



CPVO

Community Plant Variety Office

Limitation of Plant Variety Rights in the EU

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President

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Scope of Community Plant Variety rights

Article 13 Reg. 2100/94

The use of protected material is subject to authorization of the breeder:

- production or multiplication of the variety,
- conditioning for the purpose of propagation,
- offering for sale, selling or other marketing,
- exporting from or importing to the EU
- stocking for any of the purposes mentioned above



SCOPE - MATERIAL

- The variety constituents (propagating material)
- Harvested material
 - Unless holder has had reasonable opportunity to exercise his right in relation to the constituency
- The option to extend the scope of protection to products (such as apple juice, strawberry jam) has not been used



SCOPE – OTHER VARIETIES

- Varieties not clearly distinguishable
- EDV's
- Varieties whose production requires the repeated use of the protected variety (hybrids)



THE CONCEPT OF AN ESSENTIALLY DERIVED VARIETY

A variety is deemed to be derived from an initial variety when:

- It is predominantly derived from the initial variety;
- It is distinct from the initial variety;
- It conforms essentially to the initial variety in the expression of its characteristics.

Exploitation of the essentially derived variety subject to the authorisation of the holder of the initial variety



EXCEPTIONS

- Acts done privately and for non-commercial purposes
- Acts done for experimental purposes
- Acts done for the purpose of breeding, or discovering and developing other varieties (the breeder's exemption)



Limitation of the Scope

Agricultural Exemption

- **Basic Regulation (« BR »)**
Article 14 Council Regulation No 2100/94 (« CR »)
- **Implementing Rules (« IR »)**
Commission Regulation No 1768/95, amended by Reg No 2605/98



Limitation of the Scope

Article 14 Reg 2100/94

- Restrict the breeder's right
- Farmers are authorized to use for propagating purposes in the field, on their own holdings, the product of the harvest which they have obtained by planting, on their own holding, propagating material of a variety other than a hybrid or synthetic variety, which is covered by a Community plant variety right



Agricultural Exemption

Exception limited to

- a) Fodder plants
- b) Cereals
- c) Potatoes
- d) Oil and fibre plants

Full list in Art 14(2)



Remuneration

Farmers shall pay an

- equitable remuneration sensibly lower than the amount charged for the licensed production of propagation material



Remuneration

The fee can be determined in a contract between

- Individual farmers and holders
- A contract between organisations of farmers and holders can be used as a guideline if published in the CPVO Gazette



Equitable remuneration

If no contract 50% of the amount charged for the

- licenced production of propagating material
- of the lowest category qualified for official certification
- of the same variety in the same area



Thanks for your attention !

