



Ministry of Economic Affairs,
Agriculture and Innovation

Evaluation of the CPVR

View from a Member
States' perspective

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Summary

- Why Plant Breeding
- Some background on breeding in the Netherlands
- Some differences between the dutch PVP-law and the CPVR
- Remarks on other fields, related to breeding
- Recommendations



The Value of Plant Breeding

- Plants are the base of almost every food or feed-chain
- There are many alarming reports on volatile food prices and on the need to produce more food for a growing world population
- Experts agree that we need to double the food production in the coming decades
- We also need to develop a renewable economy, less based on fossil inputs (oil, phosphates, etc)
- And we need to do this in a sustainable way, with less land, fertilizer and pesticides
- Improving the genetics of plants is a very important tool towards a sustainable agriculture



The Netherlands and Plant Breeding

- The Netherlands is a major stakeholder, both private (companies) and public (research centres, university)
- In the Netherlands there are approx. 350 breeding companies with an annual turnover of approx. € 2.5 billion
- Many of them are SME's
- 15-25 % of their annual turnover is spent on R&D.
- 55% of vegetables, 50% of ornamentals, 40% of potatoes in Europe are coming from the Netherlands



Our view on the CPVR-acquis

- Very important to have a effective and efficient European system for plant variety protection
- Centralised testing, one decision; protection in 27 countries: this saves money and time
- It is a balanced system, creating incentives to innovate
- It encourages independent innovation through the breeders' exemption
- It has a lot of support from breeders and farmers
- Accessible for Small, Medium and Big Enterprises

- Conclusion: the CPVR works well and could serve as a model for other regional PVP-systems



Not ALL is well

Some issues are still on the table

1. Farm Saved Seeds
2. Duration of Protection for certain crops
3. Make the system even more efficient (one key, several doors)
4. Tensions between Patents and Plant Variety Rights

Besides that:

5. For plant production we need to have a stronger European innovation strategy and a stronger European research environment
6. We need faster development of new varieties (food security), therefore we must enable the use of new targeted breeding techniques such as reverse breeding, ODM, cisgenesis, etc



1. Farm Saved Seed

- Despite the Regulation, currently there is no effective harmonization in the EU.
- Different treatment of farmers and of breeders throughout the EU
- In Dutch PVP-law there is:
 - 1) a legal obligation for all farmers to report FSS
 - 2) an obligation for the inspection services to provide information to the PBR-holders on their specific request
- Result: in the Netherlands there is no longer a discussion about whether or not there is an obligation to pay royalties for FSS-use, but how this can be done in the most efficient way

→The CPVR could take this as an example



2. Duration of the protection period

- Some crops have a long development cycle (breeding and multiplication), especially vegetatively propagated crops as potato, strawberry, anthurium and all flower bulb crops.
 - Other crops have a long life span, so adoption of a new variety by the market takes a long time (fruit trees, vines)
 - For those reasons on the CPVR-level there is an extension to 30 years for vines, trees, and for potato.
 - But not for strawberries, anthuriums and flower bulbs.
 - In the Netherlands we have extended the protection period for these crops to 30 years.
- I suggest to do the same at CPVR-level



3. More efficiency in the system

We see possibilities for more efficiency through better integration with the Seed Legislation

This efficiency can be found in 2 ways

1. A DUS test report from an Entrusted Examination Office should be usable for Plant Variety Rights and Listing in a National Catalogue vice versa without additional tests or criteria (apart from a possible VCU requirement).
2. Harmonisation of testing for National List purposes. CPVO should have a more prominent role in the harmonizing the tests for National listing.

→ This is called One Key, Several Doors.



4a. Interference with the Patent System

We conducted a study on the future of plant breeding in the light of developments in Patent Rights and Plant Breeders Rights. Main conclusions:

1. Genetic sources should be as accessible as possible in order to facilitate the development of new varieties
2. With the rise of biotechnology we also see a rise in patents
3. Patent rights don't have a breeders exemption and hold possibilities for strategic use
4. This may lead to lack of clarity in the market and to monopolistic behaviour. It may also lead to high costs of legal assistance.
5. This may slow down the rate of innovation
6. Plant Breeder's Rights have no such effects

→ There is a need to find a new balance between patents and Plant Variety Rights



4b. Follow up on the study

We had a few debates in our Parliament

1. A first step in the Netherlands is the introduction of a limited Breeders Exemption in our national Patent Law
2. A second step can only be taken on a European level
3. In our view it is time to review the European Biopatent Directive (98/44/EC)

But also the industry has to work on a industry-wide licensing platform under FRAND-conditions: Fair, Reasonable, And Non-Discriminatory

And: CPVO and EPO should intensify the exchange of views, information and knowledge in this field



5. Need for a stimulating innovation and research area

- New and improved varieties add value to the whole production chain, from growers to consumers
- It is important to keep a leading European role in the development of new varieties
- We should further strengthen European knowledge-infrastructure through cooperation between research institutions on Plant Sciences
- We should align national R&D agenda's to create an even stronger European innovation-agenda
- We should promote public-private partnerships in the field of Plant Breeding
- Use the framework of the Common Agricultural Policy or the of Horizon 2020 – the EU-Framework programme for research and innovation



6. Need for the adoption of modern tools

- We are in the middle of a “Genetic Revolution” that gives rise to new insights and possibilities
- Scientific and technological breakthroughs in the field of plant sciences and plant breeding have led to more targeted breeding and faster development without making use of “transgenic” technology (e.g. reverse breeding)
- Our EU and our national regulators have difficulties to keep up with these developments
- Too much regulation goes against the EU-plans for Better Regulations and is detrimental for SME’s
- We need to be aware that only big companies have the resources to overcome these regulatory burdens – or they move their R&D to other parts of the world
- We need to make sure that the EU will remain an stimulating environment for all breeders, including Small and Medium-sized companies



Recommendations

- Let's use this evaluation well and modernize the CPVR-acquis
- Let's solve the FSS-issue
- Find a new balance between Plant Variety Rights and Patents
- Don't unnecessarily regulate new targeted breeding techniques. Regulation is detrimental for SME's and for research institutes
- Strengthen the EU research-infrastructure on plant production

Thanks for your attention