

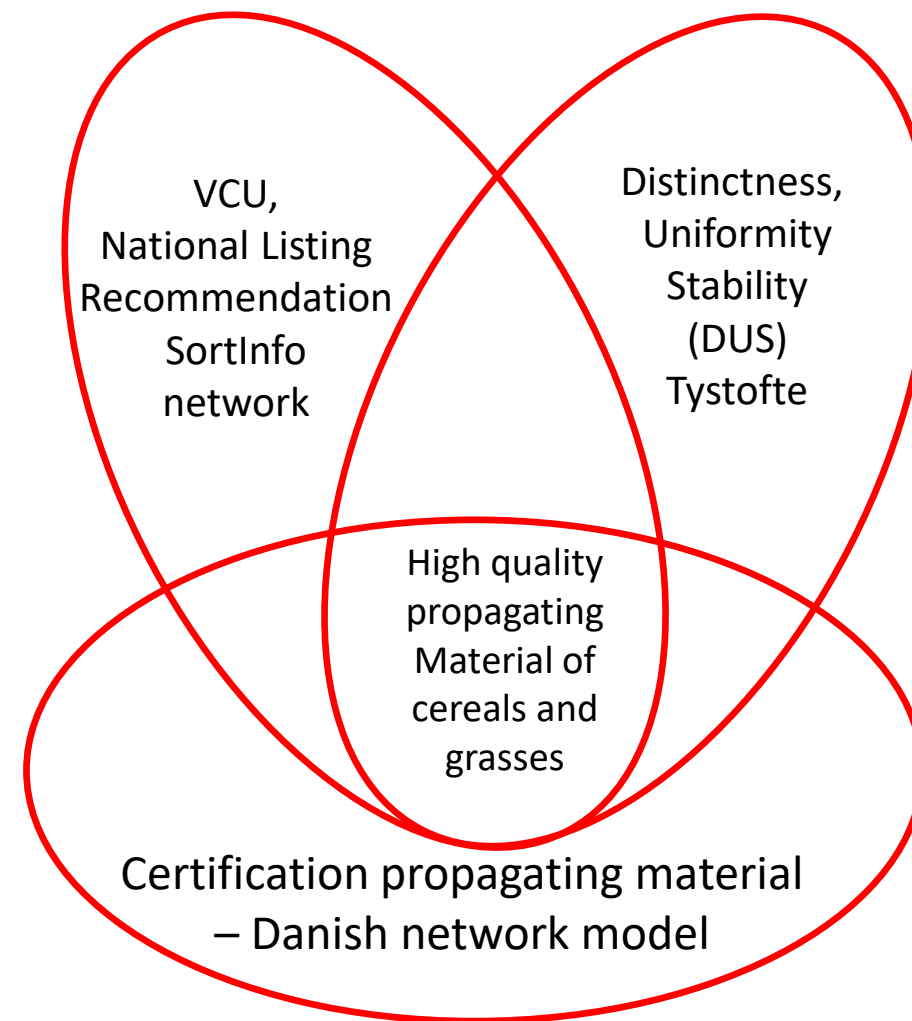
DanSeed 3-march 2021

Protection of Varieties/plant Breeder's Right

Disposition

1. Definition
2. Plant Breeders' Rights
 - UPOV 91 - frame
 - CPVR – EU-territory
3. Consequenses – effect
4. Conclusions





=> Idea of European
Seed legislation

**PBR/PVP/PNP (DK/EU based on UPOV) – acts as a
catalyst**



**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

UPOV mission:

To provide and promote an effective system of plant variety protection, with the aim of encouraging the development of new varieties of plants, for the benefit of society.

Lov om ændring af lov om plantenyheder, 1086, 20-12-95

– DK UPOV'91 tiltrædelse

Bekendtgørelse af lov om plantenyheder – 1131 af 3-7-20

- FVM-ressortministeriet og
- LBST, Planter er ressortmyndighed

Definition of a variety – UPOV'91

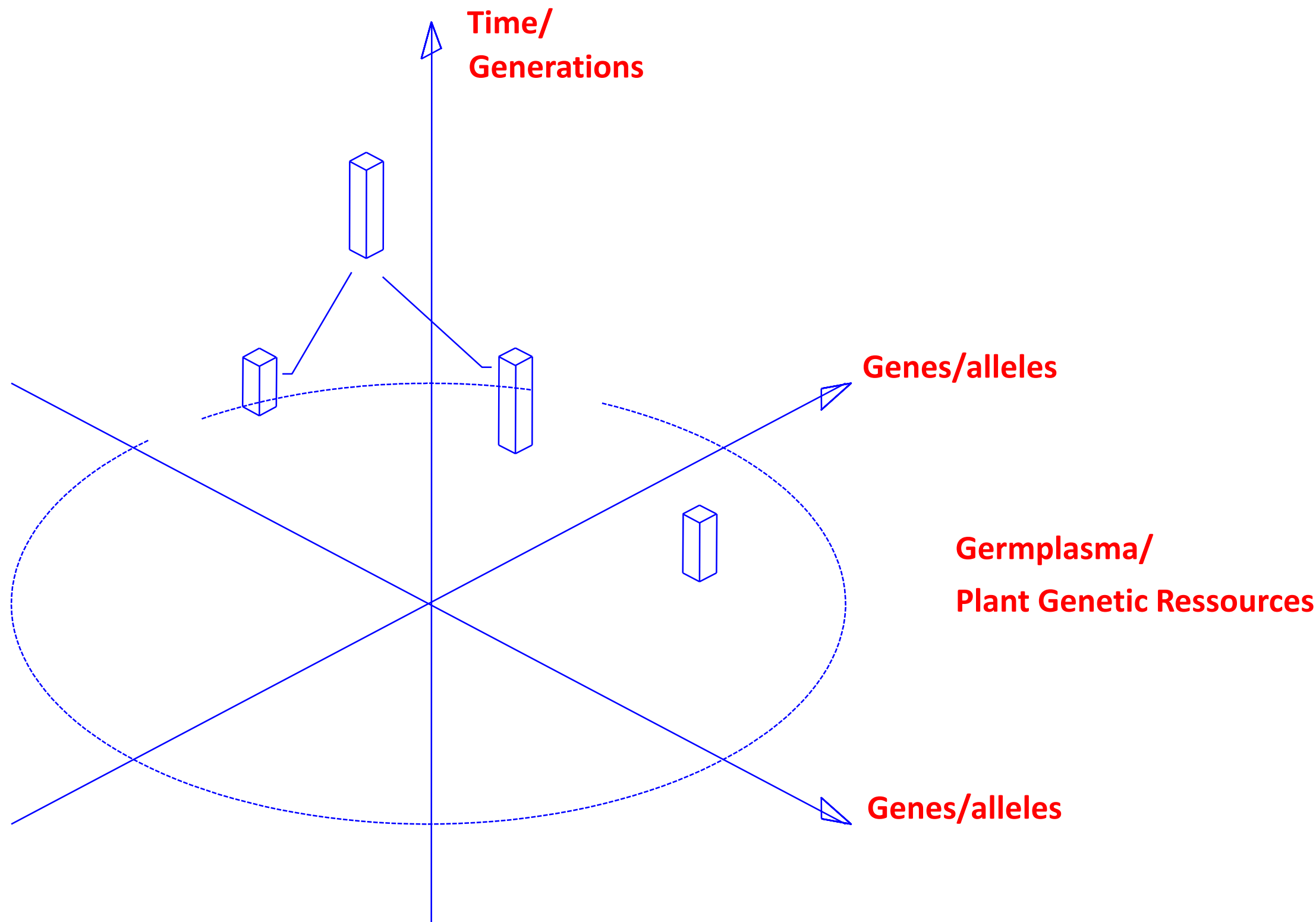
- “variety” means a plant grouping within a single **botanical** taxon of the lowest known rank, which grouping, irrespective of whether the conditions for the grant of a breeder’s right are fully met, can be
 - defined by the expression of the characteristics resulting from a given genotype or combination of genotypes,
 - distinguished from any other plant grouping by the expression of at least one of the said characteristics and
 - considered as a unit with regard to its suitability for being propagated unchanged



IPR-legislation – Plant Breeders' Rights – Plant Variety protection – Plant Novelty Protection – valid for the whole plant kingdom

- Conditions
 - New – development
 - UPOV 91: has not been sold or otherwise disposed of to others
 - 1 year
 - 4 years
 - Distinctness – common knowledge - power of protection
 - Uniformity – sufficiently according to the method of propagation - piece of botany
 - Stability – reproduceable and stable over generations
 - Generic name – a piece of botany within the species

A clearly identifiable unit - simplification



Promote innovation

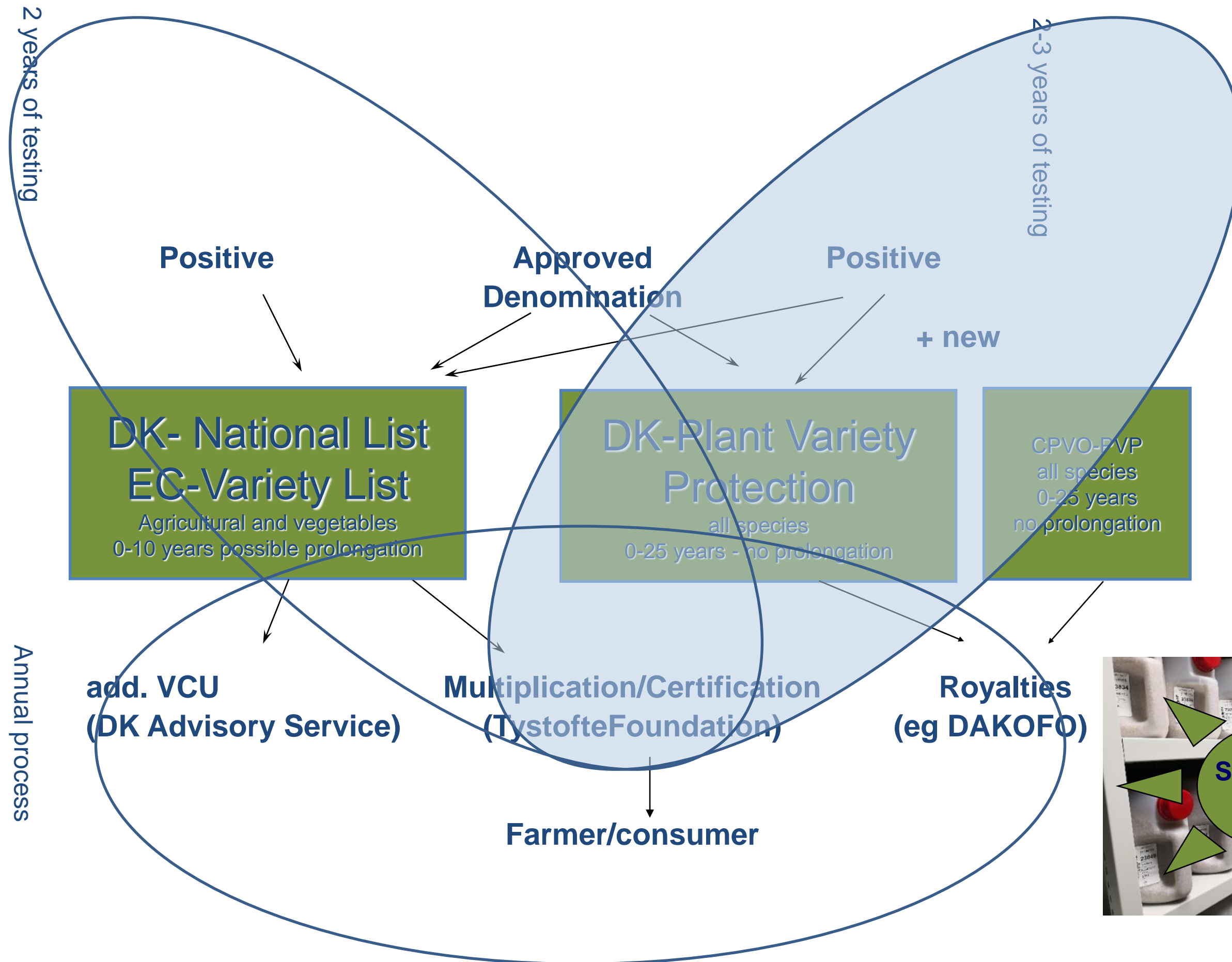
Rights of the Breeder

- The following acts in respect of the propagating material of the protected variety shall require the authorization of the breeder
 1. Production or reproduction (multiplication)
 2. Conditioning for the purpose of propagation
 3. Offering for sale
 4. Selling or other marketing
 5. Exporting
 6. Importing
 7. Stocking for any of the above mentioned purposes

GDE "Moment of propagation" is protected

- Exceptions
 - Compulsary
 - Research
 - Privat or non commercial
 - Breeding – breeders exception
 - Optional
 - Farm Saved Seed
- Variations
 - EDV
 - Priority
 - Provisional protection
- Duration of protection 25 (to 30 years)
- Territory restrictions and border control

EU-NL - application of Varieties



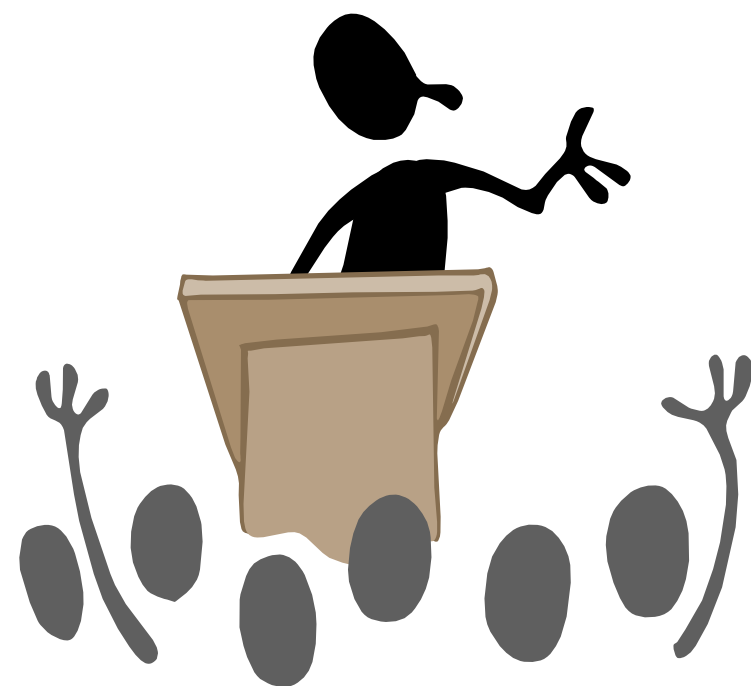
Consequences – effect - does it work – are there any benefits

- Number of protections
 - 76 countries are UPOV member
 - UPOV 31-12-2019 approx 140.000 titles granted world wide
 - CPVO >30.000 active protections
 - DK 19-2-2021: 44 protections in force
- Several videos and interviews with key note persons
https://www.upov.int/about/en/benefits_upov_system.html
- The Socio economics of UPOV membership of Vietnam – assessment on plant breeding, agriculture and productivity – HFFA research group 2017
- Introduction of well adapted plant material in combination with freedom to breed equals invaluable “tech trans” – new UPOV Members
- UPOV impact study 2005
 - Argentina
 - China
 - Poland
 - Republic of Korea
 - Kenya

Conclusion

- UPOV system – an effective sui generis system in plants
- PBR – catalyst of innovation and thereby for the benefit of society
 - Agricultural & vegetables – fodder and food – development and productivity
 - Ornamentals – beauty - aesthetic
- UPOV PBR - strong enough to finance the required investments for further developments ?
 - Growing population
 - climate changes
 - new characteristics – nbt - gmo
- Patents, too exclusive primarily due to dependency?
 - Image mlo-resistance in barley was a patent, with a validity for 25 years
- Innovation – discovery – recombination of genes
- "Variety as transporter of bio-patents"
 - Balance to be striked

Questions ?



Abbreviations

- PBR – Plant Breeders Rights = Plant Variety Protection (PVP) = Plant Novelty Protection (PNP)
- CBD – Convention on Bio Diversity
- CPVO - Community Plant Variety office
- DUS – Distinctness, Uniformity and Stability
- EDV – Essential Derived Variety
- EPO – European Patent Office
- GM – genetically modified
- IPR – Intellectual Property Rights
- IRPGR-FA – International Treaty on Plant Genetic Resources for Food and Agriculture
- UPOV – Union of Protection of New Varieties
- VCU – Value of Cultivation and Use