



**CPVO**

Community Plant Variety Office

# **THE EUROPEAN SYSTEM OF PLANT VARIETY RIGHTS**

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**President**

**Strasbourg, 1 October 2014**

# Key Messages

- Plant variety protection is crucial
- The objectives of protecting plant varieties is being fulfilled by the CPVO
- A self-financed, efficient EU agency, is the ideal way of dealing with this well defined EU policy
- It is logical that the CPVO takes on new tasks in the area of plant varieties



# Outline

1. The EU system on plant variety protection
2. The CPVO
3. Application Procedure
4. Enforcement
5. The Board of Appeal
6. Statistics



7. New tasks to the CPVO following the PRM Regulation
8. Evaluation of the system
9. Final remarks



# 1. The EU Plant Variety System

- A system for the intellectual protection of plant varieties was established by a Regulation of the European Community in 1994.
- The intellectual property rights granted under this system are valid throughout the territory of the 28 Member States of the European Union.



- **EU / national**

- The EU system co-exists with the national systems of those 24 EU Member States.
- It is the applicant's choice : national or EU plant variety rights.

- **UPOV**

- The EU system is in line with the UPOV 1991 Act.
- 24 out of 28 EU Member States are UPOV members.
- The EU is a full member of UPOV as an inter-governmental organisation





- The EU system is tailored made for intellectual property protection for plant varieties (sui generis system under TRIPS)
  - Breeders' exemption
  - Agricultural exemption
- Plant varieties can not be protected by patents under the
  - European Patent Convention
  - EU Directive on patents for biotechnological inventions





# Main features of the CPVR system

- Varieties of **all botanical genera and species** may be protected.
- The CPVO has received up to today applications for more than **1800** different plant species.
- **Duration** of the Community right: 25 years (30 for vines, trees and potato varieties)
- **Provisional protection** covering the time from publication of the application until the grant of the Community right.





## 2. The CPVO

### **Mission Statement**

To foster innovation in plant varieties by high quality processing of applications for Community plant variety rights at affordable costs while providing policy guidance and assistance in the exercise of these rights for the benefit of stakeholders.



# The CPVO

- The **Community Plant Variety Office (CPVO)** has been operational since 1995.
- Based in Angers, France
- CPVO Management: President and Vice-President appointed by the Council
- The CPVO has a total of 45 staff members: 12 Nationalities



Council

Commission

Court of Justice

EU Parliament

Administrative Council

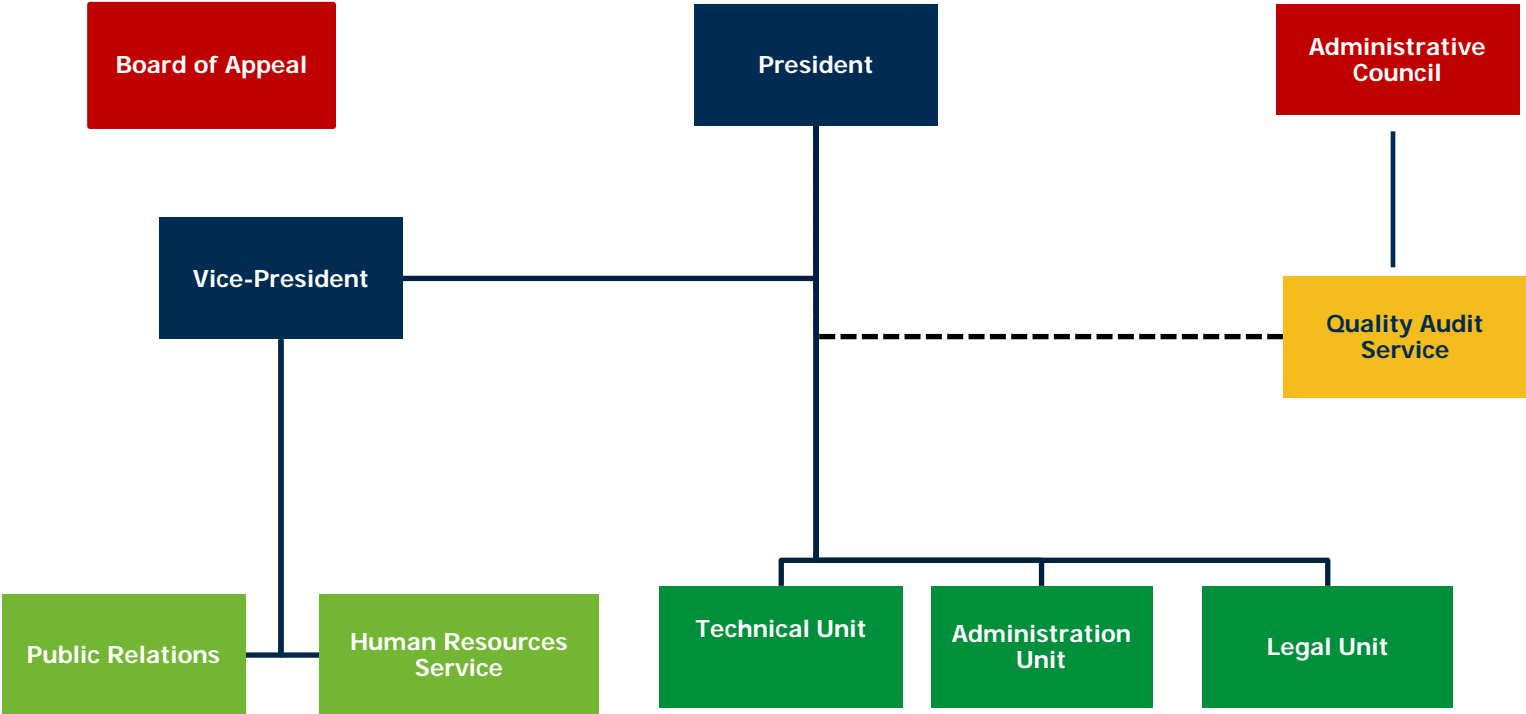
Board of Appeal

CPVO

Examination Offices



# COMMUNITY PLANT VARIETY OFFICE ORGANIZATION CHART



# The Administrative Council

- Monitoring the CPVO
- Composed by representatives of the EU Member States, the European Commission and observer organisations
- Budgetary authority
- Entrustment of Examination Offices
- Approval of Technical Protocols
- 2 meetings per year



# 3. Application procedure:

- One application
- One procedure
- One technical examination
- One decision
- One valid right covering the territory of the 28 Member States of the European Union



# Filing an application for a CPVR

## By whom ?

Before the system was limited to persons from countries belonging to the EU or a contracting country to UPOV.

Today the system is open for everybody

- ↳ Applicants from outside the EU must appoint a **procedural representative**.
- ↳ If the breeder of the variety is not the applicant, an **assignment** form must be enclosed attesting to the transfer of rights.





# Protectable Varieties

(Art. 6 Reg. 2100/94)

- Distinctness (Art. 7)
- Uniformity (Art. 8)
- Stability (Art. 9)
- Novelty (Art. 10)
- Variety denomination (Art. 63)





# Technical Examinations

The CPVO has not created its own technical infrastructure.

Technical examinations are carried out by the Examination Offices entrusted by the Administrative Council.



# CPVO network of Examination offices in the EU





# 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



# The fees cover several steps of the procedure:

- Application fee: 650 Euro
- Examination fee: 1200 – 2000 Euro  
per year/cycle of DUS test
- Take over fee: 240 Euro
- Annual fee: 250 Euro



# 4. Enforcement

- The right holders enforce the rights
- Some aspects of enforcement:
  - ✓ are regulated in European law (e.g. Infringement - Art. 94 Reg. 2100/94)
  - ✓ are regulated in National law implementing the Directive on enforcement (2004/48/EC)
- Legislator must create the necessary legislative environment
- National courts competent to hear infringement cases



# 5. The Board of Appeal

## Composition

Composed by one permanent Chairman and two other members nominated by the Chair

## Tasks

Responsible to decide on appeals filed against decisions of the CPVO

## Status

Members shall be independent and not involved in the work of the CPVO

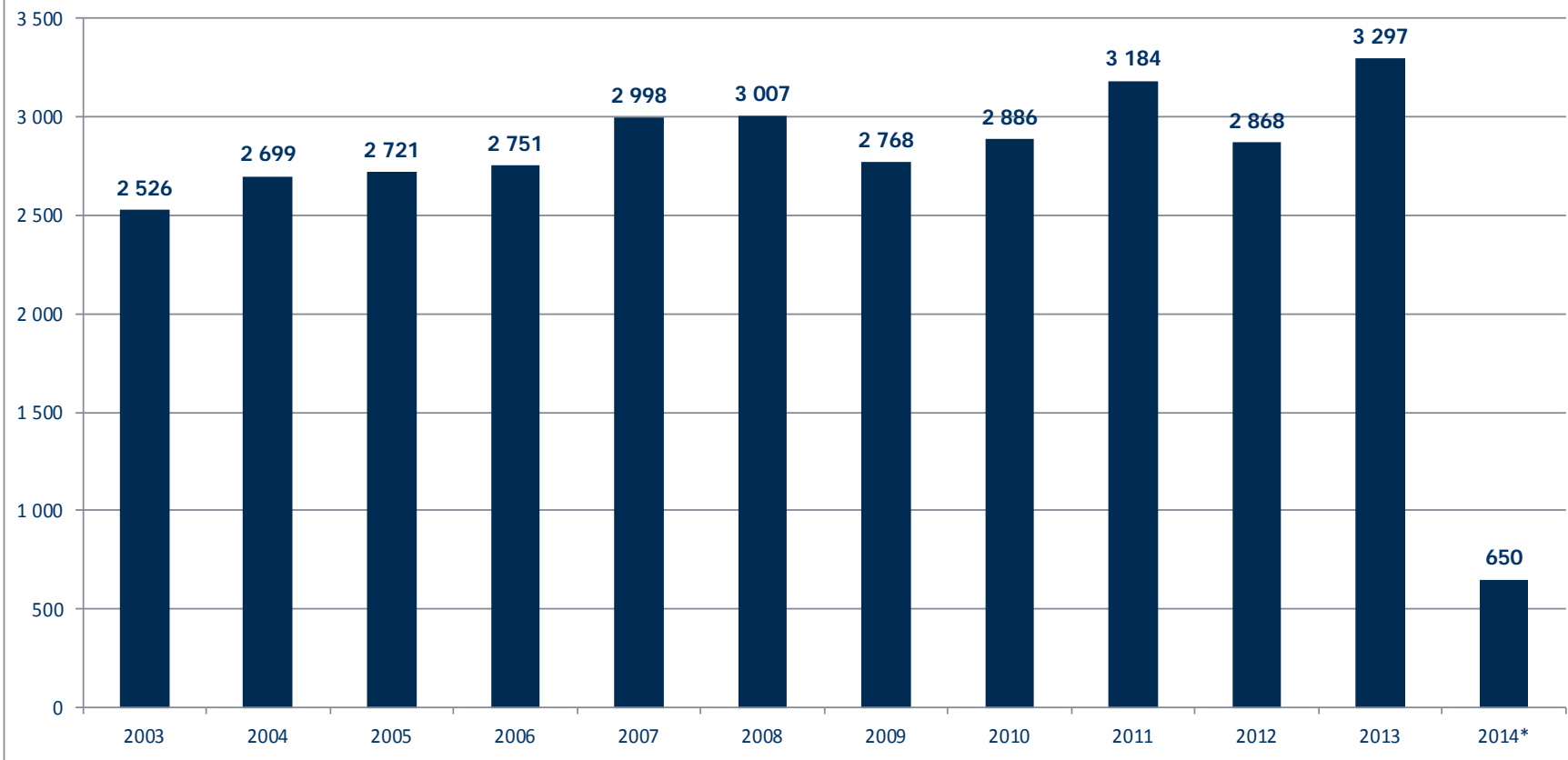


# 6. Statistics

- 49.700 applications received (75% online in 2014)
- 37.900 titles granted (22.250 in force)
- 1.800 different species



Evolution of annual number of applications received for Community Plant Variety Rights from 01/01/2003 to 07/03/2014

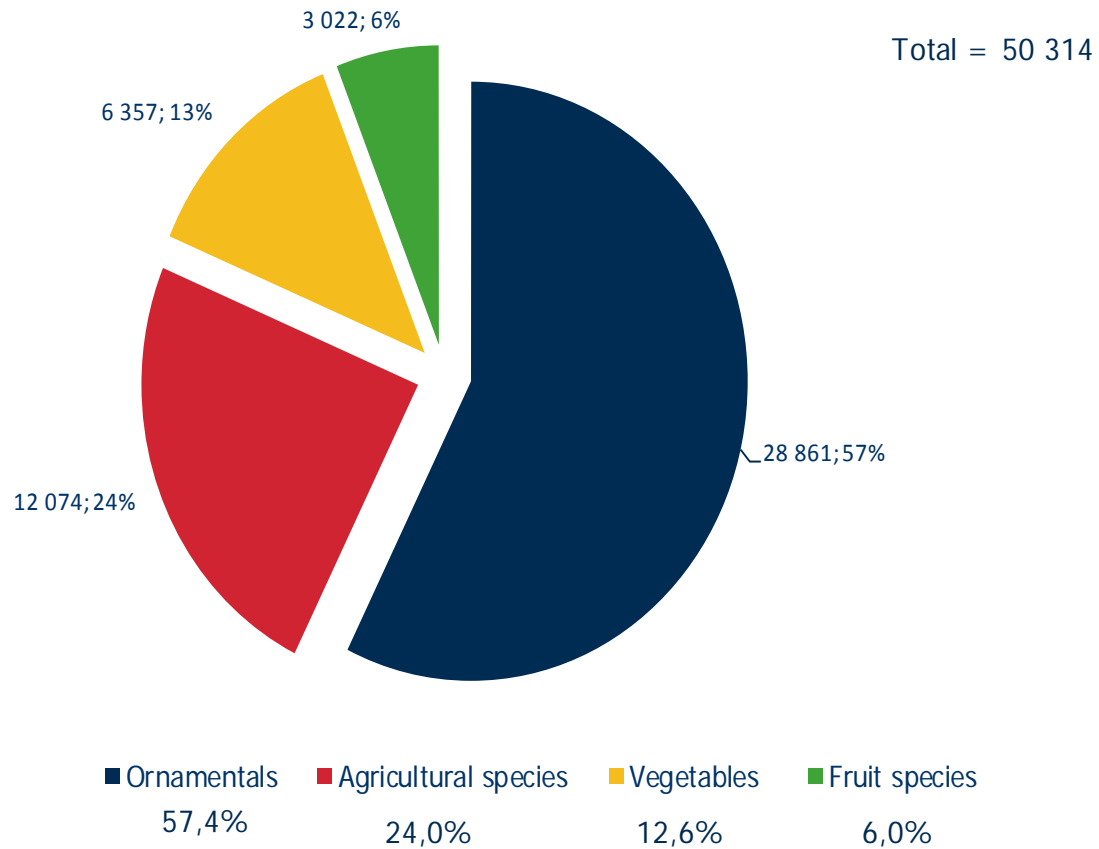


NB: (\*) comparison with 2013 - period from 01/01 to 07/03: -18.4%

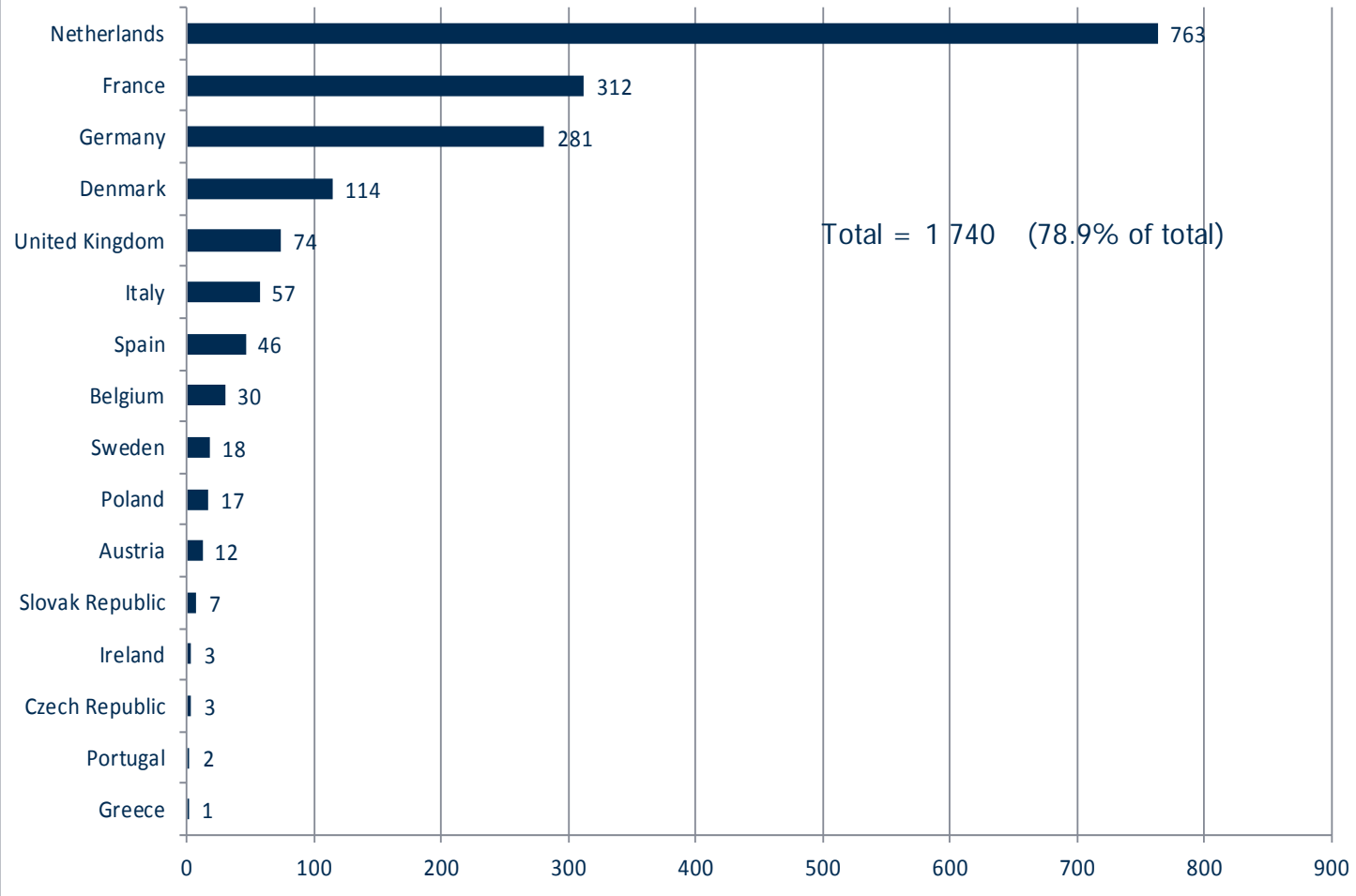




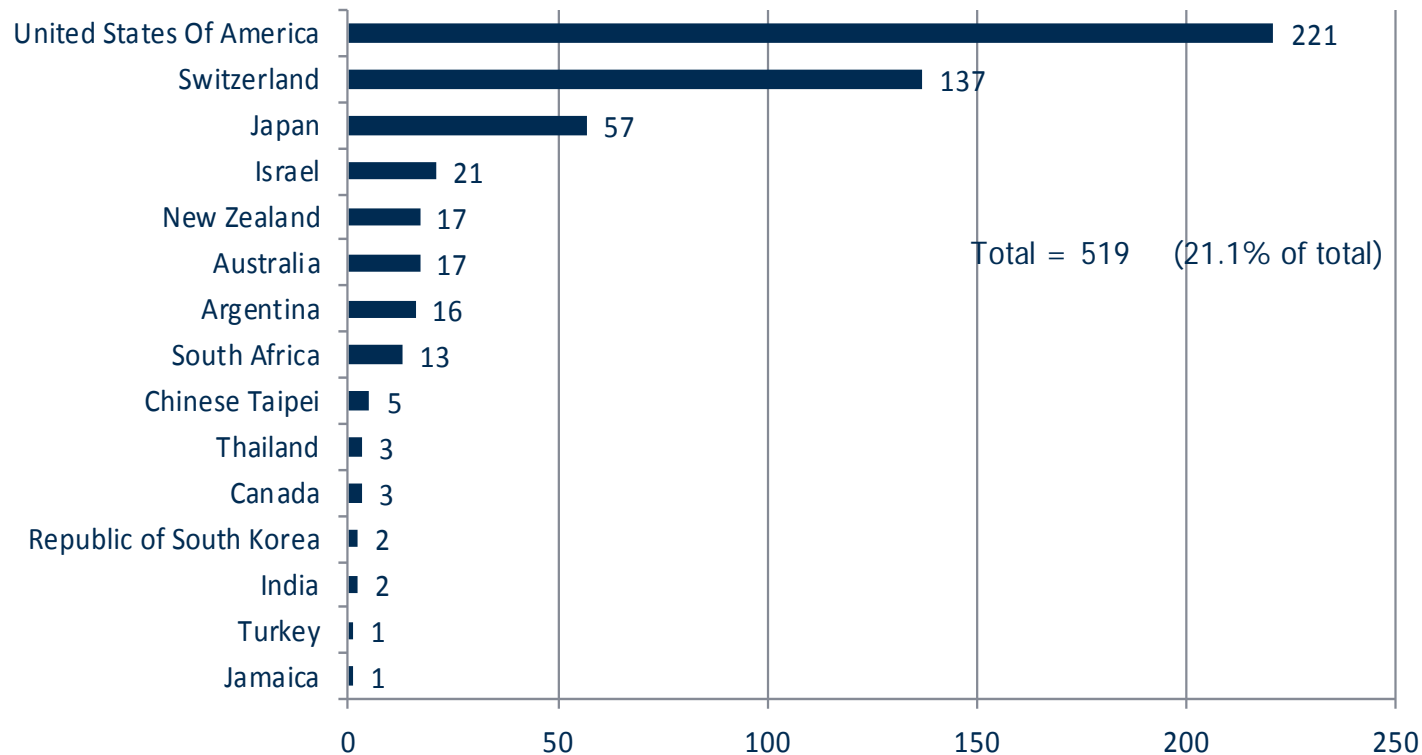
### Applications received for Community Plant Variety Rights from 27/04/1995 to 22/09/2014



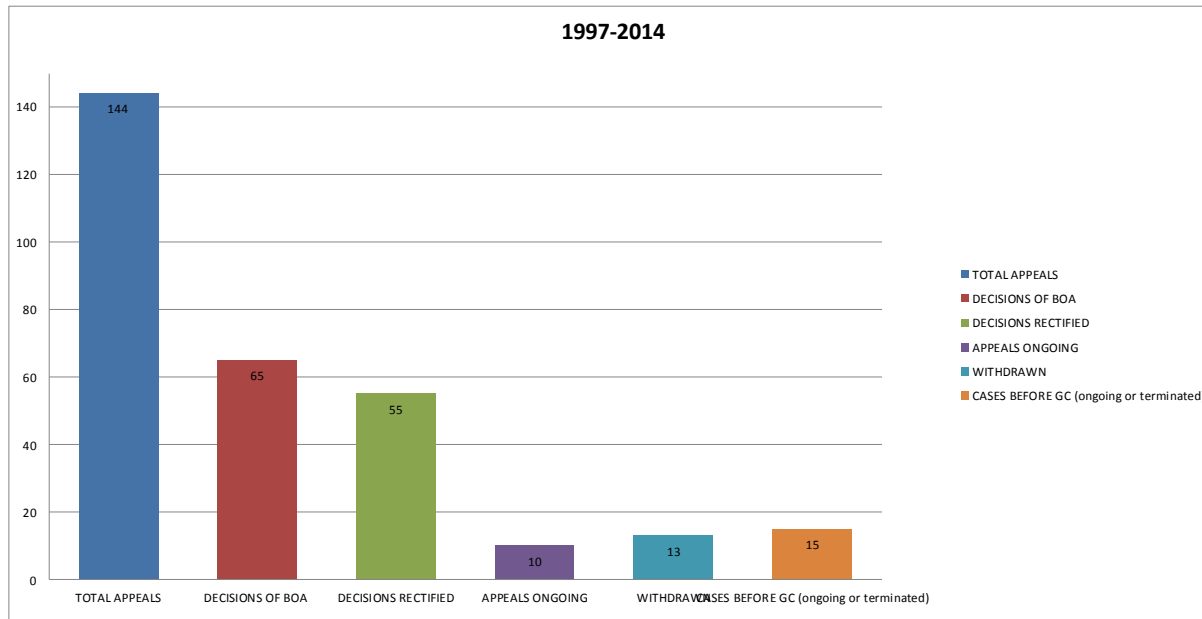
## Applications listed by country of origin of the main applicant in the European Union from 01/01/2014 to 22/09/2014



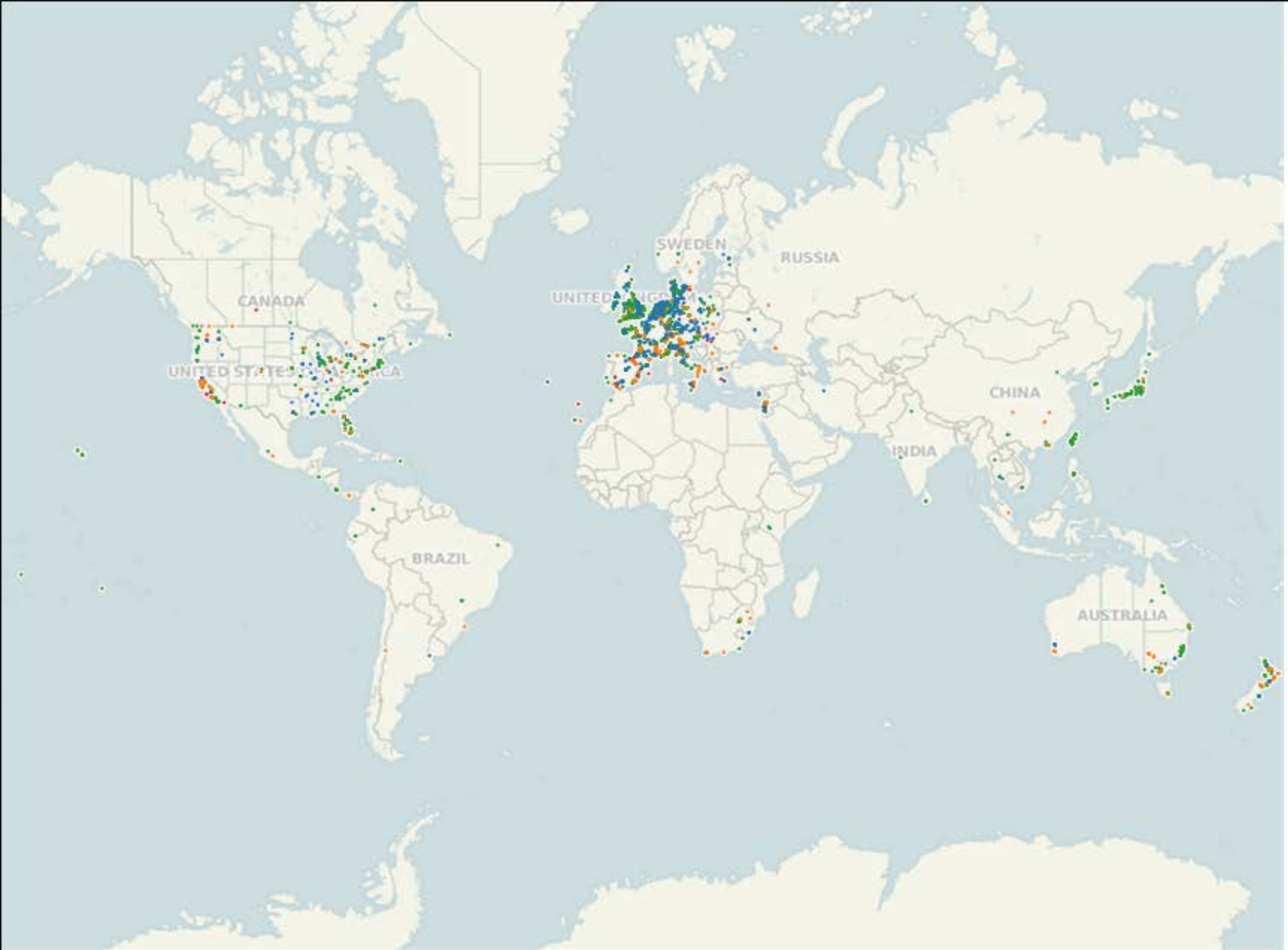
## Applications listed by country of origin of the main applicant outside the European Union from 01/01/2014 to 22/09/2014



# BOARD OF APPEAL: Statistics (1997-2014)



- CROP
- Agricultural
  - Fruit
  - Ornamental
  - Vegetables



Fees from clients per crop sector



# 7. New proposed tasks to CPVO in the PRM Regulation

- Establish and manage a Union variety register
- Handle listing applications for certain species
- Advise Member States on variety denominations
- Auditing Examination Offices only doing listing



# 8. Follow-up of the evaluation of the CPVR system in 2011

- The evaluator concluded that:
  - the system functions well over all and that stakeholders are happy with it and that they wish to retain the system in its current form, albeit with some carefully targeted adjustments
- No Commission initiative foreseen before 2015



# 9. Final Remarks

- CPVO contributes to:
  - Efficiencies for applicants
  - Less administration for national authorities
  - Close co-operation between CPVO and MS on a technical level
  - Protection at reasonable prices
- Financial management is sound
- New tasks logical for an EU Agency dealing with Plant Varieties

