

СЕКЦІЯ 3. ОХОРОНА ПРАВ НА СОРТИ РОСЛИН

UDC 631.526.32

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LISTING PLANT VARIETIES IN HUNGARY

Hungary became the member of UPOV in 1983. 1991 Act is the latest Act by which Hungary is related to this treaty. Plant variety protection in Hungary started after 1 January 2003 on the basis of Law No. XXXIII of 1995 on the Protection of Inventions by Patents. By that date plant varieties could get patent protection.

A plant variety protection shall be granted for a variety, if it is distinct, uniform, stable and new, and has been given a variety denomination which is apt for registration. Varieties of all botanical genera and species, including hybrids between genera or species may form the object of plant variety protection.

Plant variety protection valid in Hungary can be obtained by filing an application. Following the filing of an application for plant variety protection, the Hungarian Intellectual Property Office (HIPO) examines whether the application satisfies the requirements according to the date of filing (indication that plant variety protection is sought, information identifying the applicant or data thereof enabling to get in touch with the applicant, provisional description of the variety, provisional variety denomination, common name and Latin name of the species), the filing fee has been paid, as well as in case of foreign applications the provisional description of the variety has been filed in the Hungarian language.

The HIPO notifies the applicant of the accorded date of filing. If a date of filing cannot be accorded, the HIPO invites the applicant to correct the irregularities within two months. If the applicant complies with the invitation within the specified time limit, the date of receipt of the rectification shall be accorded as the date of filing.

The filing fee shall be payable to the account of the HIPO, with the indication of the reference number and the allocation. Payments without a reference number shall not be valid. If the filing fee has not been paid within two months after the filing date, the application shall be considered withdrawn.

If an application for plant variety protection satisfies the requirements prescribed for according a date of filing, the filing fee has been paid, the provisional description and the name of the variety have been filed in Hungarian language, and the photo of the plant variety has been submitted, the HIPO examines the application, whether it satisfies the prescribed formal requirements.

After the 18 months, from the date of the earliest priority, the HIPO publishes the application for plant variety protection in the Gazette of Patents and Trademarks. In addition to the data published on communication of certain data, the name and address of the breeder and the photo of the variety are also

published. For the term of plant variety protection annual fees shall be paid. Publication gives rise to the obligation to pay this fee. The applicant shall be notified of the date of publication and the amount of the annual fee before publication.

The HIPO shall assess distinctness, uniformity and stability of the plant variety on the basis of the results of experimental testing (DUS examination) carried out by the examination authority. In Hungary the examination authority is the National Food Chain Safety Office. The applicant may file the results of experimental testing with the HIPO within four years from the date of priority or within three months from the notification of the results of experimental testing, whichever expires later. The costs of experimental testing shall be borne by the applicant.

If the application for plant variety protection and the variety to which it relates meet all the requirements of the examination, the HIPO shall grant plant variety protection for the subject matter of the application. After the grant of plant variety protection, the HIPO issues a certificate to which the definitive description of the variety shall be attached. Definitive plant variety protection shall have a term of 25 years.

It should be noted, that the owner of the plant variety protection has exclusive right to utilise the plant variety or to give permission for it to others. It is important to emphasise that plant variety protection granted by HIPO is not identical with state registration granted by the National Food Chain Safety Office. The former ensures exclusive rights for its owner, while the latter is a precondition for allowing public production of the plant variety and ensures its indication on the national list of varieties. HIPO does not perform experimental testing at all.

List of References

1. International Convention for the Protection of New Varieties of Plants of December 2, 1961, as Revised at Geneva on November 10, 1972, on October 23, 1978, and on March 19, 1991 [International Convention for the Protection of New Varieties of Plants of December 2, 1961, as Revised at Geneva on November 10, 1972, on October 23, 1978, and on March 19, 1991]. (n.d.). *www.upov.int*. Retrieved from <http://www.upov.int/en/publications/conventions/1991/act1991.htm>.

2. Act No. XXXIII of 1995 on the Protection of Inventions by Patents Consolidated text (01.03.2011). (n.d.). *http://www.wipo.int* Retrieved from <http://www.wipo.int/edocs/lexdocs/laws/en/hu/hu048en.pdf>

3. Hungarian Intellectual Property Office <http://www.sztnh.gov.hu/en> Retrieved from <http://www.sztnh.gov.hu/en/plant-variety-protection>.