Information on Plant Varieties

- What is a plant variety? [1]
  Variety, in the sense of Law [2], means a plant grouping belonging to the lowest of the known botanical taxa, which irrespective of whether it complies fully with the criteria for the grant of patent protection:

  - may be defined by the characteristics of a given genotype or combination of genotypes; the expression of the characteristics of the material of the variety of the said type may be permanent or temporary, and moreover the degree of variability shall be determined by the genotype or combination of genotypes;
  - may be distinguished from any other plant grouping by the degree of expression of at least one of the said characteristics;
  - may be considered to be reproduced without any alterations as a unified whole in terms of its characteristics.

  In connection with the notion of variety are also used the notions of **essentially derived variety** and **notorious variety**.

  E**ssentially derived variety** shall be deemed to be the variety which is predominantly derived from the initial variety that retains the expression of essential characteristics of the initial variety that result from the genotype or combination of genotypes of the initial variety, but that is clearly distinguishable from the initial variety by one or more relevant features which can be described precisely.

  Notorious variety shall be deemed to be the variety which is protected in the Republic of Moldova or in another state, entered into an official register or catalog, entered into a recognized reference collection or a gene bank and which may be reproduced or cultivated when necessary.

  Clone, line and **hybrid** shall be deemed to be categories of a variety, and seeds, whole plants or parts thereof, capable of reproducing whole plants, shall be deemed to be **material of a variety**.

  Close [1]

- What kinds of varieties can be protected? [1]
  Legal protection by plant variety patent may be granted for varieties belonging to all plant genera and species.

  According to the Law, a plant variety shall be patentable only where it is:

  - distinct;
  - uniform;
  - stable;
  - new.

  The plant variety shall also be designated by a denomination in compliance with the legal requirements.

  Varieties that do not meet the criteria of patentability cannot be protected by plant variety patent.

  Close [1]

- What should be known before applying for variety patenting [1]
  It is necessary to determine:

  - the origin of the variety;

- the breeders;
- the degree of compliance with the criterion of “novelty”, because a variety shall be deemed to be new if at the date of filing with the Agency or at the date of claimed priority, the propagation or harvested material of the variety has not been sold or put at the disposal of third parties by the breeder or with his consent for the purposes of commercial exploitation of the variety:
  - a) on the territory of the Republic of Moldova, earlier than one year before the filing date of the patent application;
  - b) on the territory of other States, earlier than four years, and in the case of trees and vines, earlier than six years before the filing date of the patent application;

Close [1]

- The benefit of the protection of new plant varieties [1]
  Only the patent guarantees the variety a safe legal protection and gives the possibility of a fair regulation of the economic and personal relations arising out of the creation or use of the variety.

  The practice shows that plant material property to reproduce often creates problems, especially to breeders. By delivering the propagation material to third parties, the breeder does not have the assurance that they will not abusively reproduce the material, without requesting his consent. In such a situation, the damage sustained by the breeder can be enormous, because the creation of a new plant variety requires considerable financial investments and many years of hard work, in the case of certain species even 10-20 years.

  The patent gives the holder exclusive rights to exploit the variety and the opportunity to gain profit that would allow him both the return of previous financial investments and making new investments. At the same time the patent certifies the moral right of the breeder to be recognized as such and the economic right thereof, i.e. the right to remuneration for the creation of the variety.

  Close [1]

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