EUROPEAN UNION LEGISLATION ON THE MARKETING OF PLANT REPRODUCTIVE MATERIAL

These slides accompany the explanation of the acquis to Albania and North Macedonia and can only be used for that purpose. Their content is subject to further development of the acquis and interpretation by the Court of Justice of the European Union

Unit E2 – Plant Health
Plant reproductive material
DG SANTE

Plant reproductive material

Legislation:

- 12 Directives on the marketing of seed and other plant reproductive material
- Regulation on Community Plant Variety Rights (CPVR)
- PAFF Committees: Seeds (agriculture and horticulture), Forest material, Ornamentals, Fruits, Vine, CPVR

Liaison with Community Plant Variety Office (CPVO)

Multilateral international organisations: OECD,UN-ECE, ISTA,UPOV,ITPGRFA

12 Marketing Directives

Agricultural seed crops:

Council Directive 66/401/EEC *of 14 June 1966 on the marketing of fodder plant seed*

Council Directive 66/402/EEC *of 14 June 1966 on the marketing of cereal seed*

Council Directive 2002/54/EC *of 13 June 2002 on the marketing of beet seed*

Council Directive 2002/56/EC *of 13 June 2002 on the marketing of seed potatoes*

Council Directive 2002/57/EC *of 13 June 2002 on the marketing of seed of oil and fibre plants*

Council Directive 2002/53/EC *of 13 June 2002 on the* ***common catalogue*** *of varieties of agricultural plant species*

Vegetable seed & plant propagating material:

Council Directive 2002/55/EC *of 13 June 2002 on the marketing of vegetable seed*

Council Directive 2008/72/EC *of 15 July 2008 on the marketing of vegetable propagating and planting material, other than seed* ***(including common catalogue)***

Forestry reproductive material:

Council Directive 1999/105/EC *of 22 December 1999 on the marketing of forest reproductive material*

Fruit plant propagating material:

Council Directive 2008/90/EC *of 28 April 1992 on the marketing of fruit plant propagating material and fruit plants intended for fruit production*

Vine plant propagating material:

Council Directive 68/193/EEC *of 9 April 1968 on the marketing of material for the vegetative propagation of the vine*

Ornamental seed and plant propagating material:

Council Directive 1998/56/EC *of 20 July 1998 on the marketing of propagating material of ornamental plants*

Objectives of the legislation

To ensure identity, health and quality to the user:

- New improved varieties (testing and variety registration)
- Controlled quality of seed lots (seed certification)
- Free movement of PRM and wide access of varieties
- Farmers and other users making informed choices

Key features of the EU legislation

- EU lists of species (not ornamentals)
- Export of PRM not in scope
- Testing and registration of varieties/material as an eligibility criteria (DUS, VCU)
- Certification/inspection system of PRM
- Post-marketing controls
- Member States have the right to implement additional or stricter measures on the domestic production
- Provisions to solve temporary supply difficulties

Import from non-EU countries

PRM produced in non-EU country may, in principle, be marketed within the EU only when **EU equivalence** has been established.

Evaluation of legislation, audit and in Council Decision.

Marketing requirements (1)

Step 1: Registration of varieties/material

1.1 Application and a sample to the national competent authority (CA).

1.2 CA performs testing:

- distinctness, uniformity, stability (DUS) for all varieties (at least over 2 growing seasons).
- value for cultivation and use as additional (VCU) tests for agricultural crops.
- suitability of the proposed variety name (denomination)

1.3 CA registers the variety/material in its national catalogue or list.

1.4 CA notifies the Commission of any changes in its national catalogue/list.

1.5 Commission includes variety/material in a catalogue or a list.

Marketing requirements (2)

Step 2: Certification/inspection of lots of PRM

2.1 Marketing of lots covered by an official certification label

2.1.1 Supplier submits an application to the competent authority.

2.1.2 Authority performs inspections on growing seed crop (field inspection) and on lots prepared for marketing, including sampling and laboratory testing. Under certain conditions inspections may be done by the supplier under official supervision.

2.1.3 Certification label issued by CA.

2.1.4 CA performs random post-controls on lots on the market.

>>Criteria are crop- specific and depend on marketing category

Marketing requirements (3)

Step 2: Inspections/certification of lots of PRM

2.2 Marketing covered by a suppliers' label (not for potatoes or nearly all agricultural seed crops, vines)

2.2.1 Supplier performs inspections on his seed crop and on lots prepared for marketing

2.2.2 Suppliers' document issued:

lot eligible for marketing throughout EU

2.2.3 CA performs random post-control on lots of S&PM on the market

Specific features of seed Directives (1)

Procedures:

- Authorising EU countries to temporarily market seed not satisfying the minimum germination requirements (Regulation EC 217/2006)
- Not yet listed varieties for tests and trials on farms (Com Decision 2004/842/EC)

Specific features of seed Directives (2)

- Less stringent rules: conservation varieties, amateur varieties and preservation mixtures

- Temporary experiments on testing improved alternatives to current requirements (derogatory rules):

  - field inspectcion under official supervision (pre-basic and basic seed)
  - cereal populations
  - true seed potatoes

Varieties in the Common Catalogues

https://ec.europa.eu/food/plant/plant_propagation_material/plant_variety_catalogues_databases_en

Number of varieties listed (31 December 2018):

Agricultural species:

Varieties 24 500
Conservation varieties 329

Vegetable species:

Varieties 22 000
Conservation varieties 142
'Amateur varieties' 1020

To learn more

https://ec.europa.eu/food/plant_en

Thank you!

Community Plant Variety Rights regime (CPVR)

Established 1995

Why CPVR?

To stimulate the plant breeding and development of new improved varieties *at the very roots of the agri-food chain, effects of* ***innovation*** *foster e.g.*

sustainable production
plant health
better nutrition
improved quality of life within greener economy.

Internal market: *one regime and authority instead of 28*

Suited for plant varieties *(instead of e.g. patents)*

To comply with *the agreement on Trade-Related Aspects of Intellectual Property Rights (****TRIPS****) (Art 27 (3) (b)) **

** Member shall provide for the protection of plant variety either by patents or by effective sui generis systems or by any combination thereof*

Legislation

Community plant variety rights: Council Regulation (EC) No 2100/94

- *Proceedings before the CPVO: detailed implementing rules on the procedures, lastly amended 2016 (Commission Regulation (EC) No 874/2009)*
- *Fees payable to the CPVO: e.g. scope of fees and their levels (Commission Regulation (EC) No 1238 /95)*
- *Agricultural exemption: rules on 'farm saved seeds' (Commission Regulation (EC) No 1768/95)*

Co-existing with national rights (e.g. 1279 national and 3422 CPVR applications in 2017).

Based on the convention of International Union for the Protection of New Varieties of Plants (UPOV) 1991 Act.

Community Plant Variety Office - CPVO

Processes, examines applications (network of entrusted MS examination offices for DUS field tests) and grants CPVR

- *independent agency of the EU*
- *Administrative Council (28 MS, Com (no voting right), observers)*
- *fee financed*
- *operational since 1995*
- *based in Angers/France*
- *staff 45 agents*
- *about 3000 applications/year*
- *about 26 600 CPVR in force*

> Centre of Excellence for plant varieties

Scope of right

These acts require authorisation of the holder of the rights:

- Production or reproduction (multiplication)
- Conditioning for the purpose of propagation
- Offering for sale
- Selling or other marketing
- Exporting from the Community
- Importing to the Community
- Stocking for any of the above mentioned purposes
The holder may make his authorisation subject to conditions and limitations

However,
'breeders exemption': *protected varieties can be used for further breeding by other breeders*
'farm saved seed': *farmers (who multiply seed of a protected variety) can use seed of own harvest for further sowing on own farm under certain conditions (list of species, royalties..)*

Eligibility criteria

Community plant variety rights shall be granted for varieties that are:

- *Distinct, Uniform and Stable (DUS) based on field tests (1-3 years)*
- *New*
- *Have a suitable variety denomination*

Novelty

A variety shall be deemed to be new if at the date of application material of the variety have not been sold or otherwise disposed of to others by or with consent of the breeder:

- Earlier than 1 year before the application date within the territory of the EU

- Earlier than 4 years before the application date for outside the territory of the EU

Variety Denomination

Possible impediments for the acceptance of variety denominations:

- *Prior rights*
- *Difficult to recognise*
- *Similarity*
- *Liable to give offence*
- *Misleading*
- *Differs from the denomination under which the variety has already been registered*

CPVO: variety finder

Duration of CPVR and EDV

- *Duration of the EU protection: 25 years and 30 years for vine, trees and potato varieties.*

- *Definition of 'essentially derived variety' (EDV)*

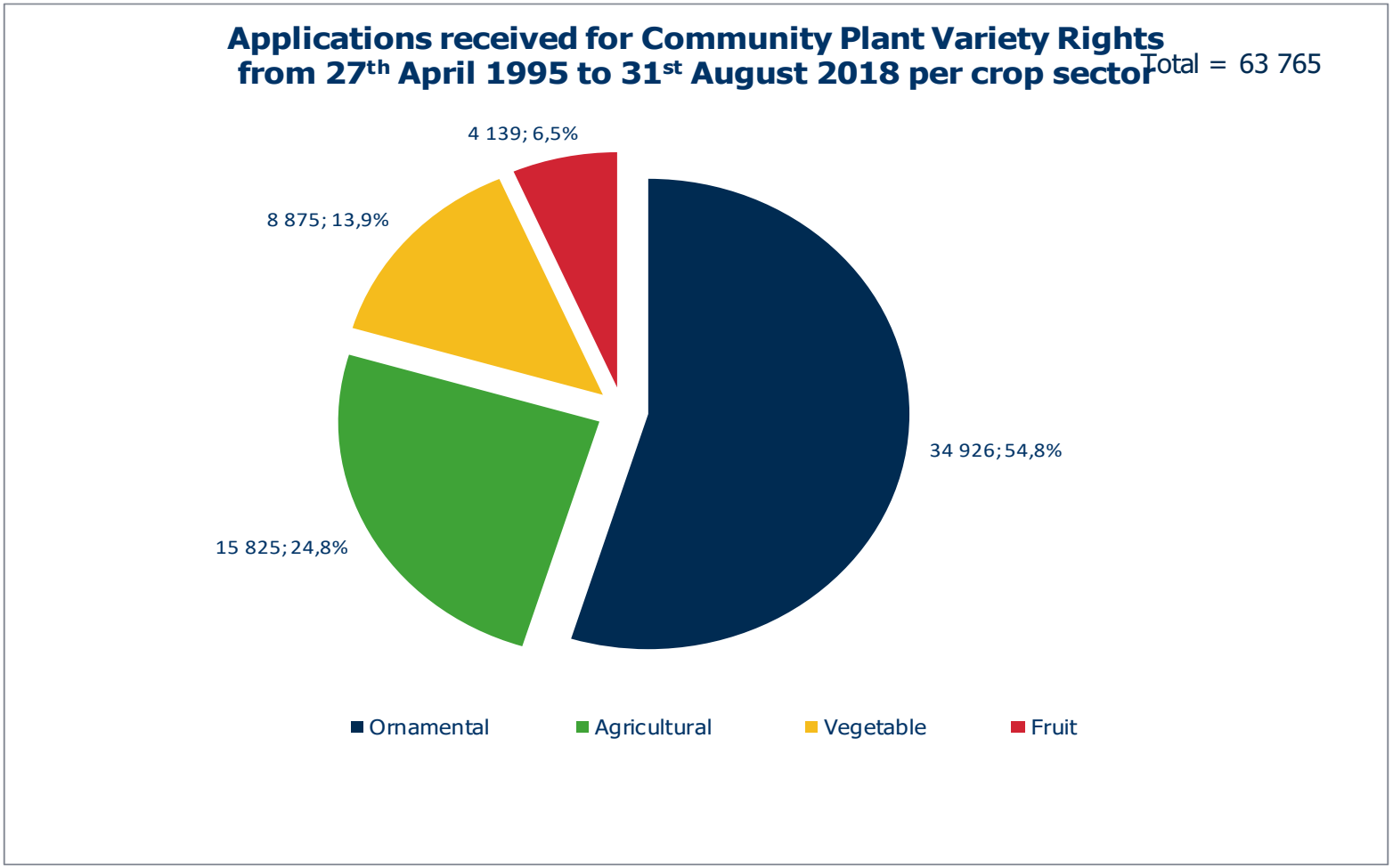
Derogations from CPVR

Agricultural exemption: Farm Saved Seed

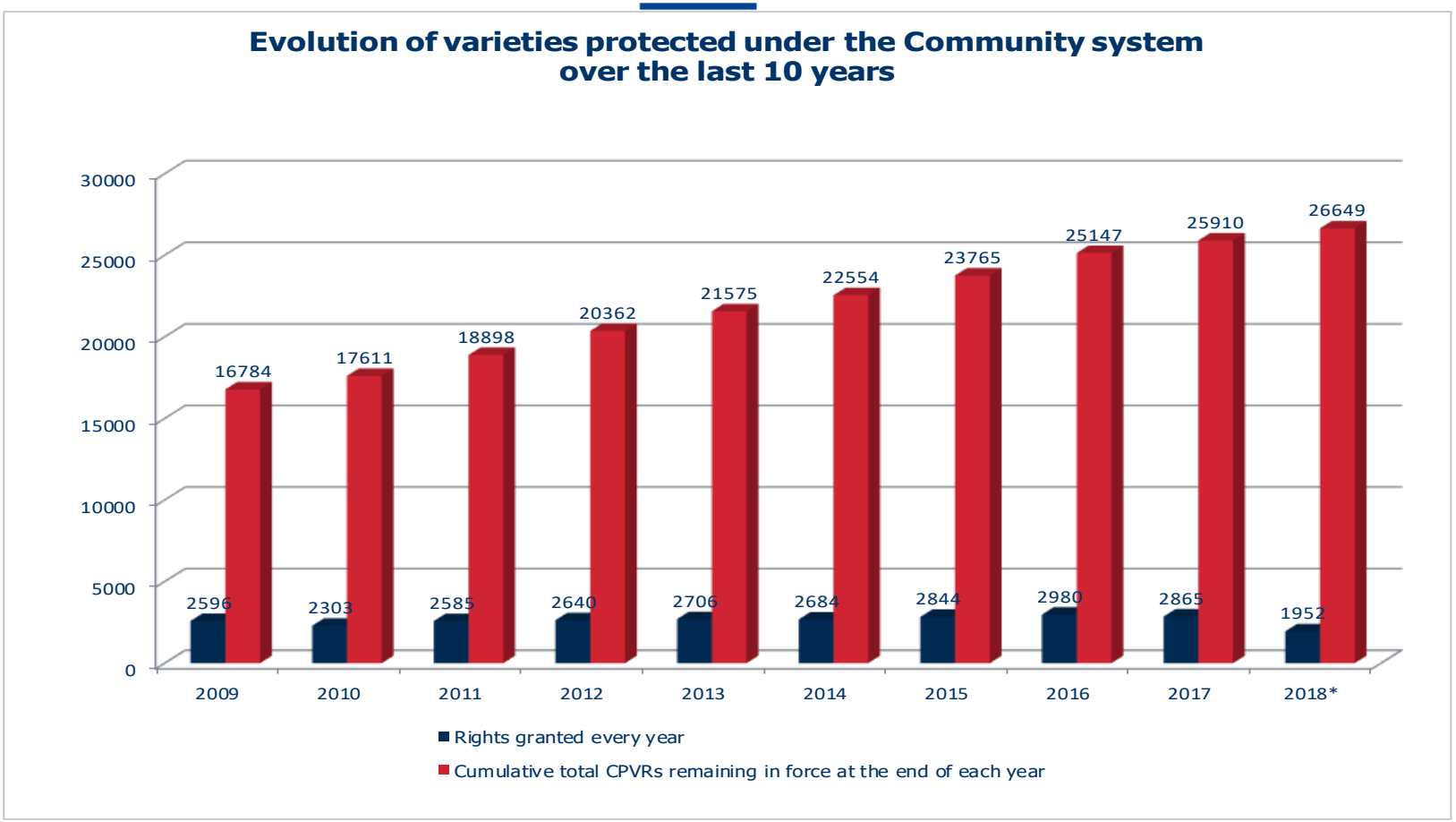
- *Farmers are authorised to use for propagating purposes in the field, on their own holding the product of the harvest of a variety which is covered by a CPVR*

- *Limited to a defined list of species*

- *Subject to the payment of an equitable remuneration to the holder of the right*



(CPVO Administrative Council September 2018)



NB (*) Situation at 31/08/2018. Comparison 2018 grants with 2017 - period from 01/01 to 31/08: -10.0%

To learn more

https://ec.europa.eu/food/plant_en

https://cpvo.europa.eu/

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Thank you!