

## The Community Plant Variety Office

The Community Plant Variety Office (CPVO), located in Angers (France), is a decentralised agency of the EU. Operational since 1995, it is responsible for the management of a specific intellectual property rights protection system covering the entire EU. It grants Community plant variety rights and maintains databases on plant varieties. Unlike most other EU agencies, it is fully self-financed and therefore not subject to budgetary discharge by the European Parliament.

### Context

In agriculture, horticulture and forestry, new plant varieties are constantly being developed with the aim of improving quality, resistance to diseases and productivity. A new plant variety (a group of plants with a common, distinctive set of characteristics) can be considered intellectual property and can be protected. Plant variety rights – a form of intellectual property rights, similar to patents – provide the holder (usually the individual or company that created, discovered or developed the variety, referred to as the ‘plant breeder’) with exclusive control over the exploitation of the variety. These rights can also be defended through civil proceedings in case of suspected infringement.

In the past, rights related to plants varieties were regulated only by national legislation, and limited to the territory of the granting country. Therefore breeders wanting to protect a variety in several Member States had to apply separately in each of them. In 1994, the Council adopted Regulation (EC) No 2100/94 which set up a Community system of plant variety protection and created the **Community Plant Variety Office (CPVO)** to implement it. Since then, a single application to the CPVO is sufficient to obtain a **Community plant variety right** valid throughout the EU. The system does not replace the national systems, which exist in parallel. Applicants can choose one of the regimes, but not both (Community rights cannot be combined with national rights). The regime is also in line with international agreements, and based on the International Convention for the Protection of New Varieties of Plants ([UPOV Convention](#)).

### Objectives and tasks of the agency

The CPVO's core task is the implementation of the Community plant variety rights system. It processes applications for and decides on **granting a Community plant variety right**. After receiving an application, the CPVO checks if it complies with all formal criteria, and determines whether the variety is new. The next step is a technical examination to establish whether the variety meets the requirements for protection: to obtain a Community plant variety right, it must not only be novel, but also ‘distinct’ from any other known variety, and sufficiently ‘uniform’ and ‘stable’. This is called **DUS testing** and is usually done through growing tests, which can take from one to six years. The examination is organised by the CPVO and carried out by entrusted national bodies (Examination Offices) in the Member States. The variety must also have a suitable denomination, which is proposed by the applicant and subject to approval by the CPVO. If all requirements are fulfilled, the CPVO grants a Community plant variety right for a duration of 25 years, or up to 30 years in the case of potato, vine and tree varieties.

The CPVO is also responsible for **maintaining databases** related to plant variety rights containing information on applications and titles, on case law, as well as a ‘Variety Finder’. All information on processed applications and titles is published in the [Official Gazette](#) of the CPVO.

During the 20 years of its existence the CPVO has processed more than 53 000 applications and granted approximately 40 000 titles. Each year it examines on average 3 000 applications. Around 60% of them concern ornamental species, circa 20% agricultural species, and circa 20% fruit and vegetable species. The majority of applications come from Member States, but some 20% are from countries outside the EU.

## Structure and functioning

The CPVO is an independent EU body with legal personality. The legal basis for its functioning is set in Regulation (EC) No 2100/94 ([Basic Regulation](#)). Detailed rules on [proceedings](#), on [fees](#) and on [agricultural exemption](#) (i.e. derogation from a Community plant variety right for farmers for the purposes of safeguarding agricultural production) are provided in implementing acts.

*Structure.* The CPVO is represented by its [President](#) (nominated by the Council from a list of candidates proposed by the Commission). The President manages the Office, is responsible for its operation and for drawing up and implementing the budget. The [Administrative Council](#) (representatives of each Member State and of the European Commission) is the supervisory body of the CPVO. It adopts the work programme and monitors the activities of the agency. It also adopts the budget and discharges the President on its implementation. Appeals against decisions of the CPVO can be made to the [Board of Appeal](#) (whose Chair is appointed by the Council from a list of candidates proposed by the Commission); appeals against decisions of the Board can be lodged with the Court of Justice of the EU.

*Financing.* The CPVO is one of two fully self-financing EU agencies (the other being the Office for Harmonization in the Internal Market, OHIM). Its revenue comes from [fees](#) charged to applicants (main fees are currently €640 application fee; €1 430–3 210 examination fee depending on the species; €250 annual fee).

*Discharge.* The [financial framework](#) for EU decentralised agencies, governing inter alia their budgetary and discharge procedure, applies to those of them which receive contributions from the EU budget. The CPVO is a self-financed agency, therefore as long as it does not receive such contributions it is not subject to budgetary discharge by the EP. The budget and discharge authority of the CPVO is its Administrative Council.

*Cooperation with other bodies.* The CPVO cooperates with the European Commission's Directorate-General for Health and Food Safety (DG SANTE), national governments and examination offices, breeders' associations, OHIM, the European Patent Office (EPO), as well as the International Union for the Protection of New Varieties of Plants ([UPOV](#)). Representatives of UPOV and of the breeders' associations ESA, CIOPORA and Plantum are observers in the Administrative Council.

## Recent developments

In 2012, following a long debate on decentralised agencies, the EU institutions adopted a [Common Approach](#) and a [Roadmap](#) with the goal to improve the operation, effectiveness and accountability of these bodies and to ensure greater coherence between them. In the Common Approach the issue of the democratic accountability of fully self-financing agencies was also raised in the context of their exemption from the budgetary and discharge procedure before the European Parliament (EP). It was suggested that these agencies could submit annual budget execution reports to the EP, the Council and the Commission, and consider recommendations from the EP and the Council. In a 2013 [study](#) on self-financed agencies commissioned by the EP the authors noted wide recognition of this matter not only among institutions, but also stakeholders, and described different views on possible solutions which included varying degrees of EP involvement. The European Court of Auditors, in an [opinion](#) from January 2015, also expressed concerns about the budgetary and discharge procedure. It argued that the CPOV should be subject to the general rules, i.e. discharge by the EP, since it implements EU policies and the fact of self-financing should not be sufficient justification for exemption.

In 2013 the Commission [proposed](#) a new regulation on plant reproductive material with the aim to significantly review EU law in that area, in particular replacing 12 currently applicable directives. The proposed regulation also included provisions to amend the name of the CPVO to 'European Agency on Plant Varieties' and to expand its role in plant variety management, in particular to the registration of plant varieties. In March 2014, the EP [rejected](#) the proposal as a whole by a [large majority](#) at first reading. The Commission withdrew it in March 2015.

### The European Parliament

The EP has on several occasions called for itself to participate in the agencies' bodies, to be involved in their discharge procedure, to subject them to common principles and to harmonise their budgetary provisions. In its [resolution](#) of 29 April 2015, the EP reiterated the view that self-financing agencies should adopt financial rules similar to those laid down in the framework Financial Regulation that apply to other EU agencies.