

Notes on Application for Plant Breeder's Rights

General information:

- The published forms (application which contains the technical questionnaire) have to be used.

pt. 1

- If the applicant is already registered with an applicant number, this number has to be used for the application. Otherwise the complete address of the applicant is needed in the form.
- Several persons that apply together for Variety Protection have to explain their legal relationships.
- A legal entity or business partnership which is part of a commercial register and applies for the first time at the Bundessortenamt, has to add a certificate of registration. The same conditions count for a one-man-business, if the person applies under a name that differs from the business name.

pt. 2

- Who does not have a residence or a place of business in a contracting state concerning the contract about the European Economic Area, can only apply, if he has got a representative with residence or a place of business in a contracting state. A power of attorney for a representative has to be signed by all principals. Only individual persons or a limited company which is accredited as lawyer or patent attorney company, can be appointed as representative.

pt. 3

- Botanical Denomination

pt. 4

- Preliminary denomination for application procedure
You can decide whether this is a preliminary denomination for the application procedure or already the final denomination. The form for the final denomination is part of the application and can also be found under the following path for later submission:
<https://www.bundessortenamt.de/bsa/antragshysteller/sonstige-formulare/>

pt. 5

- Only individual persons can be named as breeder of origin/discoverer of the variety
- If the breeder of origin/discoverer is not identical with the applicant, you have to mark the second box with a cross and name every single person.

pt. 6

- Every former application for protection or national list in other countries must be named in chronological order. Former applications in Germany must not be noted.
- The definition "National List" contains the variety list according to § 47 SaatG and the equal catalogues of other countries.
- In column "Stand" the following abbreviations have to be used:
A = application pending
B = application rejected
C = application withdrawn
D = Plant Breeder's Rights granted or registration in National List

pt. 7

- According to § 23 II SortG priority of time is only possible for the first deposit in another UPOV-country. Priority of time can only be claimed in applications of Plant Breeder's Rights.

pt 8

- Testing with genetically modified varieties can only start, when the admission for release or circulation according to the genetic engineering law is available and proof is provided to the Bundessortenamt.
Concerning the legal status related with the „new breeding-/mutagenesis-engineering“, the Bundessortenamt refers explicitly to the judgement of European Court from 25th of July 2018.

pt. 9

- Circulation of seeds according to "SaatG" is offering seeds, keeping seeds for transfer or delivery and any transfer of seeds to others.
- If there has already been circulation of seeds, it is sufficient to note the countries of distribution (including Germany).

The conditions for the exchange of testing results with other institutions result especially from § 26 SortG.

Additionally to the application for the Plant Breeder's Rights the following documents have to be added - if necessary:

1. Technical questionnaire (included in the application form)
2. Power of attorney: If there is authorized a new representative, the power of attorney has to be added.
3. Priority of time:
Priority of time can only be granted, if there is submitted a certified transcription of that application from the country in which the application was done – at least three months after the application day at Bundessortenamt.