trials for cut flowers, the Netherlands

under the following four themes: (i) compilation of morphological data; (ii) creation of standardised digital data; (iii) generation of molecular data; (iv) creation of a phenotypic and molecular variety database.

The main conclusions of the final report presented to the CPVO in October 2011 by GEVES, the project coordinator, outlined that the information exchanged between the project partners had been invaluable in drawing up better phenotypic descriptions of peach varieties and structuring the reference collections according to the genetic background of the constituent varieties. A database for the storage and management of all these data (GEMMA) was created by GEVES, and it was proposed that the full updating of this database be continued in the future by all the project partners via the GEMMA framework, in order to have a more efficient selection of comparison varieties for peach DUS testing.

The CPVO will now analyse the findings and conclusions drawn up in the final report and discuss any possible follow-up with the project coordinator and the other partners in order to see how the database can best be used to improve the management of the peach reference collections held in the four entrusted examination offices, with the aim of achieving efficiency gains in the DUS testing of *Prunus persica* (the most important fruit species applied for Community plant variety rights).

**Construction of an integrated microsatellite and key morphological characteristic database of potato varieties in the EU common catalogue (CC):** This project started in April 2006. The final report was received in spring 2008. The partners involved are Germany, the Netherlands, Poland and the United Kingdom. The project delivered a database including marker profiles of potato varieties, key morphological characteristics and a photo library with light sprout pictures. The aim is to rapidly identify plant material of a vegetatively propagated crop where reference material has to be submitted every year and to ease the management of the reference collection. At the request of the breeders' association ESA, the possible use of molecular means for variety identification for enforcement purposes has been taken into account. Several conference calls in 2010 and



Assessment of seed characteristics at GEVES, France



*Hordeum vulgare* L.

2011 with the project partners and ESA were held in order to agree upon the follow-up of the project results and their implementation in the DUS test. This activity will continue in 2012. Emphasis will be placed on the harmonisation of the variety descriptions from the different examination offices; for that purpose, a ring test has been organised which will be carried out in 2012 by all nine entrusted examination offices. A procedure for the exchange of tubers of candidate varieties so that their DNA can be extracted and profiled for the management of the reference collection still needs to be discussed.

**A potential UPOV option 2 approach for barley high-density SNP genotyping:**

This project was presented by the National Institute of Agricultural Botany (NIAB) from the United Kingdom; the grant agreement was signed at the end of 2010. The project considers three possible approaches: (i) calculation of correlations between molecular and morphological distances; (ii) quantification of morphological and molecular distances against pedigree; (iii) genomic selections for phenotypic predictions. If such correlation exists, and calibration thresholds for the phenotype can be established, this could be used as a powerful tool for the grouping of varieties in the growing trial. The project started at the beginning of 2011 and will take 12 months. The final report is expected in February 2012.

# 10. BUDGET AND FINANCE

## 10.1. Overview — out-turn

Revenue in 2011 continued to rise as a result of strong increases in applications and also an increase in the total number of titles in force. Nevertheless, the net out-turn for the year fell significantly in comparison with 2010 due to the improvements made by suppliers (examination offices) in sending reports and invoices on a timely basis.

Net out-turn for the year	(million EUR)
Budgetary revenue (a)	13.0
Budgetary expenses (b)	12.3
<b>Budgetary out-turn (c) = (a) – (b)</b>	<b>0.7</b>
Non-budgetary receipts (d)	0.1
<b>Net out-turn for the budgetary year 2011 (e) = (c) + (d)</b>	<b>0.8</b>

The net out-turn for the year was slightly over EUR 800 000, 37 % lower than in 2010.

## 10.2. Revenue

The Office's revenue mainly comprises various fees paid by applicants for, and holders of, Community plant variety rights and revenue from interest on bank accounts. The total revenue collected in 2011 was EUR 13.0 million.

	Var. (%)	2011 (million EUR)	2010 (million EUR)
Fees	7.3	12.77	11.90
Bank interest	273	0.22	0.08
Other revenue	—	0.01	– 0.01
<b>Total revenue</b>	<b>8.68</b>	<b>13.0</b>	<b>11.97</b>

The total fees received in 2011 amounted to EUR 12.77 million, representing an increase of 7.3 % in comparison with the previous year. Interest income is recorded for the budgetary accounts based on the date of actual receipt of the interest. As there were a significant number of term deposits which expired in 2011 (and few in 2010), the increase is high (273 %) but simply a reflection of timing of receipts.

## 10.3. Expenditure

The total amount of recorded expenditure and commitments carried over was EUR 12.3 million, compared with EUR 10.8 million in 2010.

	<b>Var.</b> <b>(%)</b>	<b>2011</b> <b>(million EUR)</b>	<b>2010</b> <b>(million EUR)</b>
Staff expenditure	3	5.7	5.5
Administrative expenditure	32	1.5	1.1
Operational expenditure	23	5.1	4.2
<b>Total expenditure</b>	<b>14</b>	<b>12.3</b>	<b>10.8</b>

Staff expenditure increased in 2011 due to normal career development. The salary grid for staff of the Office, being governed by the levels set by the European Council, is also subject to changes in line with inflation and career progression. Administrative expenditure increased significantly due mainly to the purchase of additional archiving space in one of the CPVO buildings and significant developments for the online applications software of the Office. Operational expenditure which consists mainly of remunerations for examination offices increased significantly due to improvements in examination offices' sending of reports and invoices and also reflecting the new cost structure for examinations.

## 10.4. Conclusion

The net result in 2011 is significantly lower than in 2010 but still positive. A new reduced application fee, which should come into force in 2013, should help bring the Office back to budget equilibrium in future years.

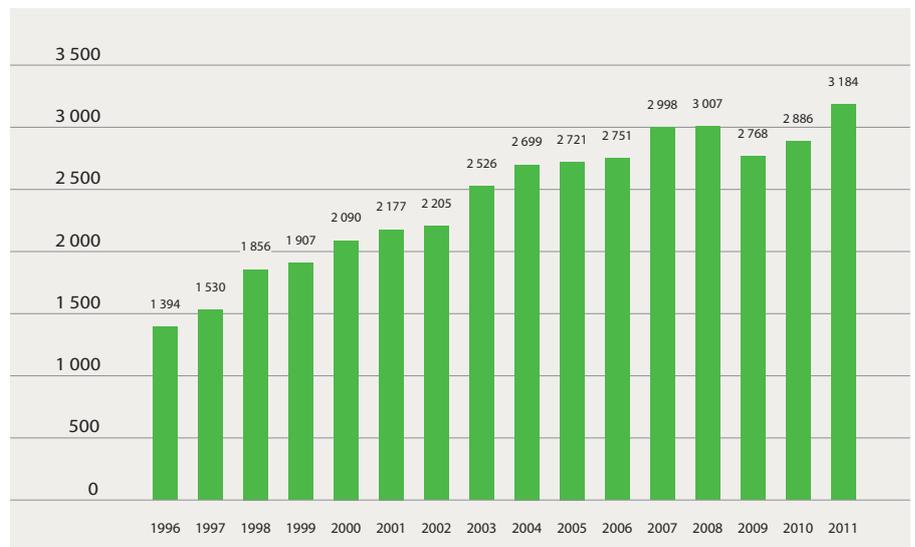
# 11. TRENDS AND DEVELOPMENTS

## 11.1. Applications for Community plant variety protection

In 2011, the Office received a record 3 184 applications for Community plant variety protection. As illustrated in Graph 6, this represents an increase of 10.3 % compared with the previous year (all figures are based on the date of arrival of the application documents at the Office).

**Graph 6**

Evolution of the annual number of applications for Community plant variety protection (1996–2011)

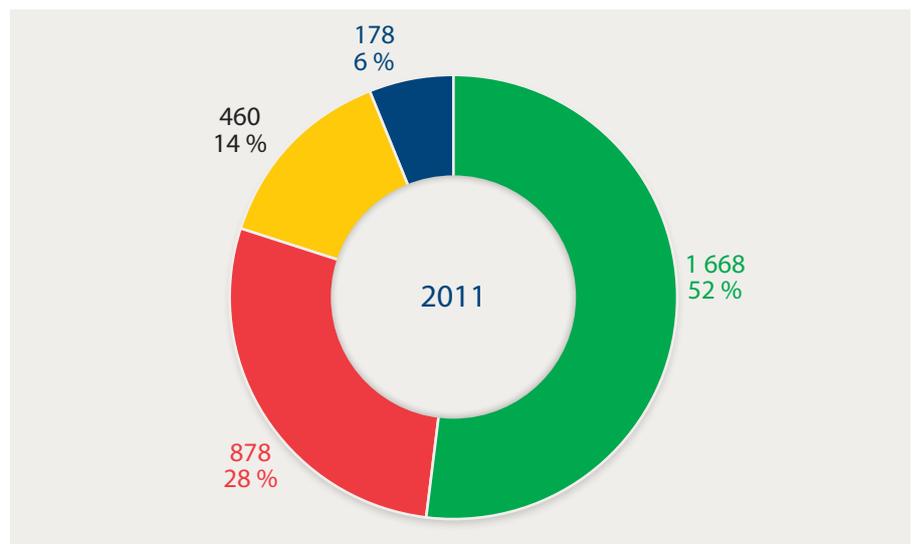


Graph 7 represents the shares of the crop sectors in number of applications received in 2011.

**Graph 7**

Shares in application numbers per crop sector in 2011

- Ornamental
- Agricultural
- Vegetable
- Fruit

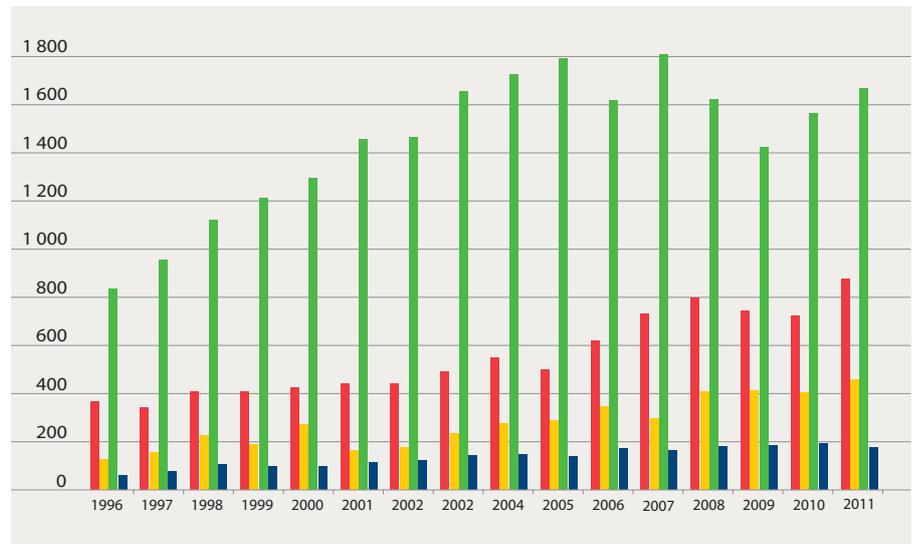


Graph 8 shows the evolution of the number of applications per crop sector since 1996. The most important increase in terms of number of applications during 2011 was observed in the agricultural sector (+ 19.1 %) followed by the vegetables (+ 10.6 %) and ornamentals (+ 3.1 %). Application numbers for both agricultural and vegetable varieties reached all-time record levels. By contrast, application numbers for fruit varieties saw a steep decline (- 21.2 %) after having peaked last year.

**Graph 8**

Evolution of application numbers per crop sector (1996–2011)

- Agricultural
- Vegetable
- Ornamental
- Fruit

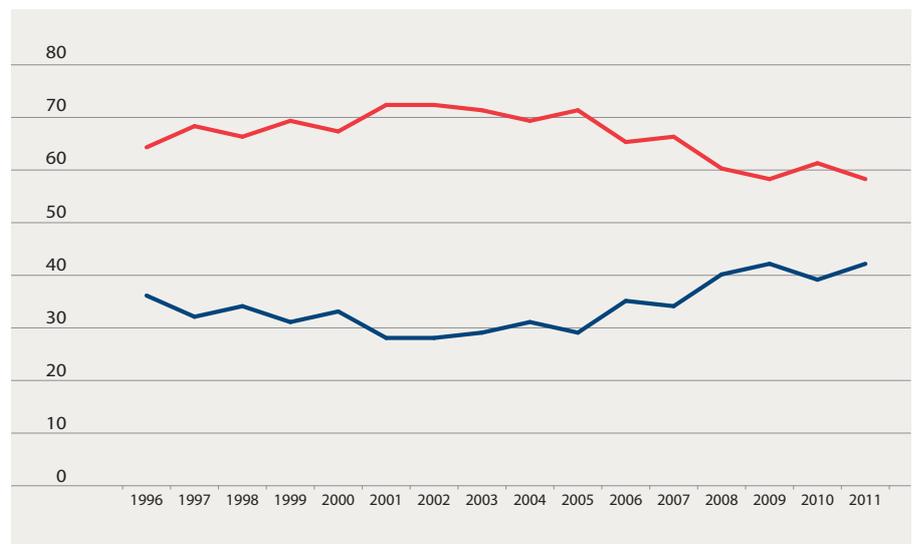


Graph 9 illustrates that the proportion of the ornamental and fruit applications in the total number of applications for Community plant variety rights has been decreasing for several years, while the share of agricultural and vegetable species is on the increase.

**Graph 9**

Comparative evolution of the proportion of crop sectors in the number of applications (1996–2011)

- Ornamental + fruit
- Agricultural + vegetable

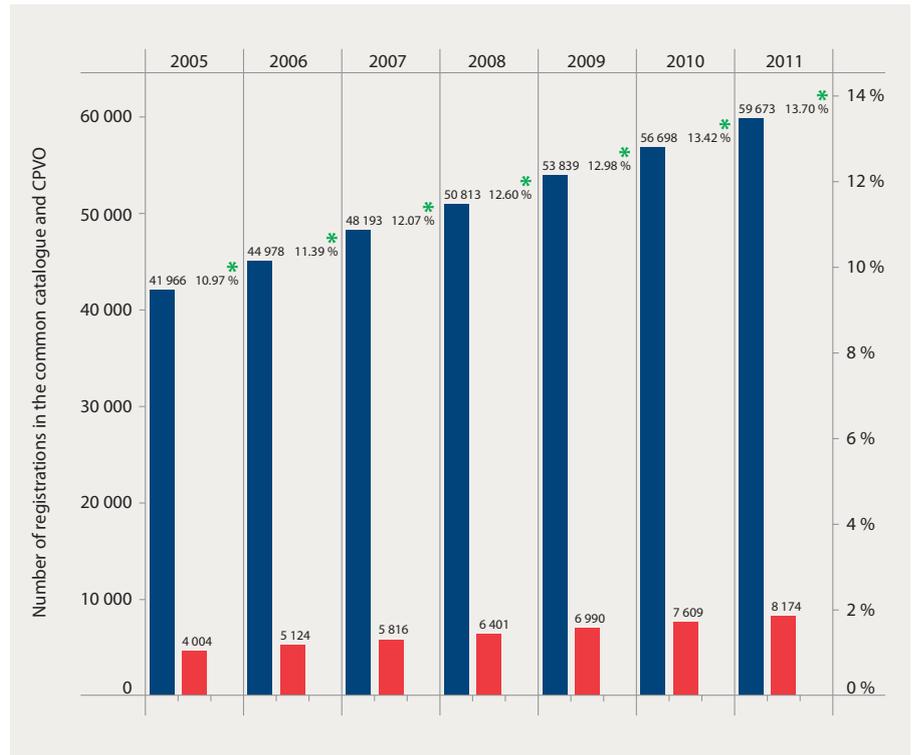


One reason for this could be the situation according to which, for most species, more and more varieties listed every year in the common catalogue are applying for Community plant variety rights, as illustrated in Graph 10.

### Graph 10

Evolution of the global proportion of varieties registered in the common catalogue that have been the subject of an application for Community plant variety rights (\*)

■ Common catalogue registration  
■ CPVO registration

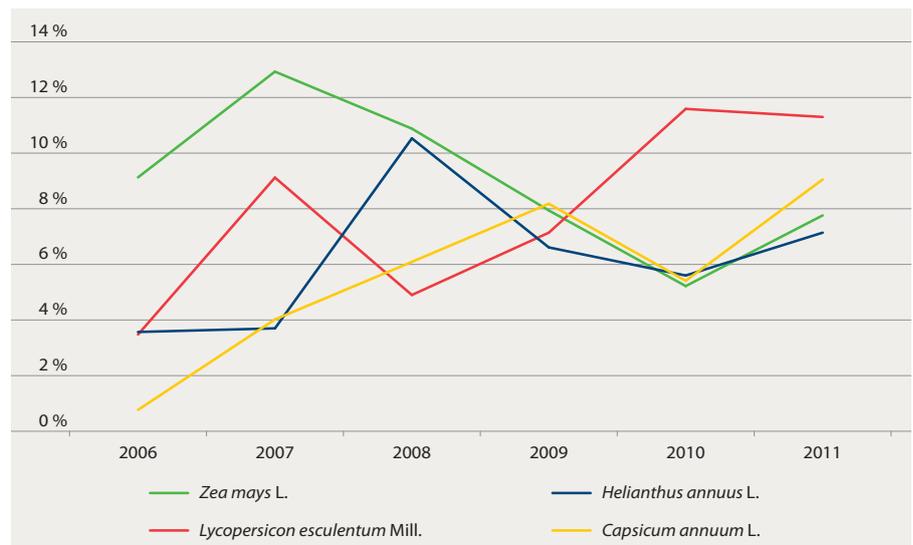
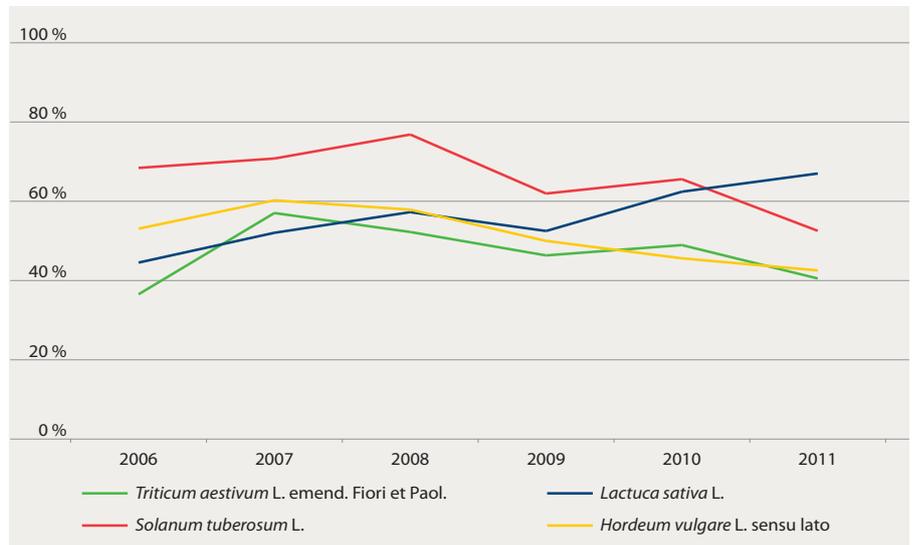


(\*) The figures mentioned above are an estimation based on varieties registered in the common catalogue and applied at the CPVO under the same variety denomination and registered under a species name of the same UPOV denomination class.

The situation is different from species to species and Graph 11 illustrates (for a few species, 2006–11) the evolution of the proportion of varieties registered in the common catalogue that have also been the subject of an application for Community plant variety rights. This proportion is obviously different for species where modern commercial varieties are hybrids and for vegetatively or self-pollinated species. It should be noted that this proportion could still vary slightly as varieties registered in the common catalogue in the most recent years could become the subject of an application for Community plant variety rights with a delay of one or two years. This can be the case for species where the multiplication rate is rather low and therefore it takes some time for a sufficient amount of seeds to be available for the market.

**Graph 11**

Proportion of varieties of selected species registered in the common catalogue that have also been the subject of an application for Community plant variety rights for eight species



In 2011, 595 applicants filed applications for Community plant variety rights. The following table lists the 50 most frequent users of the Community system and their respective number of applications filed in 2011. These top 50 applicants filed, in total, 1 693 applications, which is equal to 53.17% of all applications received in that year. These figures illustrate that the Community plant variety rights system is not only attractive to global players but also to medium and smaller-sized breeding companies.

Name of applicant	Country	Number of applications filed in 2011
Pioneer Overseas Corporation	US	111
Syngenta Crop Protection AG	CH	106
Rijk Zwaan Zaadteelt en Zaadhandel BV	NL	94
Limagrain Europe SA	FR	79
Seminis Vegetable Seeds Inc.	US	77
RAGT 2n SAS	FR	69
KWS Saat AG	DE	58
Enza Zaden Beheer BV	NL	58
Nunhems BV	NL	49
Terra Nova Nurseries Inc.	US	49
Anthura BV	NL	48
Fides BV	NL	44
Preesman Plants BV	NL	43
Tobias Dümmer	DE	43
Pioneer Hi-Bred International Inc.	US	42
W. Kordes' Söhne Rosenschulen GmbH & Co. KG	DE	39
Poulsen Roser A/S	DK	37
Suphachatwong Innovation Co. Ltd	TH	35
Nils Klemm	DE	35
Florist Holland BV	NL	31
Testcentrum voor Siergewassen BV	NL	28
Danziger 'DAN' Flower Farm	IL	26
Monsanto Holland BV	NL	25
Euralis Semences SAS	FR	24
Deliflor Royalties BV	NL	23
Dekker Breeding BV	NL	22
Piet Schreurs Holding BV	NL	21
Meilland International SA	FR	20
Nidera SA	AR	20
Vilmorin SA	FR	19
Vletter & Den Haan Beheer BV	NL	19
Soltis SAS	FR	19
Cornell University	US	18
Innovaplant Zierpflanzen GmbH & Co. KG	DE	18
Monsanto Technology LLC	US	17
Institut de Recerca i Tecnologia Agroalimentaries (IRTA)	ES	17
Ball Horticultural Company	US	16
Interplant Roses BV	NL	16
Suntory Flowers Limited	JP	16

Rosen Tantau KG	DE	16
Josef Heuger	DE	15
Corn. Bak BV	NL	15
Beekenkamp Plants BV	NL	15
Priscilla Grace Kerley	UK	15
Jean-Pierre Darnaud	FR	15
Allplants Holding BV	NL	15
Institut National de la Recherche Agronomique	FR	14
Cultius Roig Sat 626 Cat	ES	14
Chrysanthemum Breeders Association Research BV	NL	14
Deutsche Saatveredelung AG	DE	14
DLF-Trifolium A/S	DK	14
De Ruiter Intellectual Property BV	NL	14
Euro Grass Breeding GmbH & Co. KG	DE	14
SESVanderHave NV/SA	BE	13
Paraty BVBA	BE	12
Dalina Genetics ApS	DK	12
Van Zanten Plants BV	NL	12
Caussade Semences SA	FR	12
NuFlora International Pty Ltd	AU	12
KWS Lochow GmbH	DE	12
Consorzio Italiano Vivaisti — Società consortile a r.l. (CIV)	IT	12
Wiersum Plantbreeding BV	NL	11
Nordsaat Saatzuchtgesellschaft mbH	DE	11
Agro Selections Fruits SAS	FR	11
Hydrangea Breeders Association BV	NL	11
HilverdaKooij BV	NL	11
Terra Nigra Holding BV	NL	11
Sunny Grønnegyden ApS	DK	10
RijnPlant BV	NL	10
Van Zanten Cuttings BV	NL	10
Adrien Momont et Fils SARL	FR	10
Böhm-Nordkartoffel Agrarproduktion OHG	DE	10
	<b>Total</b>	<b>1 693</b>

Applicants from outside the European Union must appoint a representative with a registered office or with domicile inside 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 Monsanto, Pioneer, Syngenta and Sakata. EU applicants do not have such an obligation; however, some of them prefer to commission the application procedure to an external agent. In 2011, 1 495 applications (31.59 %) were filed by 136 procedural representatives. The following table lists the 15 most 'active' procedural representatives for 2011, having submitted in total 1 006 applications.

Name of procedural representative	Country	Number of applications filed in 2011
Royalty Administration International CV	NL	259
Pioneer Hi-Bred SARL	FR	127
Hortis Holland BV	NL	100
Deutsche Saatgutgesellschaft mbH Berlin	DE	81
Monsanto Holland BV	NL	78
Syngenta Seeds BV	NL	73
Limagrain Europe SA	FR	47
Hans-Gerd Seifert	DE	41
Wuesthoff & Wuesthoff	DE	40
GPL International A/S	DK	39
Pioneer Génétique SARL	FR	30
Limagrain Nederland BV	NL	25
PLA International ApS	DK	24
Plantipp. BV	NL	21
Coöperatieve Nederlandse Bloembollencentrale UA	NL	21
<b>Total</b>		<b>1 006</b>



CPVO visit to Royalty Administration International CV, September 2011, the Netherlands



Gerbera L.



Vanda Jones ex R. Br. DUS trials, the Netherlands

### 11.1.1. Ornamental species

With 52 % of the applications received in 2011, ornamentals continue to represent the largest group of applications filed for Community plant variety rights. As can be seen in Graph 8, the ornamental sector remains the most important in terms of number of applications each year. After two consecutive years of sharply decreasing application numbers in 2008 and 2009, the increase observed in 2010 continued in 2011.

One particularity of the ornamentals is the great diversity of species. For each of them, there is a rather low number of applications.

Table 1 shows the 10 most important ornamental crops in terms of the number of applications. Changes in the importance of most of these crops — with the exception of orchids — seem to be rather accidental. In 2011, roses and chrysanthemums remain, in that order, by far the most important species. For orchids in general, and *Phalaenopsis* and *x Doritaenopsis* in particular, a sudden dramatic increase was observed in 2007, followed by a steep decline in 2008 and 2009, but they were on the rise again in 2010 and 2011.

**Table 1: Number of applications of the 10 most important ornamentals**

Genus	2003	2004	2005	2006	2007	2008	2009	2010	2011	Grand Total
<i>Rosa</i> L.	191	219	168	185	157	168	155	199	239	1 681
<i>Chrysanthemum</i> L.	187	147	162	195	168	157	162	175	152	1 505
<i>Petunia</i> Juss. and <i>Calibrachoa</i> Llave & Lex.	51	71	89	69	99	53	78	77	58	645
<i>Pelargonium</i> L'Her. ex Aiton	77	64	114	79	64	67	49	44	74	632
<i>Lilium</i> L.	68	90	60	62	59	45	56	55	63	558
<i>Phalaenopsis</i> Blume and <i>x Doritaenopsis</i> hort.	18	41	11	63	108	77	50	85	84	537
<i>Gerbera</i> L.	79	44	66	45	39	77	63	37	58	508
<i>Impatiens</i> L.	65	64	98	56	51	39	18	30	22	443
<i>Dianthus</i> L.	60	36	57	38	34	34	29	61	30	379
<i>Osteospermum</i> L.	35	53	56	39	31	40	28	32	24	338

The Office may base its decision to grant Community plant variety rights on a technical examination carried out within the framework of a previous application for plant breeders' rights in an EU Member State. Such takeover of reports concerns only some 5 % of ornamentals, which is a considerably lower percentage than for the vegetable or agricultural sectors and is due to the absence of any listing requirement before commercialising ornamental varieties.

The introduction in 2010 of the principle that any competent examination office can be entrusted for the DUS test of any species has resulted in a situation where, for a number of ornamental species, more than one examination office is available to undertake DUS examination. Whereas, in the past, a centralised testing situation existed, the CPVO has now to decide at which examination office a certain candidate variety is going to be examined. For that reason, the CPVO's Administrative Council has extended the criteria to be applied by the CPVO.

The Office will have to take into consideration not only climatic conditions but also the wishes of the breeder and the other varieties under examination. These new criteria began to be applied during the course of 2011 and, at this stage, it appears that, most of the time, breeders do not express a preference that is different from the place where the CPVO intended to organise the technical examination.



*Anthurium* L.



*Leucanthemum* Mill. DUS trials, United Kingdom



*In vitro* culture at NIAB, United Kingdom



*Solanum tuberosum* L. DUS trials, Ireland

### 11.1.2. Agricultural species

The year 2011 showed an increase of 21.10 % in the number of applications. This is an all-time high, as the crop sector, agricultural varieties, represented in 2011 28 % of all applications. This increase suggests that applicants consider the protection of their newly selected varieties to be more and more important.

The following table shows the number of applications received per year over all agricultural species since 2003.

	2003	2004	2005	2006	2007	2008	2009	2010	2011	TOTAL
All agricultural species	491	550	498	619	730	796	745	725	878	6 032

Table 2 shows the number of applications for the 10 most important agricultural species for the last nine years.

**Table 2:** Number of applications of the 10 most important agricultural species

Species	2003	2004	2005	2006	2007	2008	2009	2010	2011	Total
<i>Zea mays</i> L.	184	169	181	212	249	226	221	220	264	1 926
<i>Triticum aestivum</i> L. emend. Fiori et Paol.	45	76	53	76	91	87	76	92	115	711
<i>Solanum tuberosum</i> L.	61	51	35	92	63	91	86	63	80	622
<i>Brassica napus</i> L. emend. Metzg.	41	40	31	44	70	86	95	75	71	553
<i>Hordeum vulgare</i> L. sensu lato	50	54	46	46	54	68	67	56	60	501
<i>Helianthus annuus</i> L.	28	27	40	30	38	49	46	66	73	397
<i>Lolium perenne</i> L.	4	8	16	20	11	26	20	19	30	154
<i>Triticum durum</i> Desf.	14	14	13	8	13	14	17	14	32	139
<i>Pisum sativum</i> L.	9	13	19	11	14	14	10	13	8	111
x Triticosecale Witt.	7	17	5	7	14	13	7	9	11	90



*Brassica napus* L.



*Brassica napus* L. DUS trials, France

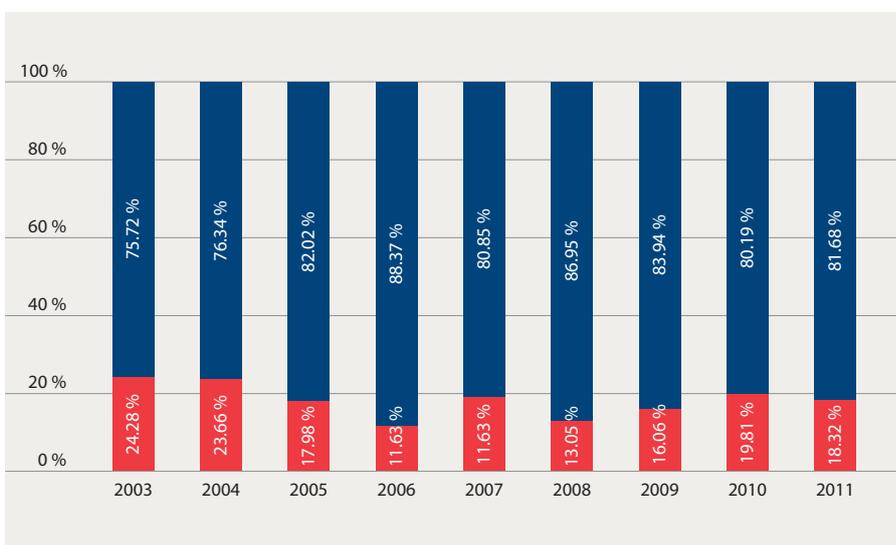
As in previous years, *Zea mays* is the most important species in the agricultural sector. The number of applications is steadily increasing. After a large increase in applications for oilseed rape and barley in previous years, the numbers dropped slightly in 2011, whereas for sunflower (essentially for inbred lines), *Lolium* and durum wheat, the number of applications was higher than ever before.

Given that the large majority of applications refer to species that are covered by the European Union seed directives, about 80 % of all applications have already undergone a DUS test when the CPVR application is filed, or the DUS test is at least ongoing. This allows the Office to take over the DUS report from entrusted examination offices, in accordance with Article 27 of the proceedings regulation (Commission Regulation (EC) No 874/2009), if it constitutes a sufficient basis for a decision. If this is not the case, the Office organises a technical examination, to be carried out on its behalf by an entrusted examination office. Graph 12 shows the yearly evolution of technical examinations and takeover of DUS reports in the agricultural sector from 2003 to 2011.

### Graph 12

Evolution in percentage of the ratio of technical examinations to takeovers of DUS reports in the agricultural sector from 2003 to 2011

- Technical examinations
- Takeovers





*Triticum aestivum* L.



Cereals DUS trials, France

The quality audits conducted during 2011 on agricultural species revealed that examination offices sometimes encounter difficulties with the completeness of the reference collection. This requirement is particularly difficult to fulfil due to the fact that a living reference collection must represent a huge number of varieties in the 'big species' (e.g. maize, wheat, oilseed rape) or, as an example for a non-living reference collection, potato. In case an examination office is not remedying the deficiency in a satisfactory manner, the entrustment will be withdrawn for the species in question by the Administrative Council of the Office; in such a situation, no more technical examinations can be carried out and no takeover of DUS reports is possible.

### 11.1.3. Vegetable species

The vegetable sector once again demonstrated its healthy state with record figures in 2011. A total of 460 applications were received, which was an increase of 13.58 % over the previous year. As in recent years, lettuce was the top vegetable crop (118 applications, albeit with a slight decrease over the previous year), followed by tomato (72 applications, almost double the number received in 2010). Pepper maintained its third place and, bucking the trend of earlier in the decade, French beans became the fourth most popular vegetable crop in 2011, with 28 applications; this may be due to varieties with greater resistance to disease being made available on the market.

Last year's annual report indicated in the vegetable section that discussions had commenced on the need to test all the obligatory (asterisked) disease resistance characteristics in the pertinent CPVO vegetable protocols on a compulsory basis in order to achieve national listing. The CPVO, together with the European Commission, ESA and concerned entrusted examination offices for vegetables, analysed five possible options in this subject area but, in the end, it was concluded that in order to have technical commonality between national listing and plant breeders' rights via the same CPVO protocol for DUS testing, the status quo should be maintained, that is to say that all the asterisked disease resistance characteristics in the CPVO vegetable protocols were obligatory in the European Union, irrespective of whether it was for national listing or plant breeders' rights. This also ensured that the 'one key, several doors' principle outlined

by stakeholders for the acceptance of technical reports throughout the EU would be adhered to. The discussions, however, highlighted one possible area needing further investigation, which was the application of different uniformity levels depending on the type of variety within the species in question (e.g. tomato), particularly if the applicant has claimed that his variety is susceptible to any particular disease (so one could assume that no breeding effort has been made for that particular disease resistance). It would still have to be seen, however, whether this principle would be in conformity with the UPOV principles, therefore the Office will formulate a document on this option, which is to be discussed at the 2012 session of the UPOV Technical Working Party for Vegetables (TWW).

According to the CPVO protocols, two independent growing periods are normally required in order to conclude a technical examination; traditionally, this has been interpreted as being two successive sowings of a candidate variety, normally in separate calendar years in the same location. However, two of the major examination offices for vegetables, Natkuinbouw in the Netherlands and GEVES in France, have implemented procedures in order to carry out 'parallel' DUS testing for certain vegetable crops filed for national listing, thereby applying the principle outlined in the CPVO protocols in a different way. The candidate variety is sown at two testing stations several hundred kilometers apart within the same growing season, and that way they can be considered to have been observed in two independent growing seasons. The main advantage of this way of acting is that the duration of the technical examination can be halved, although it could admittedly lead to further growing periods if there are complications in the DUS test or if the information provided by the breeder is imprecise. Evidence gathered by the CPVO on this method of parallel testing and feedback received from Naktuinbouw and GEVES on their experiences working this way appear to be positive, therefore it is an issue the CPVO will investigate further to see if it can be applied more generally to technical examinations it has to organise for vegetable crops, thereby providing a better service to breeders by substantially reducing the overall duration of the application procedure for Community plant variety rights.



Tomato DUS trials, the Netherlands



*Lactuca sativa* L.



Tomato DUS trials, France



*Pisum sativum* L.

The CPVO has been made aware that there is an increasing tendency for some vegetable breeding companies to apply for the patenting in the EU of certain traits, such as a new disease resistance for a specified crop. Whereas the development of new disease resistances is a welcome development for growers and consumers, such patenting may lead to a situation whereby their use by other vegetable breeders is severely restricted. This could then mean that the patent holder has a near monopoly on the new breeding trait, which would greatly reduce competition in the creation of new varieties within that species and have a consequent negative effect on the need to apply for Community plant variety rights for such varieties. Certain seed companies, as well as ESA, have expressed their concern at this scenario and are looking to see if the European Parliament can insert a breeders' exemption (as is the case for plant breeders' rights) into EU patent legislation in order to safeguard the use of such traits by others for the development of new varieties, thereby benefiting society as a whole. The CPVO will follow developments on the matter closely and will also look to develop closer collaboration with the European Patent Office to ensure that there are no conflicts between the two systems of intellectual property protection.

By the end of 2011, the CPVO could offer breeders the possibility of electronic filing of applications in the top 19 species within the vegetable sector, an opportunity which was taken up in 49 % of all vegetable applications for Community plant variety rights in 2011, and which made the vegetable sector the one with the highest uptake of e-filing amongst the four crop sectors in the Office. The CPVO will make further vegetable species available for e-filing during the course of 2012.



*Prunus armeniaca* L.



Trial for orchard tree management, Japan

#### 11.1.4. Fruit species

The number of fruit CPVR applications in 2011 decreased slightly to 178. As in previous years, the top three species were peach, strawberry and apple, in that order, with peach seeing a decrease in applications and strawberry a notable increase compared to 2010.

Discussions with the stakeholders in the fruit sector advanced in 2011 with regard to ways to optimise DUS testing for this sector. A set of five important fruit species were identified that could form the basis of a research and development (R & D) project amongst the entrusted examination offices for those species, which would investigate possible differences in results between the first satisfactory fruiting period and the second satisfactory fruiting for varieties having completed DUS testing in recent years. The objective would be to see if the differences between the two fruiting periods were significant with regard to the outcome of the final test report and the declaration on the distinctness, uniformity and stability of the candidate variety. If it were to be found that, in most cases, such differences were not significant, the CPVO may consider having just one obligatory satisfactory fruiting for those candidate varieties found to have no difficulties with regard to their distinctness, uniformity and stability. Although such an approach could be feasible for seedling fruit varieties, it may still be necessary to have at least two satisfactory crops of fruit for mutant varieties (e.g. apple).

The increasing number of entrusted examination offices for several fruit species means that DUS testing for such species has been 'decentralised'. While this leads to a greater choice of DUS testing stations for applicants, it can also become a source of confusion as, for climatological reasons, these different examination offices have different submission dates for the delivery of plant material. In order to harmonise the situation, an agreement was reached amongst entrusted examination offices to have common closing dates for the receipt of new applications, whilst still maintaining their current submission periods for plant material. This harmonisation will ensure that all applications received by the CPVO by a certain date, for a given fruit species, will commence DUS testing in the same growing period irrespective of where they are going to be examined. These new harmonised closing dates will be communicated to fruit applicants in early 2012, in order that they can come into effect for the 2012/13 submission period.

Whereas biomolecular techniques are not utilised within DUS tests carried out for the CPVO, an increasing number of fruit applicants and title holders are making use of DNA fingerprints in order to enforce their Community plant variety rights. Experience has shown that a typical procedure is to have a specialised laboratory taking a sample of plant material (e.g. leaves) from the plants of the variety undergoing DUS testing at the entrusted examination office or, in the case of protected varieties, from the plants now held in the reference collection of the examination office that carried out the DUS test. The CPVO allows such samples to be taken from the plant material that underwent the technical examination as it stands in the living reference collection of the examination office as long as a formal request is made by the applicant/title holder of the variety in question. The DNA fingerprint obtained from the official plant sample can then be compared against the DNA fingerprint of plants that are the subject of a supposed infringement of rights. If the two parties in question do not come to an amicable agreement, then the case can be taken to court by the applicant/title holder of the variety. The CPVO has learnt that several cases of infringement of Community plant variety rights for fruit varieties have already passed through tribunals (especially in Spain), and the resulting judgments have almost always favoured the title holder, with a consequent financial penalty for the infringer. The CPVO believes that such actions demonstrate the importance of enforcing Community plant variety rights once they are granted in an effective manner, particularly in the case of fruit trees where the DUS test can last a number of years and the infringement may have taken place during the period of provisional protection between the date of publication of the application and the date the protection is granted.

The CPVO staged its first ever Fruit Open Day together with GEVES/INRA in the Avignon region on 15 June 2011. The event gathered around 50 stakeholders and discussed various developments in breeding and DUS testing in the fruit sector during the morning session. The afternoon section was devoted to visiting the French field trials and reference collections for peach and apricot in order to provide the participants with a better understanding of how the DUS test is carried out for varieties in these species, as well as to discuss ways to improve their technical examinations.



*Cucumis melo L.*



Fruit Open Day, June 2011, GEVES Cavaillon, France

### 11.1.5. Origin of the applications

Since the foundation of the Community Plant Variety Office, applications have been received from over 50 countries. Nearly every year, more than one third of all applications received have originated from the Netherlands, underpinning the important role of that country in the breeding sector. The Netherlands is followed, quite some distance behind, by Germany, the United States and France. In 2011, only minor fluctuations were observed in the origin of applications. The following map gives an overview of the number of applications received from different European countries in 2011.



Table 3 shows the application numbers for the 10 most important countries outside the EU.

**Table 3:** The 10 most important non-EU countries from which CPVR applications were filed in 2011

Country of main applicant	Number of applications received in 2011
USA	412
Switzerland	113
Israel	44
Thailand	43
Japan	42
Australia	30
New Zealand	26
Chinese Taipei	17
South Africa	4
China	2

## 11.2. Grants of protection

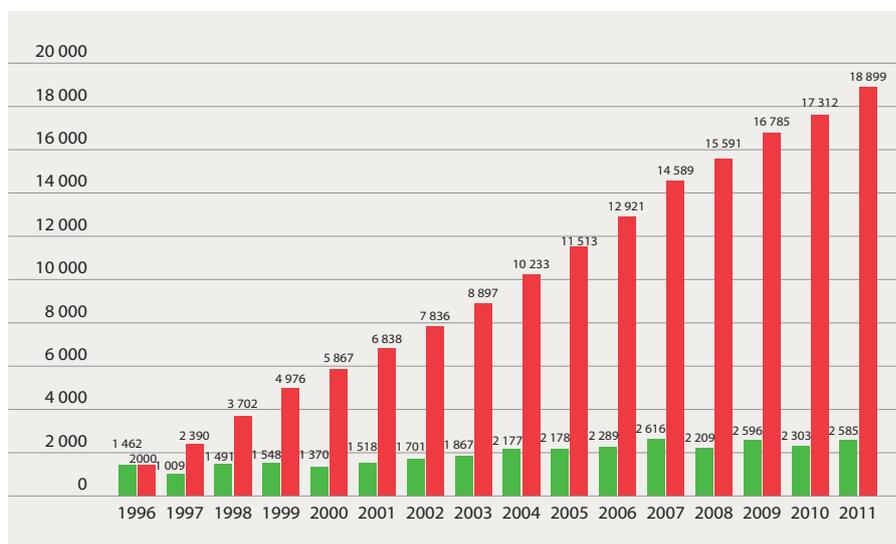
In 2011, the Office granted 2 585 titles for Community protection. A detailed list of all protected varieties (as of 31 December 2011) is published in the separate annex to this annual report.

By the end of 2011, there were 18 899 Community plant variety rights in force. Graph 13 shows the number of titles granted for each year from 1996 to 2011 and illustrates the continuous increase in the number of varieties under protection within the Community system.

**Graph 13**

Community plant variety rights granted and rights in force at the end of each year (1996–2011)

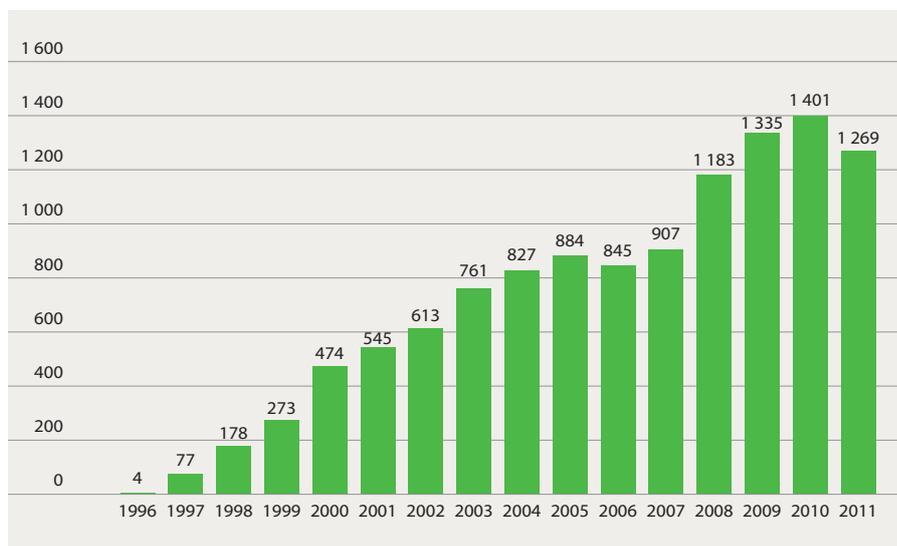
■ Titles granted  
■ Varieties under protection at the end of each year



The development in the number of Community plant variety rights in force must be seen in conjunction with the number of rights surrendered (Graph 14). 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 applications. The regular increase in the number of surrenders is therefore not a surprise. However, in 2011, an important drop in surrenders was observed, which reveals that title holders have decided, in general, to keep their varieties protected over a longer period.

**Graph 14**

Number of surrenders of Community plant variety rights (1996–2011)

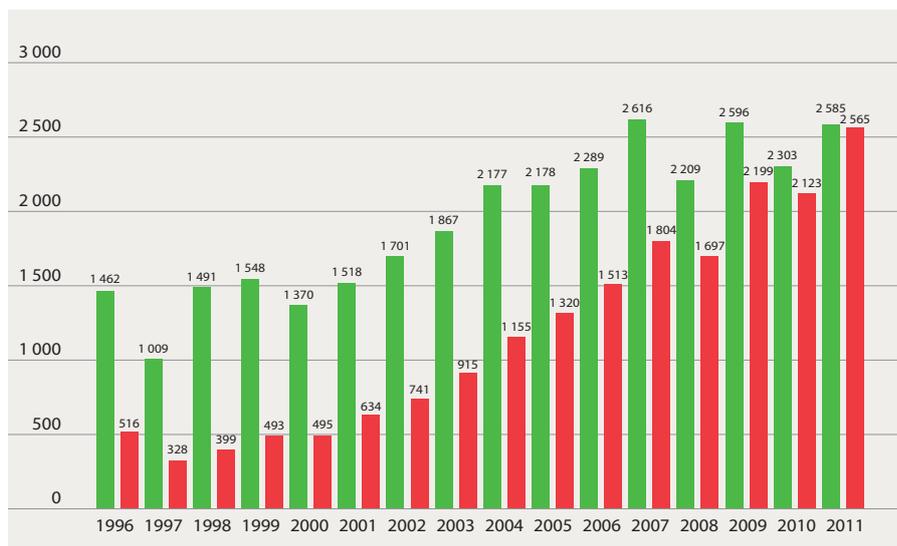


Graph 15 shows the number of rights granted in the years 1996 to 2011 and those still in force on 31.12.2011. A large number of rights are surrendered within a few years. The Community plant variety rights system is still too young to say how many varieties will actually enjoy their full term of protections of 25 or 30 years. However, figures suggest that it will be a small percentage of all the varieties once protected. This also suggests that the current period of protection might generally be rather well adapted to the needs of breeders. This does not preclude the idea that, for some individual species, crop-specific situations might exist in that respect.

**Graph 15**

Number of rights granted each year from 1996 to 2011 and these still in force on 31.12.2011

■ Number of rights granted  
■ Number of rights in force



At the end of 2011, of the 30 919 rights granted in total, 18 899 (61 %) were still active. Table 4 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 or the time and expense required to develop new varieties.



*Clematis* L. DUS trials, United Kingdom



*Malus* Mill.

**Table 4:** Percentage of granted rights that are still in force

Crop sector	Species	Proportion
<b>Agricultural</b>		<b>63 %</b>
	<i>Hordeum vulgare</i> L. sensu lato	56 %
	<i>Zea mays</i> L.	59 %
	<i>Triticum aestivum</i> L. emend. Fiori et Paol.	62 %
	<i>Solanum tuberosum</i> L.	70 %
	<i>Festuca rubra</i> L.	89 %
<b>Vegetable</b>		<b>70 %</b>
	<i>Cichorium endivia</i> L.	46 %
	<i>Lactuca sativa</i> L.	61 %
	<i>Lycopersicon esculentum</i> Mill.	79 %
	<i>Capsicum annuum</i> L.	85 %
	<i>Daucus carota</i> L.	92 %
<b>Ornamental</b>		<b>57 %</b>
	<i>Gerbera</i> L.	25 %
	<i>Rosa</i> L.	53 %
	<i>Chrysanthemum</i> L.	51 %
	<i>Phalaenopsis</i> Blume	77 %
	<i>Clematis</i> L.	95 %
<b>Fruit</b>		<b>83 %</b>
	<i>Fragaria x ananassa</i> Duch.	70 %
	<i>Prunus persica</i> (L.) Batsch	81 %
	<i>Malus domestica</i> Borkh.	85 %
	<i>Prunus avium</i> (L.) L.	92 %
	<i>Prunus domestica</i> L.	94 %

## 11.3. Technical examinations

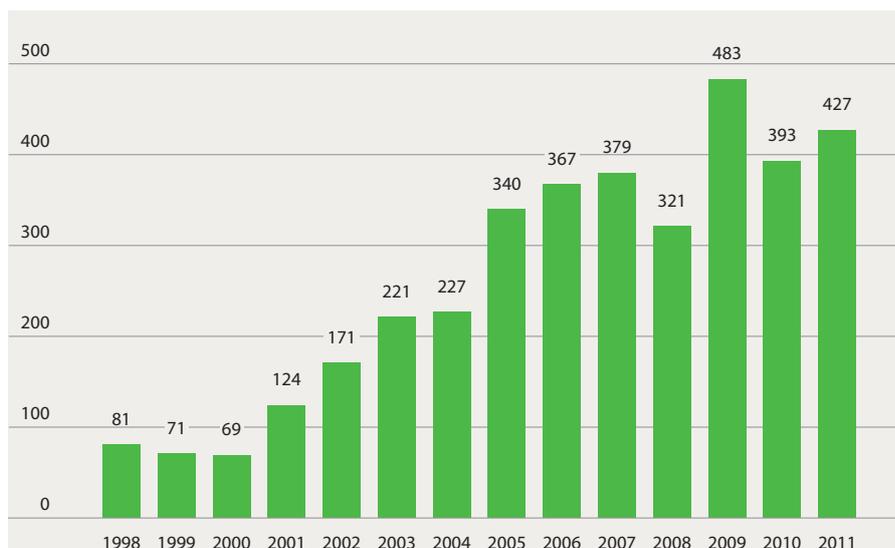
In 2011, the CPVO initiated 1 987 technical examinations, 131 more than in 2010. The increase is linked to an increasing number of applications. For vegetable and agricultural crops, a large number of technical examinations have already been carried out under the framework of the national listing procedure. If such a technical examination has been carried out by an entrusted examination office, the CPVO can base its decision to grant Community plant variety rights on a technical examination which has been carried out in the framework of a national application.

### 11.3.1. Sales of reports

National authorities from all over the world regularly base their decisions on applications for plant variety rights on technical examinations carried out on behalf of the CPVO (international cooperation, takeover of reports). Graph 16 illustrates the number of reports the Office has made available to national authorities.

**Graph 16**

Evolution of the number of DUS testing reports made available to other PVR authorities (1998–2011)



By the end of 2011, the Office had sold 3 674 technical reports to 49 countries. During that year, South America continued to be the region from which most requests emanated, followed by Africa (Table 5). In general, most requests concern ornamental sector varieties.

The Office 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 Office sends the invoice to the breeder. The report is always provided exclusively to the national authorities.

**Table 5:** The 10 countries that have bought the most DUS technical reports from the CPVO (1998–2011)

Country	Number of reports bought
Israel	534
Brazil	374
Ecuador	353
Colombia	309
Switzerland	302
Kenya	240
Norway	215
Canada	202
New Zealand	195
France	156

## 11.3.2. Relations with examination offices

### 11.3.2.1. Fifteenth annual meeting with the examination offices

In December 2011, the CPVO held its 15th annual meeting with its examination offices, which is also attended by representatives from the European Commission, the UPOV office and the breeders' organisations Ciopora, ESA and, for the first time, Plantum, since the organisation has been granted the status of observer to the Administrative Council of the Office. The main subjects of discussion were:

- the update of the special gazette on the requirements for plant material in view of their technical examination (S2 Gazette);
- dealing with insufficient numbers of plants submitted for the DUS examination;
- obligatory disease resistance testing in vegetables;
- DUS examination of 'modified' varieties;
- information on photos submitted as part of the application documents;
- non-submission of reference varieties;



Annual meeting with the examination offices, December 2011, Angers



Annual meeting with the examination offices, December 2011, Angers

- information to be provided on reports and variety description (protocol version, similar varieties);
- direct communication between the examination office and the applicant;
- the Variety Finder database and the restricted area of the CPVO website;
- cooperation in variety denomination testing;
- various legal matters, such as aspects on the 'one key, several doors' principle according to which one DUS examination would be sufficient for the official variety listing as well as for the granting of plant variety rights, the registration of essentially derived varieties (EDV) and a project on guidelines on variety denomination.

Furthermore, the participants were informed on the state of affairs regarding the online application system, on the electronic exchange of documents with examination offices and on the update of the 'examination office — designation agreements'.

#### **11.3.2.2. Preparation of CPVO protocols**

In 2011, experts from the Member States' examination offices were invited to participate in elaborating or revising technical protocols for DUS testing, which either were subsequently approved by the Administrative Council or can be expected to be approved in 2012. The following meetings were held.

- Agricultural experts: the revision of the protocols of oilseed rape, barley and rice were discussed. The TP for oilseed rape was adopted in November 2011; the TPs for barley and rice are expected to be approved in 2012.
- Fruit experts: discussion on the revision of the technical protocols for peach, Japanese plum, gooseberry, red/white currant and the creation of new technical protocols for almond and for olive, all of which are expected to be approved in 2012.
- Vegetable experts: the approval in 2011 of the revision of the technical protocols for asparagus, a partial revision of the technical protocol for lettuce and cabbage and new technical protocols for dill and for curly kale; discussion at the end of 2011 on the revision of the tomato and artichoke protocols and partial revision of the spinach protocol, all of which are expected to be approved in 2012.
- Ornamentals experts discussed corrections and modifications of the technical protocols for *Kalanchoe* and *Buddleja*.

#### **11.3.2.3. Crop experts meetings**

Two meetings with agricultural experts were held in 2011. The first was held in Cambridge (UK) in order to finalise the revision of the technical protocol for oilseed rape, which was later adopted by the Administrative Council (November 2011).

The second meeting took place in October and prepared the revisions of the technical protocols for barley and for rice, which are expected to be adopted in March 2012.

Further subjects of discussion were the question on how to consider the segregation of characteristics of three-way hybrids in the technical protocol for barley. For spring barley



Ornamental experts meeting, October 2011, Angers



Agricultural experts meeting, October 2011, Angers

varieties, it is more and more difficult to establish distinctness: examination offices shared their experience on new characteristics which could help to overcome this problem.

An exchange of views took place on the way sunflower varieties are tested when the applicant indicates that only a specific characteristic has been modified by breeding (e.g. resistances or oil patterns). It was discussed whether a complete DUS test would be required or whether it would be sufficient to concentrate on the assessment of the modified characteristic.

In oilseed rape, the testing of parental lines when the subject of the application is a hybrid variety was discussed. Examination offices assess whether the DUS requirement on the hybrid variety is fulfilled, whereas breeders propose that the assessment should be based on the parental lines of the hybrid.

The examination offices that participated in the ring test of rice for the revision of the technical protocol presented their report; the results will be reflected in the revised protocol that will be presented to the Administrative Council for adoption in March 2012.

The discussions held for the preparation of the CPVO TPs for *Lolium* and *Festuca* revealed that the question on the possible (voluntary or involuntary) infection of varieties by endophytes has to be considered more closely. The assumption is that an endophyte infection impacts upon the expression of characteristics of a variety, which would bias the results of the DUS test. This should be avoided. It was agreed that an R & D project should be established to address this problem.

A meeting of fruit experts was held in June to discuss: new and revised TPs in the fruit sector; phytosanitary documentation and harmonisation of closing dates amongst all entrusted examination offices according to species; continuing discussions on the feasibility of the reduction in duration/costs of fruit technical examinations; distinctness and minimum distances for apple mutations; and the results and conclusions of the R & D project 'Management of peach tree reference collections'.



*Clematis* L.



CPVO visit to Naktuinbouw, September 2011, the Netherlands

A meeting of ornamental experts was held in October. Important items of discussion were: changing the plant requirements and the schedule for the DUS technical examination; information on photos submitted as part of the application documents; the use of additional plant samples; judging uniformity of varieties with mutated flower sectors; direct communications between the examination office and the applicant; and similar varieties grown in the trial and mentioned on the variety description.

A meeting of vegetable experts was held in November to discuss: the protocols mentioned above; conclusions on the implementation of certain obligatory disease resistances for national listing; submission of colour photographs for vegetable species; possible acceptance of certain seed treatments for vegetable varieties submitted for DUS testing; and the idea of a reserve list of characteristics for DUS testing.

#### 11.3.2.4. New species

In 2011, the Administrative Council of the CPVO entrusted examination offices for the following botanical taxa resulting from the so-called new species inventories. It should be noted in this context that, as a consequence of the introduction of the new quality audit system, the

**Graph 17**

Evolution of the number of botanical taxa for which the CPVO received applications (1995–2011)



examination offices indicate to the CPVO that they fulfil the quality requirements for a given 'new species'. Consequently, the CPVO does not undertake a selection of examination offices when preparing a proposal for entrustment by the Administrative Council. The following table states the taxa for which new examination offices have been entrusted to conduct the technical examination. Graph 17 shows the evolution of the number of taxa for which the Office has received applications for varieties for Community plant variety protection.

Botanical taxon	Entrusted examination office
<i>Aglaonema rotundum</i> N. E. Br. x <i>A. philippinense</i> Engl. var. <i>stenophyllum</i> (Merr.) R. N. Jervis	Naktuinbouw, NL
<i>Allium amethystinum</i> Tausch	Naktuinbouw, NL
<i>Alonsoa meridionalis</i> (L. f.) Kuntze <i>ariegata</i> L.	Bundessortenamt, DE Naktuinbouw, NL NIAB, UK
<i>Althaea officinalis</i> L.	Bundessortenamt, DE Naktuinbouw, NL NIAB, UK
<i>Alyogyne hakeifolia</i> (Giord.) Alef. x <i>A. huegelii</i> (Endl.) Fryxell	Naktuinbouw, NL NIAB, UK
<i>Arenaria montana</i> L.	Naktuinbouw, NL NIAB, UK
<i>Artemisia absinthium</i> L.	Bundessortenamt, DE
<i>Artemisia annua</i> L.	Bundessortenamt, DE
<i>Astelia chathamica</i> (Skotts.) L. B. Moore x <i>A. nervosa</i> Hook. f.	Naktuinbouw, NL NIAB, UK
<i>Astilbe x arendsii</i> Arends x <i>A. japonica</i> (C. Morren et Decne.) A. Gray	Naktuinbouw, NL COBORU, PL
<i>Bidens alba</i> (L.) DC. x <i>B. triplinervia</i> Kunth var. <i>macrantha</i> (Wedd.) Sherff	Bundessortenamt, DE
<i>Camellia rosthorniana</i> Hand.-Mazz.	Naktuinbouw, NL NIAB, UK
<i>Carthamus tinctorius</i> L.	Bundessortenamt, DE
<i>Castanea crenata</i> Siebold & Zucc.	Central Agricultural Office, HU
<i>Chenopodium quinoa</i> Willd.	Naktuinbouw, NL
<i>Chrysanthemum dichrum</i> (C. Shih) H. Ohashi & Yonek. x <i>Opisthopappus taihangensis</i> (Y. Ling) C. Shih	Naktuinbouw, NL NIAB, UK
<i>Clematis x diversifolia</i> DC.	Naktuinbouw, NL COBORU, PL NIAB, UK
<i>Crassula muscosa</i> L.	Naktuinbouw, NL
<i>Delosperma cooperi</i> (Hook. f.) L. Bolus	Naktuinbouw, NL
<i>Dianthus superbus</i> L.	Naktuinbouw, NL
<i>Diplotaxis eruroides</i> (L.) DC	GEVES, FR Naktuinbouw, NL
<i>Eucalyptus camaldulensis</i> Dehnh. x <i>E. globulus</i> Labill. subsp. <i>bicostata</i> (Maiden et al.) J. B.	CRA, FRU, IT
<i>Eugenia uniflora</i> L.	NIAB, UK
<i>Fagus sylvatica</i> L.	Naktuinbouw, NL COBORU, PL NIAB, UK
<i>Gentiana pneumonanthe</i> L. x <i>G. scabra</i> Bunge	Naktuinbouw, NL
<i>Gleditsia triacanthos</i> L.	COBORU, PL NIAB, UK
<i>Gymnocalycium mihanovichii</i> (Fric et Gürke) Britton et Rose	Naktuinbouw, NL
<i>Gymnosporia diversifolia</i> Maxim.	Naktuinbouw, NL
<i>Heliconia stricta</i> Huber	Naktuinbouw, NL
<i>Jamesbrittenia carvalhoi</i> (Engl.) Hilliard	Bundessortenamt, DE Naktuinbouw, NL
<i>Knautia macedonica</i> Griseb.	Naktuinbouw, NL NIAB, UK
<i>Lantana montevidensis</i> (Spreng.) Briq.	Bundessortenamt, DE Central Agricultural Office, HU Naktuinbouw, NL

<i>Lechenaultia biloba</i> Lindl.	Naktuinbouw, NL NIAB, UK
<i>Leucadendron laureolum</i> (Lam.) Fourc.	NIAB, UK
<i>Leycesteria formosa</i> Wall.	Naktuinbouw, NL NIAB, UK
<i>Ligustrum ibota</i> Siebold	Central Agricultural Office, HU Naktuinbouw, NL NIAB, UK
<i>Linaria purpurea</i> (L.) Mill.	Naktuinbouw, NL NIAB, UK
<i>Liriodendron tulipifera</i> L.	COBORU, PL
<i>Medinilla</i> Gaudich.	Naktuinbouw, NL
<i>Monstera obliqua</i> Miq.	Naktuinbouw, NL
<i>Myriophyllum aquaticum</i> (Vell.) Verdc.	Naktuinbouw, NL
<i>Nepeta goviana</i> Benth. x <i>N. tuberosa</i> L.	Naktuinbouw, NL NIAB, UK
<i>Osmanthus fragrans</i> Lour.	GEVES, FR NIAB, UK
<i>Parahebe catarractae</i> (G. Forst.) W. R. B. Oliv.	Naktuinbouw, NL NIAB, UK
<i>Parthenocissus quinquefolia</i> (L.) Planch.	Naktuinbouw, NL COBORU, PL
<i>Peperomia argyreia</i> (Miq.) E. Morren x <i>P. rotundifolia</i> (L.) Kunth	Naktuinbouw, NL
<i>Peperomia quadrangularis</i> (J. V. Thomps.) A. Dietr. (syn. <i>P. angulata</i> Kunth) x <i>P. puteolata</i> Trel.	Naktuinbouw, NL
<i>Pernettya mucronata</i> (L. f.) Spreng. (syn. <i>Gaultheria mucronata</i> (L. f.) Hook. & Arn.)	NIAB, UK
<i>Phlox subulata</i> L.	Naktuinbouw, NL
<i>Pinus thunbergii</i> Parl.	Naktuinbouw, NL NIAB, UK
<i>Pistacia vera</i> L.	CRA-FRU, IT
<i>Prunus lusitanica</i> L.	Naktuinbouw, NL NIAB, UK
<i>Rhodanthemum</i> (Vogt) B. H. Wilcox et al.	Naktuinbouw, NL NIAB, UK
<i>Roscoea purpurea</i> Sm.	Naktuinbouw, NL
<i>Ruscus hypoglossum</i> L.	NIAB, UK
<i>Salix arctica</i> Pall. (syn. <i>Salix anglorum</i> Cham.)	Bundessortenamt, DE Naktuinbouw, NL
<i>Salvia chamaedryoides</i> Cav. x <i>S. lycioides</i> A. Gray	Naktuinbouw, NL NIAB, UK
<i>Salvia</i> L.	Naktuinbouw, NL NIAB, UK
<i>Salvia nana</i>	Naktuinbouw, NL NIAB, UK
<i>Salvia viridis</i> L.	Naktuinbouw, NL NIAB, UK
<i>Seemannia purpurascens</i> Rusby x <i>S. sylvatica</i> (Kunth) Hanst.	Bundessortenamt, DE Naktuinbouw, NL
<i>Silphium perfoliatum</i> L.	Bundessortenamt, DE Naktuinbouw, NL NIAB, UK
<i>Silybum marianum</i> (L.) Gaerth	Bundessortenamt, DE NIAB, UK
<i>Telopea speciosissima</i> (Sm.) R. Br. x <i>T. oreades</i> F. Muell.	NIAB, UK
<i>Telopea speciosissima</i> (Sm.) R. Br. x <i>T. truncata</i> (Labill.) R. Br.	NIAB, UK
<i>Teucrium x lucidrys</i> Boom	Naktuinbouw, NL NIAB, UK
<i>Tibouchina granulosa</i> (Desr.) Cogn.	Naktuinbouw, NL
<i>Triticum spelta</i> x <i>T. dicoccum</i>	Bundessortenamt, DE Central Agricultural Office, HU NIAB, UK
<i>Verbascum luridiflorum</i> Hub.-Mor.	Naktuinbouw, NL NIAB, UK
<i>Vitex trifolia</i> L.	Naktuinbouw, NL

### 11.3.2.5. Participation in international fairs

The CPVO considers its participation in international fairs and open days at examination offices to be a useful opportunity to promote the Community plant variety rights system, to have direct contact with applicants and to provide information to growers. In 2011, the Office participated in two fairs.

- At the end of January 2011, the Office attended the IPM (Internationale Pflanzenmesse) in Essen, Germany. The stand was shared with German colleagues from the Bundessortenamt. Even though the fair is open to the entire field of horticulture, the focus lies with ornamentals.
- The Salon du Végétal, which takes place at the end of February in Angers (France), is a fair mainly for growers of ornamental plants in which the Office regularly participates together with GEVES, the French examination office.

Furthermore, the Office, in cooperation with the French GEVES and INRA institutes, held a Fruit Open Day at their testing centres in the Avignon region. The event was attended by more than 50 stakeholders (breeders, procedural representatives, examiners) and discussed current issues in the fruit sector, as well as giving participants the opportunity to visit the field trials and reference collections for peach and apricot.



Salon du Végétal 2011, Angers, France



IPM 2011, Essen, Germany

## 11.4. Technical liaison officers (TLOs)

The CPVO tries to have a close and efficient working relationship with its examination offices and the national offices of the Member States. Therefore, in 2002, the Office formalised a network of contact persons on a technical level in the Member States, the so-called technical liaison officers (TLOs). The TLOs play an important role in the relationship of the Office with its examination offices.

The following principles apply.

- TLOs are appointed by the relevant member of the Administrative Council.
- There is only one TLO per Member State.
- Any modification as far as the TLO is concerned is communicated to the CPVO through the relevant member of the Administrative Council.

The role of the TLO can, in general, be defined as being the contact point for the Office on a technical level. This means the following in particular.

- Invitations for the annual meeting with the examination offices are, in the first place, addressed to that person. If the TLO is not attending, he/she should communicate the details of the person who is attending that meeting to the CPVO.
- Invitations for expert groups on a technical level are initially addressed to the TLO who is in charge of nominating the relevant expert to the CPVO. Once an expert group has been set up, further communications or invitations are directly addressed to the relevant designated expert.
- The TLO should be the person on a national level who is in charge of distributing information of technical relevance in respect of the Community plant variety rights system within his or her own country/authority (e.g. informing colleagues who are crop experts) on conclusions drawn at the annual meeting of the examination offices, etc.
- Technical inquiries, which are sent out by the CPVO in order to collect information, should be addressed to the TLOs. Examples include:
  - new species procedures, in order to prepare the proposal for the nomination of examination offices to the Administrative Council;
  - questionnaires in respect of closing dates, quality requirements, testing of GMOs, etc.
- For communications of a general technical nature, the Office contacts the TLOs first. Specific problems, such as in respect of a certain variety, may be discussed in the first instance directly at the level of the crop expert at the examination office and of the relevant expert at the CPVO.

The latest version of the list of appointed TLOs (as of 31 December 2011) is as follows.

John Austin	Executive Agency of Variety Testing Ministry of Agriculture and Food Field Inspection and Seed Control Bulgaria
Bronislava Bátorová	UKSUP Central Controlling and Testing Institute in Agriculture Variety Testing Department Slovakia
John Claffey	Department of Agriculture, Food and the Marine Office of the Controller of Plant Breeders' Rights Ireland
Elena Craita Checiu	State Office for Inventions and Trademarks Romania
Paula Cruz de Carvalho	DGADR Direcção-Geral de Agricultura e Desenvolvimento Rural Divisão de Sementes, Variedades e Recursos Genéticos Portugal
Maureen Delia	Seeds and Other Propagation Material Unit Plant Health Directorate Agriculture and Fisheries Regulation Division Ministry for Resources and Rural Affairs Malta
Gerhard Deneken	Ministry of Food, Agriculture and Fisheries Danish AgriFish Agency Department of Variety Testing Denmark
Kees van Ettekoven	Naktuinbouw The Netherlands
Barbara Fürnweger	Bundesamt für Ernährungssicherheit Austria
Zsuzanna Füstös	Central Agricultural Office Hungary
Primoz Grižon	Ministry of Agriculture, Forestry and Food Phytosanitary Administration of the Republic of Slovenia Slovenia
Joël Guiard	GEVES Groupe d'étude et de contrôle des variétés et des semences France
Sigita Juciuvienė	Ministry of Agriculture Lithuanian State Plant Service Lithuania
Sofija Kalinina	Ministry of Agriculture of the Republic of Latvia State Plant Protection Service Latvia

Marcin Król	Coboru Centralny Ośrodek Badania Odmian Roślin Uprawnych Poland
Paivi Mannerkorpi	European Commission Directorate-General for Health and Consumers Unit 1 — Biotechnology and plant health Belgium
Kyriacos Mina	Ministry of Agriculture, Natural Resources and Environment Agricultural Research Institute Cyprus
Kaarina Paavilainen	Finnish Food Safety Authority Evira Finland
Laima Puur	Agricultural Board Estonia
Mara Ramans	Food and Environment Research Agency (FERA) United Kingdom
Beate Rücker	BSA Bundessortenamt Germany
Radmila Safarikova	UKZUZ Central Institute for Supervising and Testing in Agriculture Czech Republic
Luis Salaices Sánchez	OEVV Oficina Española de Variedades Vegetales Ministerio de Medio Ambiente y Medio Rural y Marino Spain
Dimitrios Batzios	Ministry of Rural Development and Food Variety Research Institute of Cultivated Plants Greece
Karin Sperlingsson	Statens Jordbruksverk Sweden
Domenico Strazzulla	Ministero delle Politiche Agricole Alimentari e Forestali Dipartimento della Politiche Competitive del Mondo Rurale e della Qualità Italy
Camille Vanslebrouck	OPRI Office de la propriété intellectuelle Belgium
Marc Weyland	Administration des services techniques de l'agriculture Service de la production végétale Luxembourg

## **11.5. The multi-beneficiary programme on the participation of Albania, Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Serbia and Turkey in the Community plant variety rights system**

Since 2006, the CPVO has been participating in the so-called multi-beneficiary programme aimed at preparing candidate countries for accession to the European Union. This programme was initially set up for Croatia and Turkey; in 2008, it was extended to the former Yugoslav Republic of Macedonia and, since 2009, it has been open to all countries in the western Balkans region. Albania and Serbia expressed an interest in participating in its activities in 2009; Bosnia and Herzegovina in 2010.

Within the framework of this programme, representatives of the national plant variety rights authorities were invited to participate in crop expert meetings held regularly at the CPVO. Furthermore, experts from the candidate countries were trained at the examination offices already working on behalf of the CPVO. Additionally, EU experts trained staff in the candidate countries.

For most of 2011, the continuation of the programme was interrupted. Only at the end of the year could the candidate countries participate in the vegetable expert meeting, as well as in the annual meeting with the examination offices. A new programme covering the period until 2014 has been approved by the European Commission.

# 12. VARIETY DENOMINATIONS

## 12.1. Cooperation in denomination testing

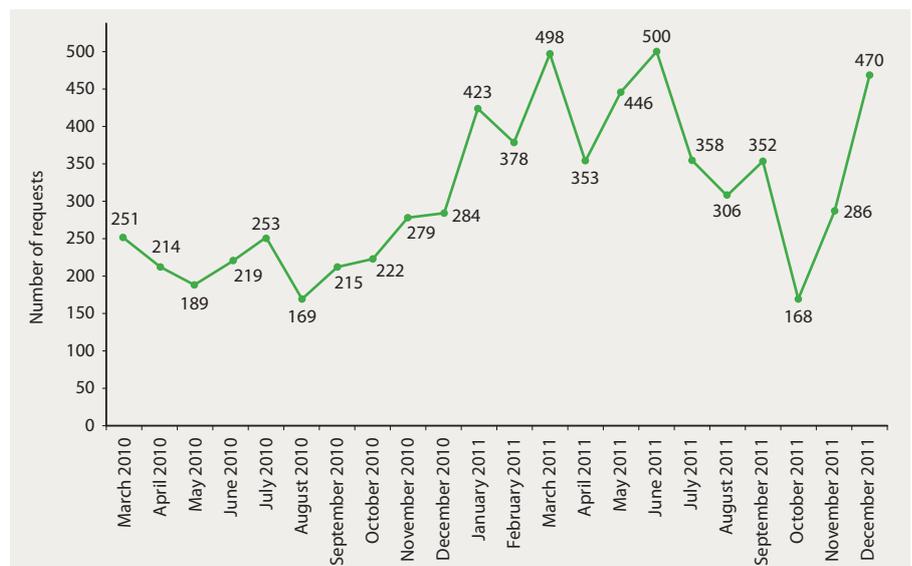
The purpose of this activity is to reach a greater harmonisation of decisions as to the suitability of proposals for variety denominations in procedures for national plant variety rights, for national listing and at the level of the CPVO.

As a matter of fact, the marketing directives relevant for the commercialisation of agricultural and vegetable varieties in the EU contain a cross reference to Article 63 of Regulation (EC) No 2100/94 on Community plant variety rights. Article 63 lays down the criteria for the suitability of variety denomination proposals. The legal basis in respect of the suitability of variety denominations is thus unique. However, experience has revealed that applicants have sometimes still had to face differing decisions from various authorities in respect of the suitability of the denomination proposals for their varieties. This is the reason why the Office felt that a system of cooperation in checking the suitability of variety denomination proposals would lead to a better harmonisation of decisions. This initiative from the CPVO was confirmed by the CPVO's Administrative Council.

In March 2010, the CPVO put in place a web-based system whereby EU Member States can request advice from the CPVO before publishing an official proposal for denomination in the plant variety rights or listing procedure. In the case of controversial opinions, exchanges of view can take place, but the decision remains in the hands of the authority where the application for registration of the variety has been made.

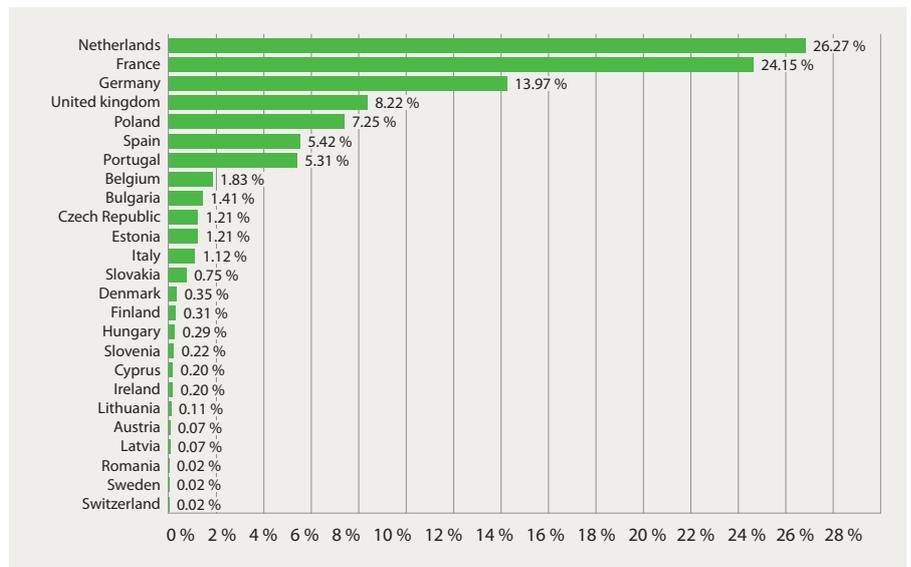
Although there were ups and downs, overall a great increase in the number of requests for advice was registered in 2011 with more than 4 500 requests, compared to 2 300 in 2010 (Graph 18).

**Graph 18**  
Evolution of the number of monthly requests for advice since the beginning of the project



The number of countries participating in the system also increased, with 25 of them having profited from CPVO advice in 2011. Norway and Switzerland also expressed their interest in participating, and this request was granted, taking into account their link to the system of marketing of agricultural and vegetable species in the EU (Graph 19). Still, not all EU Member States have yet included such requests for advice in their routine procedures, and the Office hopes to convince them to do so in 2012.

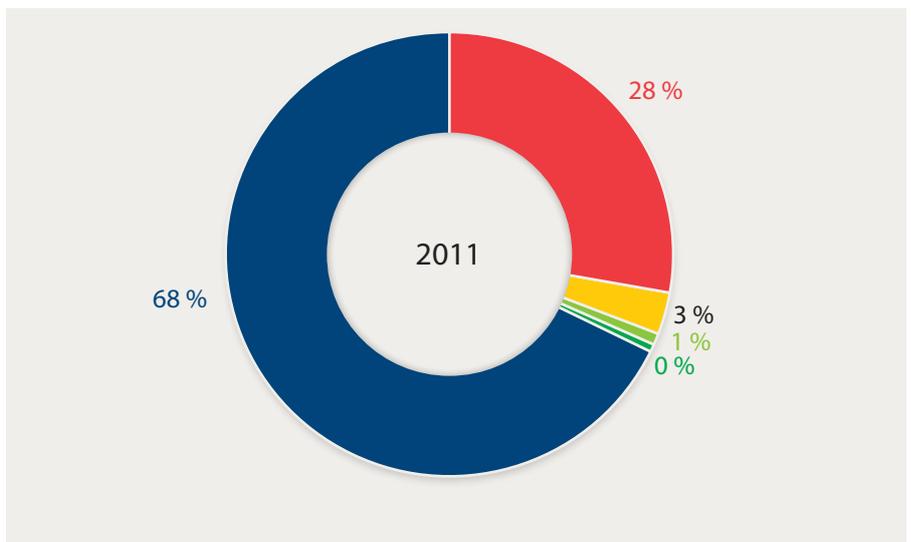
**Graph 19**  
Percentage of requests for advice per country in 2011



Regular users of the system expressed their satisfaction with the service, which does not delay their internal procedure. In 2011, 68 % of advice was provided within 24 hours of the request having been made and 96 % within one week (Graph 20).

**Graph 20**  
Global processing time for provision of advice in 2011

- Total analyses within 24 hours: 2 679; 68 %
- Total analyses between 2 and 5 working days: 1 259; 28 %
- Total analyses between 6 and 10 working days: 134; 3 %
- Total analyses between 11 and 15 working days: 26; 1 %
- Total analyses more than 16 working days: 9; 0 %

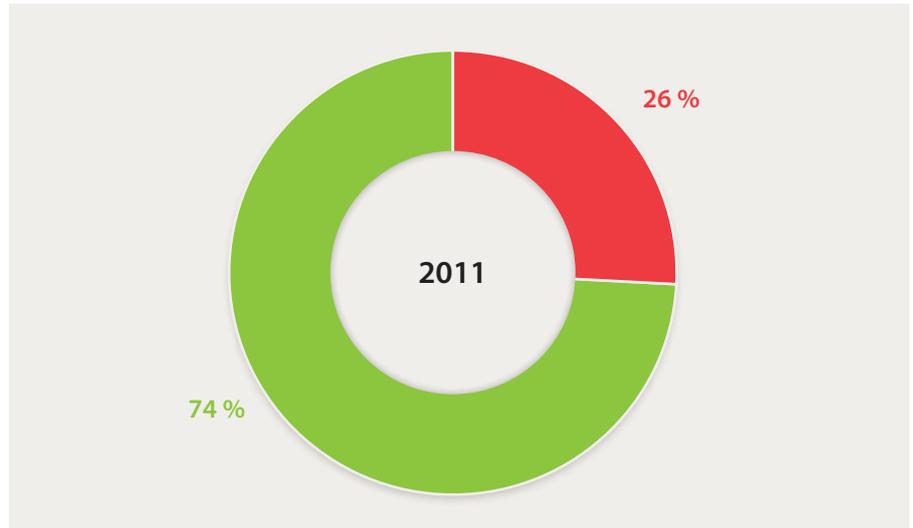


Some 26 % of the requests for advice were subject to observation, most of them being linked to similarity or confusing aspects (Graph 21).

**Graph 21**

Proportion of observation in advice provided in 2011

■ Non-observation  
■ Observation



## 12.2. A possible development of the rules for suitability of variety denominations

On various occasions, the CPVO has received feedback from some of its stakeholders stating that the CPVO's interpretation of these rules is perceived to be too strict or not very clear. For this reason, the Office proposed to organise a meeting on 11 May 2011 in Brussels in order to inform stakeholders which considerations are taken into account by the Office when interpreting the applicable rules. Administrative Council members, technical liaison officers, the European Commission and the breeders' associations ESA, Ciopora and Plantum were invited to this meeting. The European Commission participated, seven Member States were represented and all breeders' associations took part in the meeting, accompanied by 14 breeders.

The presentation of the Office was illustrated with recent cases dealt with by the CPVO within the framework of its own procedures or within the framework of the enhanced cooperation with EU Member States. Exchanges of views took place, concrete proposals were made and it was concluded that the interpretations of the rules made by the Office should be clearer and more transparent.

The Office is currently working on a document taking into account all proposals made. In some cases, their implementation will require a modification of the guidelines and of Commission Regulation (EC) No 637/2009. In other cases, a modification of the explanatory notes to the guidelines will be sufficient and should be presented to the Administrative Council.

At this first meeting, it was underlined that all Member States should make use of the system of enhanced cooperation, which also enables the inclusion of proposals for denominations that are subject to a request for advice in the CPVO Variety Finder. This is one of the key points for harmonising the interpretation of the provisions as laid down in the variety denominations guidelines between the CPVO and national authorities.

# 13. ENFORCEMENT

## 13.1. Seminars

In recent years, the Office has organised seminars on the enforcement of plant varieties in Brussels (2005), Warsaw (2006), Madrid (2007), Sofia and Bucharest (2008), Athens (2010) and lastly Hamburg (25 May 2011), in close cooperation with the breeders' organisations Ciopora (International Association of Plant Breeders of Asexually Reproduced Ornamental and Fruit Varieties), ESA (European Seed Association) and BSA (Bundessortenamt).

This seminar aimed at sharing information and experience on the enforcement of plant variety rights in Germany and neighboring countries, in particular the Scandinavian and Baltic states.

Around 100 participants attended this seminar (50 % were German), including intellectual property practitioners specialising in plant variety protection, but also breeders, farmers, trade companies, lawyers, judges and government representatives. They shared information and experience relating to the enforcement of plant variety.

All presentations made during the seminars are published on the website of the Office.

In the past, seminars on the enforcement of plant varieties organised by the CPVO have always been a great success and are highly appreciated by participants, and new seminars are planned for the coming years.

## 13.2. Database containing court cases on PVR

One of the challenges in enforcing plant variety rights is that the legal procedure as well as the interpretation of the law can be rather difficult. Studying case-law is, in many cases, a helpful tool when interpreting the law and the procedural tools available. For this reason, the Office has created a database on its website containing case-law on plant variety right cases from courts in the EU. The full text of the cases in their language of origin as well as



Enforcement seminar, May 2011, Hamburg, Germany



Enforcement seminar, May 2011, Hamburg, Germany

a summary in English can be downloaded from the database. In addition, a search tool can be used to facilitate the finding of relevant cases.

In 2011, a number of new cases were added to the database. The Office is working with a contributor from each Member State providing the Office with new cases. In this respect, we would like to express our special thanks to our Spanish contributor, Mr Enrique Ayllon, who has provided the Office with many Spanish cases since the implementation of this database.

# 14. IT DEVELOPMENTS

In 2011, the CPVO developed several tools, for both internal and external use.

## 14.1. Online applications

In 2011, the CPVO increased the number of technical questionnaires available for online applications to 98, including four general technical questionnaires for ornamental species, thus covering more than 140 species.

The number of applications has grown steadily since the system launch, with more than 50 % of applications submitted by electronic means in September and December 2011. The total number of online applications since the official launch of the system reached 1 395 by 31 December 2011.

An update of the programme was put in place in September in order to provide additional features, including the possibility to have conditional questions, thus reducing the size of questionnaires when possible. This was implemented for the application form, and will be progressively implemented in technical questionnaires whenever deemed necessary and useful.

In parallel, a pilot project was initiated to study the possibility of sharing the online application system with national offices. In this respect, a working group was set up with two national offices (GEVES in France and Naktuinbouw in the Netherlands) with the aim of providing online application facilities for a few pilot species.

The image shows a screenshot of a web-based application form for 'ROSA L.'. The form is organized into several sections, each with a green header bar. The sections include: 1. '1. Identification of the applicant', 2. '2. Identification of the plant material', 3. '3. Identification of the plant material', 4. '4. Identification of the plant material', 5. '5. Identification of the plant material', 6. '6. Identification of the plant material', 7. '7. Identification of the plant material', 8. '8. Identification of the plant material', 9. '9. Identification of the plant material', 10. '10. Identification of the plant material'. Each section contains various input fields, checkboxes, and text boxes. The form is displayed in a browser window with a standard toolbar at the bottom.

Online Application — Application form for *Rosa L.*

## **14.2. Exchange of electronic documents with the CPVO examination offices**

At the beginning of 2011, the CPVO implemented a solution in order to publish, in a restricted area of the CPVO website, documents linked to the organisation of technical examinations or takeovers' reports from examination offices.

During the year, the CPVO carried out a study in order to improve the current situation where e-documents can only be sent in one direction (from the CPVO to the examination offices). The study demonstrated that B2B (business to business) solutions can be developed making use of exchange platforms, with the possible integration of these solutions into the existing CPVO information system.

A pilot study with five CPVO examination offices (France, Germany, the Netherlands and the United Kingdom, and Spain as an observer) was launched at the end of 2011 to use an exchange platform between partners for exchanging a set of e-documents (purchase orders, invoices, technical reports, etc.). The conclusions of this pilot experience are expected to be available by the end of 2012.

# 15. COOPERATION WITH THE DIRECTORATE-GENERAL FOR HEALTH AND CONSUMERS

The following committees are organised by the European Commission on a more or less regular basis. Staff members of the CPVO attend these meetings as observers in case the agenda is of particular interest for the Office.

## 15.1. Standing Committee on Community Plant Variety Rights

This Committee did not meet in 2011.

## 15.2. Standing Committee on Seeds and Propagating Material for Agricultural, Horticulture and Forestry

This committee met six times during 2011 in Brussels and staff members of the CPVO attended two meetings.

Of particular interest for the CPVO throughout 2011 were the following items:

- the Commission's updates and the related discussions on the review of the legislation related to seed and plant material, in particular the public consultation of the 'option and analysis' paper for the impact assessment of the seeds and propagating material review;
- the presentation by the Commission of a prototype for a new web application of the database of the common catalogues of varieties of agricultural and vegetable species;
- the information on the presentation of rootstocks in the common catalogue of varieties of vegetable species;
- the discussion on a draft Commission directive amending Commission Directives 2003/90/EC and 2003/91/EC setting out implementing measures for the purposes of Article 7 of Council Directives 2002/53/EC and 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 and vegetable species;
- the discussions related to the implementation of Commission Directives 2008/62/EC and 2009/145/EC on conservation and amateur varieties;
- the discussions on the Commission working programme for 2012.

## 15.3. Standing Committee on Propagating Material of Ornamental Plants

This Committee did not meet in 2011.

## 15.4. 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 Commission.

One major issue in this directive is the obligation of 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 Community plant variety rights will automatically be authorised for marketing within the EU without any further need of registration.

The implementation of this directive has been discussed in several standing committees and working groups since its adoption. There were two meetings of the standing committee in 2011 and two meetings of the working group. The CPVO participated in the meetings and followed the development of discussions closely, especially on aspects related to the DUS examination and the suitability of proposed variety denominations. The Office regularly communicated its views to the Commission in this respect.

## 15.5. Council working parties

Following an invitation from the Directorate-General for Health and Consumers to integrate the representation from the European Commission, the CPVO participated in the following Council working parties:

- coordination of UPOV meetings (Council, Consultative Committee and Administrative and Legal Committee);
- agricultural questions.



DG SANCO delegation at the CPVO, February 2011



DG SANCO delegation at the CPVO, February 2011

## **15.6. Visit to the CPVO by a delegation from the Directorate-General for Health and Consumers**

On 22 February 2011, a high-level delegation of the Directorate-General for Health and Consumers visited the CPVO. The purpose of this visit was to give new staff members of the Health and Consumers DG who will be dealing with plant variety protection issues a clear view of the tasks and challenges related to the CPVO. Furthermore, the possibilities of the future transfer of tasks from the Commission to the CPVO were explored. The delegation took the opportunity provided by this day to visit the testing station of the French examination office, GEVES, at Brion.

# 16. CONTACTS WITH EXTERNAL ORGANISATIONS

## 16.1. Contacts with breeders' organisations

The CPVO has regular contacts with the breeders' organisations that represent the users of the EU system: the Organisation of Breeders of Asexually Reproduced Ornamental and Fruit Plants (Ciopora); the European Seed Association (ESA), which, on a European level, organises breeders of agricultural and vegetable varieties; and Plantum, an association for the plant reproduction material sector. Representatives of the organisations participate in all the relevant meetings of technical experts organised by the Office. The organisations take an active part in and contribute to seminars and workshops organised by the CPVO to spread information on all aspects of the Community plant variety protection system.

In order to offer the organisations the possibility to express their views concerning the issues to be discussed by the Administrative Council, a delegation of the CPVO and the Administrative Council usually meet with representatives of the breeders' organisations shortly before each Administrative Council meeting.

In the report year, the CPVO attended the annual meetings of Ciopora and ESA, respectively in Rome (Italy) and in Budapest (Hungary).

## 16.2. Contacts with UPOV

The CPVO has participated in UPOV activities since 1996. In July 2005, the European Union became a member of UPOV.

During 2011, as members of the EU delegation, CPVO officials participated in the activities of UPOV and attended the meetings of the following bodies and committees of the International Union:

- UPOV Council;
- Legal and Administrative Committee;



Ciopora and ESA Secretaries-General, Edgar Krieger and Garlich von Essen



UPOV Vice-Secretary General, Peter Button, and CPVO President, Martin Ekvad

- Technical Committee;
- Consultative Committee;
- Enlarged Editorial Committee;
- technical working parties (agricultural crops, vegetables, fruit crops, ornamental plants and forest trees, BMT review group);
- Advisory Group of the Legal and Administrative Committee.

The CPVO also collaborated in the training course for Latin American countries on protection of plant variety rights, organised by UPOV, the World Intellectual Property Organisation (WIPO) and the Spanish authorities, in Montevideo, Uruguay, in December.

The Vice-Secretary General of UPOV participates in most meetings of the CPVO Administrative Council. Senior officials of the UPOV office also regularly attend meetings of experts or working groups organised by the CPVO dealing with technical and legal issues of common interest.

The CPVO signed a memorandum of understanding with UPOV in October 2004 for a programme of cooperation. Within the framework of this cooperation, the CPVO exchanged information with UPOV during the development of its CPVO Variety Finder in order to ensure compatibility with the existing UPOV plant variety database (PLUTO database and UPOV-ROM). Both databases contain data on plant varieties for which protection has been granted, or which are the subject of an application for protection, and also those which are included in national lists of varieties for marketing purposes.

The CPVO Variety Finder operates on the basis of a system of codes attributed to botanical names and developed by UPOV. Since its release in July 2005, the Office and UPOV have started to exchange data extensively, UPOV collecting data from non-EU UPOV countries and the Office bringing together data from the EU. The CPVO assisted UPOV in the attribution of codes to the species names of varieties of the PLUTO database and UPOV-ROM.

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, accumulated experience and results relating to plant variety rights systems with a regional scope. The CPVO frequently provides speakers for seminars and technical workshops organised by UPOV.

### **16.3. Contacts with the African Regional Intellectual Property Organisation (ARIPO)**

The African Regional Intellectual Property Organisation (ARIPO) is an intergovernmental organisation which was established in Lusaka (Zambia) in 1976 by an agreement concluded under the auspices of the United Nations Economic Commission for Africa (ECA) and the World Intellectual Property Organisation (WIPO). ARIPO was created, inter alia, to promote the development of intellectual property laws appropriate to the needs of its members, to establish common services and training schemes and to assist its members in the acquisition and development of technology and the evolving of common views on intellectual property matters. The organisation has 18 member countries. ARIPO is in the process of developing a regional system for the protection of new plant varieties.

Martin Ekvad participated in a workshop on the ARIPO regional framework on plant variety protection in Accra (Ghana) in July 2011, which was organised in cooperation with UPOV. He presented the EU regional system on the protection of new plant varieties and the technical cooperation between EU Member States in this respect.

### **16.4. Contacts with the African Intellectual Property Organisation (OAPI)**

OAPI, an intergovernmental organisation based in Yaoundé (Cameroon), works on the implementation of the Bangui Agreement, which has established a regional system of intellectual property rights, of which plant breeders' rights form a part. Consequently, it is particularly interested in the experience gained by the CPVO running the Community system.

The President of the Office has signed, with the Director-General of OAPI, a memorandum of understanding setting up the framework for future cooperation. The decision of the Administrative Council of OAPI for the entry into force of the PBR system in 2006 and its implementation will provide multiple opportunities for cooperation in several fields of activity.

A regular exchange of publications is maintained.



Martin Ekvad, CPVO President, and Régine Wéré Gazaro, OAPI Head of Patent Services and Derived Titles

Martin Ekvad contributed in June of the report year to a seminar organised by OAPI on plant variety protection under the UPOV convention held in Lomé (Togo).

## 16.5. Other contacts

The CPVO maintains regular external contacts by participating in meetings organised by:

- the Commission Directorate-General for Human Resources and Security: implementation matters regarding staff regulations;
- the Commission Directorate-General for the Budget: implementation of the new financial regulation and the internal audit function.

In addition, other fields of external activity can be mentioned, such as:

- the relevant standing committees of the European Commission;
- the Translation Centre Administrative Council;
- the coordination of the EU agencies at management level;
- the annual coordination meeting of the Publications Office with the EU agencies;
- the meetings of the data protection officers of the EU agencies.

Furthermore, based upon the 1991 Act of the UPOV Convention and the plant variety rights legislation of the Socialist Republic of Vietnam and the European Union, a memorandum of understanding was signed in May 2011. Both parties agree to provide the other with results of technical examinations and related documents. Each party remains free to base a decision on the granting of plant variety rights on the reports of the other party. If necessary, the Vietnam Plant Variety Protection Office and the CPVO may exchange plant material of the varieties concerned, with the agreement of the applicant.

# 17. PUBLIC ACCESS TO CPVO DOCUMENTS

In 2001, specific rules on public access to documents held by the European Parliament, the Council and the Commission were introduced by the adoption of Regulation (EC) No 1049/2001 <sup>(1)</sup>. In order for these rules to apply also to documents held by the Office, a new article, Article 33(a), was introduced into the basic regulation in 2003 by the adoption of Council Regulation (EC) No 1650/2003 <sup>(2)</sup>.

Article 33(a) contains the following elements.

- Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents shall also apply to documents held by the Office. This provision entered into force on 1 October 2003.
- The Administrative Council shall adopt practical arrangements for implementing Regulation (EC) No 1049/2001. The Administrative Council adopted such practical arrangements on 25 March 2004. These rules entered into force on 1 April 2004.
- Decisions taken by the Office 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 Administrative Council are available on the website of the Office. Information on these rules and forms to use when requesting access to a document have also been published on the website of the Office.

The Office follows up 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 Office refused to grant access to documents and the reasons for such refusals.

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)

<sup>(1)</sup> 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 (OJ L 145 of 31.5.2001, p. 43).

<sup>(2)</sup> Council Regulation (EC) No 1650/2003 of 18 June 2003 amending Regulation (EC) No 2100/94 on Community plant variety rights (OJ L 245 of 29.9.2003, p. 28).

# 18. REPORT OF THE CPVO DATA PROTECTION OFFICER (DPO)

## 18.1. Legal background

Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data was adopted for the purpose of complying with Article 286 of the Treaty establishing the European Community. Article 286 requires the application to the EU institutions and bodies of the Community 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 not only means transferring data to third parties, but also collecting, recording and storing data, whether or not by electronic means.

## 18.2. Role and tasks of the Data Protection Officer

Regulation (EC) No 45/2001 requires the nomination of at least one Data Protection Officer in the EU institutions and bodies who should ensure, in an independent manner, the internal application of the provisions in the regulation.

The DPO keeps a register of all personal data processing operations in the institution/body and provides information on rights and obligations, provides services and makes recommendations. The DPO notifies risky processing of personal data to the European Data Protection Supervisor (EDPS) and responds to requests from the EDPS.

By decision of the President of 24 April 2009, a DPO was appointed at the CPVO for a term of three years. In 2011, from May until the end of the year, a full-time assistant to the DPO was employed in order to help the CPVO to improve compliance with the data protection rules.

## 18.3. Visit to the CPVO by a delegation from the Office of the European Data Protection Supervisor

A delegation of three members from the office of the EDPS visited the CPVO on 15 February 2011. This visit was one of the EDPS compliance tools described in the policy paper *Monitoring and ensuring compliance with Regulation EC No 45/2001* adopted by the EDPS on 13 December 2010.

This on-site visit was a good occasion to reinforce the cooperation between the CPVO and the office of the EDPS as well as a tool for enhancing compliance with the regulation. The visit resulted in an important exchange of views about the specific problems encountered by small agencies such as the CPVO. This visit also gave the EDPS an opportunity to raise awareness among the staff.

## **18.4. Report of the CPVO Data Protection Officer for 2011**

### **18.4.1. Register of data processing operations**

The DPO created a register of data protection operations in the form of a database, available from the CPVO intranet, under the DPO intranet site. This register contains notifications (Article 25) received from the controllers, as well as prior checking operations (Article 27) sent to the EDPS for an opinion.

This register contains, as at the end of 2011, 50 entries composed of 31 notifications and 19 prior checking operations, of which 17 have received an opinion from the EDPS and two have an opinion pending with the EDPS (Cases 2011-1123 and 2011-1073).

### **18.4.2. Inventory of data processing operations**

An inventory was first drafted by the DPO when appointed. This is regularly updated with new processing operations within the CPVO. This inventory contained, as at the end of 2011, 54 processing operations, of which 90 % are finalised in the register.

In his 'Survey 2011' measuring compliance with Regulation (EC) No 45/2001 in EU institutions and bodies, the EDPS indicated his satisfaction with the efforts made by the CPVO in 2011 to implement the regulation and with the results achieved. Indeed, as of 30 September 2011, the level of compliance of the CPVO reached 70 % with regard to Article 25 notifications and 80 % with regard to Article 27 notifications.

### **18.4.3. Thematic guidelines of the EDPS**

The EDPS adopted some thematic guidelines in 2011, for which the DPO submitted seven prior checking notifications to the EDPS for CPVO procedures falling under those guidelines.

The notifications concerned were:

1. selection of confidential counsellors and informal procedure on harassment;
2. disciplinary procedure;
3. staff evaluation (certification procedure, annual staff evaluation, part-time work, early retirement).

The CPVO also informed the EDPS about its video surveillance policy. Since this policy does not present specific risks, it was not to be notified to the EDPS.

#### **18.4.4. Information provided to data subjects**

The staff members of the CPVO are informed about data protection issues through the DPO website, which is updated on a regular basis. It contains the principles of data protection, the subjects' rights, the controller's obligations, the regulation, some documents and decisions of the President relating to data protection issues, data protection notices and privacy statements, the register, the forms for notifications to the DPO and a contact e-mail address.

# 19. APPEAL PROCEDURES

## 19.1. Composition of the Board of Appeal of the CPVO

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

### 19.1.1. Chairman and alternate of the Board of Appeal

The Chairman of the Board of Appeal, Mr Paul van der Kooij, was appointed for a term of five years by Council Decision 2007/858/EC of 17 December 2007 (OJ L 337, 21.12.2007, p. 105). His new alternate, Ms Sari Haukka, was appointed by Council Decision of 12 July 2011 (OJ C 209, 15.7.2011, p. 17). Her mandate will run from 15 October 2011 until 14 October 2016.

### 19.1.2. Qualified members of the Board of Appeal

In accordance with the procedure prescribed by Article 47(2) of Council Regulation (EC) No 2100/94, the Administrative Council of the CPVO, at its meeting of 16 February 2011, adopted the following list of 20 qualified members of the Board of Appeal for a period of five years starting on 23 February 2011 (21 members were appointed but one member resigned on 24 November 2011).

#### List of qualified members 2011–16

- |                                     |                                             |
|-------------------------------------|---------------------------------------------|
| 1. Barendrecht, Cornelis Joost      | 12. Pinheiro de Carvalho, Miguel Angelo     |
| 2. Bianchi, Pier Giacomo            | 13. Reheul, Dirk                            |
| 3. Bianchi, Richard                 | 14. Riechenberg Kurt                        |
| 4. Boenisch, Beatrix                | 15. Roberts, Timothy Wace                   |
| 5. Brand, Richard                   | 16. Scott, Elizabeth                        |
| 6. Csurös, Zoltán                   | 17. Ullrich, Hanns                          |
| 7. Fikkert, Krieno Adriaan          | 18. Van Marrewijk, Nicolaas Petrus Antonius |
| 8. Ghijzen, Huibert Cornelis Helmer | 19. Van Overwalle, Geertrui                 |
| 9. Guiard, Joël                     | 20. Van Wijk, Arnold Jan Piet               |
| 10. Johnson, Helen                  |                                             |
| 11. Köller, Michaël                 |                                             |

## 19.2. Decisions of the Board of Appeal in 2011

The Board of Appeal met once in 2011 and took four decisions on appeal Cases A001/2010, A005/2010, A006/2010 and A007/2010 on 18 February 2011.

### **19.2.1. Appeal Cases A001/2010 — ‘Sunrise’, A005/2010 — ‘Coral’ and A006/2010 — ‘Candy Cane’**

In September 2006, Plant Marketing International Ltd (PMI), representing breeder Lyder Enterprises Ltd (Lyder), filed an application at CPVO for three different varieties of *Cordyline australis* (the Cordyline varieties).

In order to prove the ownership of variety rights by Lyder, PMI disclosed a ‘deed of assignment’ (the Deed) dated 10 October 2002 between Lyder and Duncan and Davies Contracting Ltd (DDC), which in Lyder’s opinion had transferred the rights. The Deed related to an ‘agreement for micro-propagation and production’ (the Agreement) between DDC and another undertaking, Torbay Palm Farm International Ltd (Torbay). In addition, Lyder put forward two other arguments to justify ownership of the rights: (i) that it held 500 shares in DDC’s stock; and (ii) that Torbay had unilaterally surrendered the rights. The applicant submitted a series of affidavits to back its arguments.

In January 2008, Liner Plants NZ (1993) Ltd (Liner) objected to the grant of each of the *Cordyline* varieties. Liner alleged that Lyder was not the breeder, and claimed to hold the ownership rights on the varieties, having acquired them by means of a transaction between one of its subsidiaries and the liquidator of Duncan & Davies New Zealand Ltd (DDNZ), the holder of DDC’s former assets.

On 7 December 2009, the CPVO rejected the application for all three *Cordyline* varieties, ruling that the chain of entitlement under Article 11 of the basic regulation had not been respected.

On 6 January 2010, the CPVO issued a corrigendum, amending a clerical mistake in its previous decision: instead of ‘Article 11’, it had erroneously written ‘Article 12’.

On 24 December 2009, Lyder informed the CPVO of its intention to appeal and, on 23 April 2010, it submitted the grounds for appeal.

Lyder claimed that it was the only successor to the variety rights, because said rights had been assigned to Lyder by virtue of the Deed, which was fully valid and binding, before the liquidation of DDC’s assets.

Liner opposed Lyder’s arguments and submitted that the Deed did not constitute an assignment of ownership, but merely entitled Lyder to any monetary benefit under the Agreement between DDC and Torbay. Accordingly, the rights had remained the property of DDC until its liquidation.

The CPVO sided with Liner’s argument, stating that the Deed did not imply any transfer of rights from DDC to Lyder, since it explicitly stated that any material under the Agreement would remain in ownership of DDC.

## Decision of the Board of Appeal

**1. Admissibility:** the Board of Appeal found the appeal admissible, ruling that the corrigendum of 6 January 2010 had enabled a new deadline for the submission of the statement of grounds of appeal. The Board of Appeal considered that the clerical error of the CPVO had indeed substantial implications (for it stated that the decision's legal basis was Article 12 instead of Article 11) and could mislead the applicant as to the decision's rationale, affecting its interests. Accordingly, under CJEU and GC case-law (i.e. Case C-325/91 *French Republic v Commission* [1993] ECR I-3283; Case T-64/89 *Automec v Commission* [1990] ECR II-367 or Case T-3/94 *Air France v Commission* [1994] ECR II-121), the corrigendum itself was a decision open to challenge and should open its own deadline for appeal. Therefore, the Board of Appeal found that the applicant's statement of grounds had been filed in time.

**2. Substance:** the Board of Appeal examined Article 1.1 of the Deed, which established that 'all rights, interests and benefits pursuant to the Agreement' would pass to Lyder and sought to clarify if this also comprised the mother material, or merely other rights. The Board of Appeal found out that no ownership rights on the variety were transferred, since Article 1.1 of the Deed had to be interpreted in connection with the Agreement, whose Article 6.1 explicitly excluded ownership mother material from its scope of application. In the opinion of the Board of Appeal, the Agreement merely concerned a relationship to exploit the production of volumes of the plant material, but not the plant variety rights themselves.

Furthermore, the Board of Appeal examined two other mechanisms that Lyder had alleged during the proceedings to justify a transfer of ownership.

First, the Board of Appeal assessed the implications of the declaration of trust, ruling that it could not be inferred from it that Lyner was DDC's leading shareholder and, in any case, even the fact of owning a majority of DDC's stock would not imply ownership over its assets.

Second, the Board of Appeal stated that Torbay's surrender of rights had no effect, since Torbay never held ownership of the varieties listed in the Agreement.

Therefore, the Board of Appeal ruled that Lyder had not yet been the owner of the varieties at the moment of filing. Thus, the chain of entitlement under Article 11 of the basic regulation had not been respected. For this reason, CPVO's decision to reject the application was lawful.

The Board of Appeal also rejected the submitted affidavits as a mean of proof, stating that they were unsworn declarations within the meaning of Article 78(g) of the basic regulation, and only enjoyed limited probative value.

The Board of Appeal dismissed the appeal and ordered Lyder to bear the costs.

## 19.2.2. Appeal case A007/2010 — ‘Southern Splendour’

In September 2006, Plant Marketing International Ltd (PMI), representing breeder Lyder Enterprises Ltd (Lyder), filed an application at CPVO for a variety of *Cordyline australis* (the *Cordyline* variety).

In order to prove the ownership of the variety rights by Lyder, PMI disclosed a ‘deed of assignment’ (the Deed) dated 10 October 2002 between Lyder and Duncan and Davies Contracting Ltd (DDC), which in Lyder’s opinion had transferred the rights. The Deed related to an ‘agreement for micro-propagation and production’ (the Agreement) between DDC and another undertaking, Torbay Palm Farm International Ltd (Torbay). In addition, the applicant put forward two other arguments to justify ownership of the right by Lyder: (i) that it held 500 shares in DDC’s stock; and (ii) that Torbay had unilaterally surrendered the rights. The applicant submitted a series of affidavits to back its arguments.

Further, when asked to do so by the Office, Lyder submitted that the *Cordyline* variety was novel. It claimed that no sales had taken place, excepting a total of 4600 plugs by a receiver of Torbay, and that they had reached an agreement with Torbay not to commercialise the plants.

In January 2008, Liner Plants NZ (1993) Ltd (Liner) objected to the grant of the *Cordyline* variety. Liner alleged that Lyder was not the breeder, and claimed to hold the ownership rights on the variety, having acquired them by means of a transaction between one of its subsidiaries and the liquidator of Duncan & Davies New Zealand Ltd (DDNZ), the holder of DDC’s former assets.

On 7 December 2009, CPVO rejected the application for the *Cordyline* variety, ruling that the chain of entitlement under Article 11 of the basic regulation had not been respected. Further, the Office found that the *Cordyline* variety was not novel within the meaning of Article 10 of the basic regulation.

On 6 January 2010, CPVO issued a corrigendum, amending a clerical mistake in its previous decision: instead of ‘Article 11’, it had erroneously written ‘Article 12’.

On 21 January 2010, Lyder informed CPVO of its intention to appeal and on 23 April 2010 it submitted the grounds for appeal.

Lyder claimed that it was the only successor to the variety rights, because said rights had been assigned to Lyder by virtue of the Deed, which was fully valid and binding, before the liquidation of DDC’s assets. Further, Lyder maintained that the variety was novel, since they had no record of sales, other than a few marginal sales by a receiver of Torbay, and the few surviving plants had been returned by Torbay.

Liner opposed Lyder's arguments and submitted that the Deed did not constitute an assignment of ownership, but merely entitled Lyder to any monetary benefit under the Agreement between DDC and Torbay. Accordingly, the rights had remained the property of DDC until its liquidation.

CPVO sided with Liner's argument, stating that the Deed did not imply any transfer of rights from DDC to Lyder, since it explicitly stated that any material under the Agreement would remain in ownership of DDC. CPVO also contested the variety's novelty.

### **Decision of the Board of Appeal**

**1. Admissibility:** the Board of Appeal found the appeal admissible, ruling that the corrigendum of 6 January 2010 had enabled a new deadline for the submission of the statement of grounds of appeal. The Board of Appeal considered that the clerical error of the CPVO had indeed substantial implications (for it stated that the decision's legal basis was Article 12 instead of Article 11) and could mislead the applicant as to the decision's rationale, affecting his interests. Accordingly, under CJEU and GC case-law (i.e. Case C-325/91 *French Republic v Commission* [1993] ECR I-3283; Case T-64/89 *Automec v Commission* [1990] ECR II-367 or Case T-3/94 *Air France v Commission* [1994] ECR II-121), the corrigendum itself was a decision open to challenge and should open its own deadline for appeal. Therefore, the Board of Appeal found that the applicant's statement of grounds had been filed in time.

**2. Substance:** the Board of Appeal examined Article 1.1 of the Deed, which established that 'all rights, interests and benefits pursuant to the Agreement' would pass to Lyder and sought to clarify if this also comprised the mother material, or merely other rights. The Board of Appeal found out that no ownership rights on the variety were transferred, since Article 1.1 of the Deed had to be interpreted in connection with the Agreement, whose Article 6.1 explicitly excluded ownership mother material from its scope of application. In the opinion of the Board of Appeal, the Agreement merely concerned a relationship to exploit the production of volumes of the plant material, but not the plant variety rights themselves.

Further, the Board of Appeal examined two other mechanisms that Lyder had alleged during the proceedings to justify a transfer of ownership.

First, the Board assessed the implications of the declaration of trust, ruling that it could not be inferred from it that Lyner was DDC's leading shareholder and, in any case, even the fact of owning a majority of DDC's stock would not imply ownership over its assets.

Second, the Board of Appeal stated that Torbay's surrender of rights had no effect, since Torbay never held ownership of the varieties listed in the Agreement.

The Board of Appeal also rejected the submitted affidavits as a means of proof, stating that they were unsworn declarations within the meaning of Article 78(g) of the basic regulation, and only enjoyed limited probative value.

Therefore, the Board of Appeal ruled that Lyder had not yet been the owner of the varieties at the moment of filing. Thus, the chain of entitlement under Article 11 of the basic regulation had not been respected. For this reason, the CPVO's decision to reject the application was lawful.

Finally, the Board considered that, in light of the above, there was no need to assess the novelty of the variety.

The Board dismissed the appeal and ordered the appellant to bear the costs.

### 19.3. Further appeals to the Court of Justice of the European Union in 2011

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

#### 19.3.1. New further appeals in 2011

In 2011, one further appeal No T-367/11 was lodged with the General Court on 4 July 2011 against the decision of the Board of Appeal of 18 February 2011 in appeal Case A007/2010 for 'Southern Splendour'.

No further appeals were lodged with the Court of Justice of the European Union in 2011.

#### 19.3.2. Rulings by the General Court in 2011

No new rulings were taken by the General Court in 2011.

#### 19.3.3. State of affairs of the further appeals lodged with the General Court (GC) and the Court of Justice of the European Union (CJEU)

Case No before the GC	Contested Board of Appeal Decision No	Variety denomination	Date of GC ruling	Date of further appeal to the CJEU	Case No before the CJEU	Date of CJEU ruling
T-95/06	A001/2005	Nadorcott	21.1.2008	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-133/08	A007/2007	Lemon Symphony	Pending			
T-134/08	A006/2007	Lemon Symphony	Pending			
T-135/08	A003/2007 and A004/2007	Gala Schnitzer	13.9.2010	17.11.2010	C-534/10 P	Pending
T-177/08	A005/2007	Sumost 01	Pending			
T-242/09	A010/2007	Lemon Symphony	Pending			
T-367/11	A007/2010	Southern Splendour	Pending			

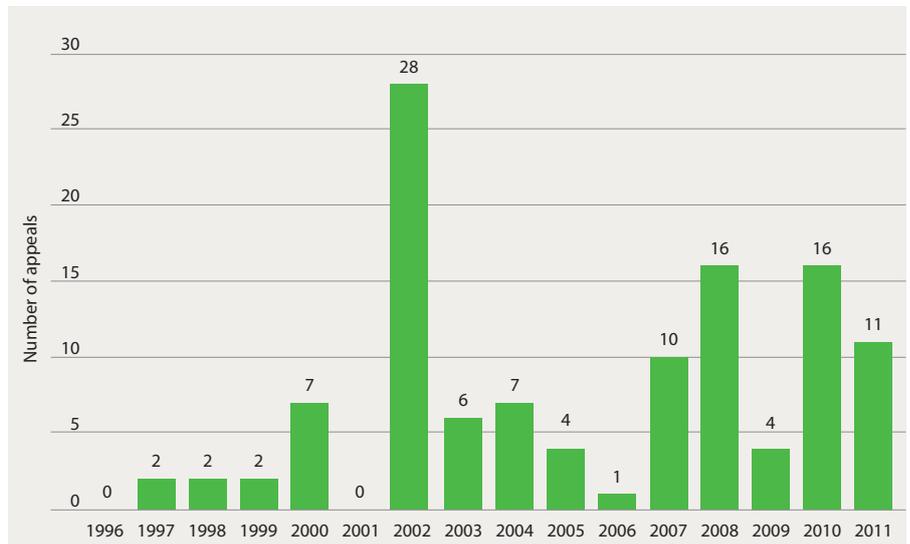
## 19.4. Appeals received by the CPVO and decisions reached by the Board of Appeal since its inception (statistics)

### 19.4.1. Number of appeals lodged per year between 1996 and 2011

One hundred and sixteen appeals have been lodged with the CPVO since the opening of the Office. These are distributed as shown in the following graph.

**Graph 22**

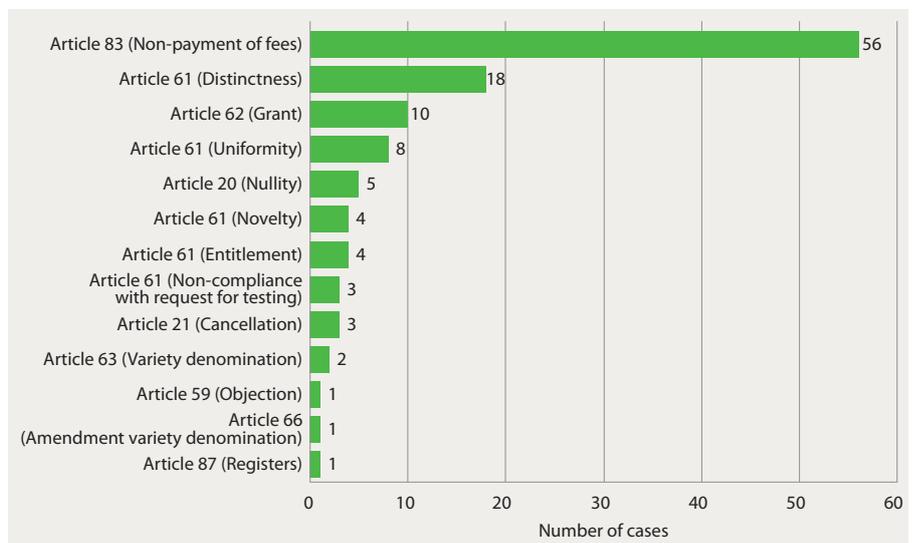
Number of appeals lodged per year between 1996 and 2011



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

**Graph 23**

Legal basis of the appeals lodged since 1996

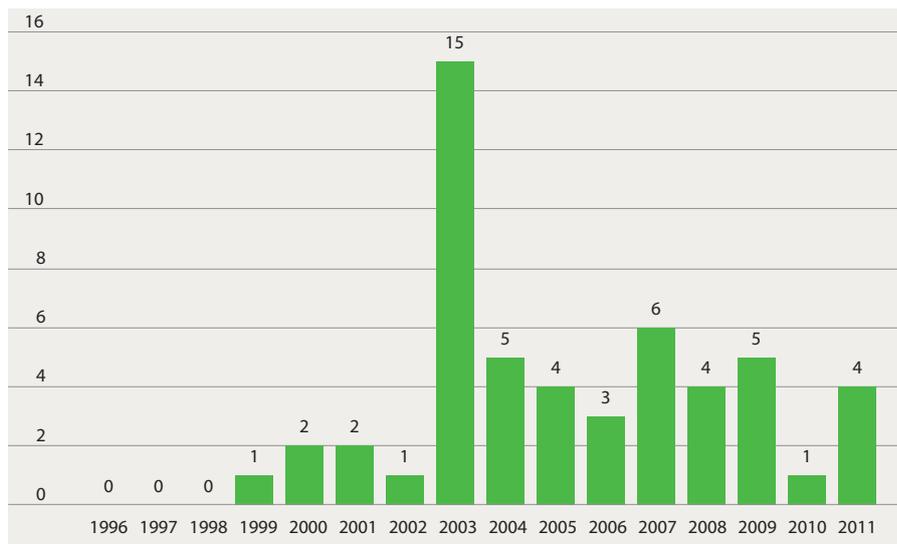


### 19.4.3. Decisions of the Board of Appeal of the CPVO per year

A total of 53 decisions have been taken by the Board of Appeal of the CPVO since 1996, distributed as shown in the following graph.

**Graph 24**

Number of decisions reached by the Board of Appeal per year since its inception



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

YEAR	Appeal case number and date of decision of the Board of Appeal
<b>1999</b>	A002/1998 of 14.9.1999
<b>2000</b>	A001/1999 of 25.1.2000 A002/1999 of 19.5.2000
<b>2001</b>	A002/2000 of 27.3.2001 A004/2000 of 6.12.2001
<b>2002</b>	A005/2000 of 28.5.2002
<b>2003</b>	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
<b>2004</b>	A003/2003 and A004/2003 of 4.6.2004 A005/2003 and A006/2003 of 28.9.2004 A001/2004 of 16.12.2004

<b>2005</b>	A006/2004 of 15.6.2005 A005/2004 of 16.6.2005 A004/2004 of 18.7.2005 A001/2005 of 8.11.2005
<b>2006</b>	A003/2004 of 2.5.2006 A004/2005 of 13.10.2006 A007/2005 of 7.7.2006
<b>2007</b>	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
<b>2008</b>	A011/2007 of 9.9.2008 A009/2008 of 2.12.2008 A001/2008 and A002/2008 of 4.12.2008
<b>2009</b>	A010/2007 of 23.1.2009 A004/2008 and A005/2008 of 21.4.2009 A010/2008 and A011/2008 of 8.10.2009
<b>2010</b>	A018/2008 of 15.3.2010
<b>2011</b>	A001/2010, A005/2010, A006/2010 and A007/2010 of 18.2.2011

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

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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

Ufficio comunitario delle varietà vegetali

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Oficiul Comunitar pentru Soiuri de Plante

Úrad Spoločenstva pre odrody rastlín

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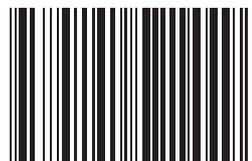
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