

(As published in PVP Gazette, Issue No. 87, March 2000)

SLOVAKIA

ACT

No. 132/1989 Coll. Laws

dated 15 November 1989

on the Protection of Rights of New Varieties and Animal Breeds
Amended: 22/1996 Coll. Laws

Federal Assembly of the Czechoslovak Socialist
Republic has adopted the following:

PART ONE

GENERAL PROVISIONS

ARTICLE I

PURPOSE AND SCOPE OF APPLICATION OF THE LAW

- (1) The purpose of this Law is to regulate the rights and duties arising for physical and legal persons from the creation of new varieties of plants (hereinafter referred to as varieties and breeds of animals (hereinafter referred to as "breeds") and from their commercial exploitation.
- (2) This Law applies to the varieties of all genera and species of plants and those breeds of animals which can be listed in a generally binding regulation.)
- (3) This Law shall not apply to any industrially produced micro-organisms, biotechnological producers and products obtained by the help of the same which are patentable.)

ARTICLE 2

DEFINITION OF TERMS

For the purposes of this Law, the following words shall have the following meaning:

- a) "Variety" shall mean a set of plants within a common lowest botanical taxon which, regardless of whether the terms for granting a Breeder's Certificate are fulfilled, may be:
 1. defined by the expression of characteristics arising from the given genotype or a combination of genotypes;
 2. distinguished from any other set of plants by the expression of at least one of the said characteristics;
 3. deemed to be unified owing to its ability to remain unchanged in propagation.
- b) the propagating material of varieties shall mean seeds and plantings, as well as plants and their parts designated for further propagation.
- c) a "breed" refers to an animal population derived from a single origin, with characteristic morphological and physiological features, capable of reproduction: besides "breed", this includes its lower taxons - races, strains and lines, as well as their hybrids. and eventually also utility breeds of farm animals.
- d) animal breeds' "propagating material" refers to living animals, semen, oocytes, embryos and eggs to be used for further propagation.

e) the "creation" of a variety or a breed within the activities of a Slovak organisation shall mean the creation, development or discovery of a variety or a breed in connection with the fulfillment of duties arising from the employment contract, any membership or business relation to such organisation or any body under its material support.

f) the "commercial exploitation" of varieties and breeds shall include in respect of the propagating material or harvesting material of varieties and the propagating material of breeds - (i) the manufacture for sale (ii) treatment for the purpose of propagation (iii) the offering for sale (iv) the sale of (v) and the storing propagating material, harvesting material of varieties and propagating material of breeds and storing the same.

g) "Breeder" shall mean:

1. any natural person who discovered, developed or by his own breeding created a variety or a breed:

1.1. beyond any activities of a Slovak organisation on his own account in and his own name, or who has, on his own account, arranged by a contract in his own name a discovery, development, or creation of a new variety or breed by any third person;

1.2. within the activities of a Slovak organisation during his employment, or a similar working relationship, on such an organisation's account and in its name (hereinafter referred to as the "author"),

while the position of a natural person may be held by several persons, provided, they have been engaged in the discovery, development, or creation of a variety or a breed by their own breeding research

2. any legal person, who:

2.1. is an employer of a natural person referred to in clause 1.2. above, when the costs of discovery, development, or creation of the new variety or a breed have been covered in its full or partial amount,

2.2. has the right of ownership or an economic right in respect of a variety or a breed,

while the position of a legal person may be held by several persons, provided that the variety or breed, have been discovered, developed, or created under their material support,

3. any legal successor of the natural person or the legal person referred to in clauses 1 and 2 above,

4. any foreign natural person or any foreign legal person who has the right to dispose of the variety or breed, having a contractual agent within the territory of the Slovak Republic,

h) the "applicant" shall mean a breeder who is entitled to file an application for the protection of a variety or a breed, the natural person shall be entitled file such an application only if the variety or breed has been discovered, developed or created by his own breeding research, in his own name and on his own account beyond any activities of a Slovak organisation; an applicant may be represented by several breeders provided that the variety or the breed has been discovered, developed or created by their material support

i) a holder of the Breeder's Certificate shall mean anyone who has been granted the Breeder's Certificate, or his legal successor.

PART TWO

THE GRANTING OF THE BREEDER'S CERTIFICATE AND THE RIGHTS AND DUTIES OF BREEDERS AND ORIGINATORS

ARTICLE 3

(1) The applicant shall be granted, on the basis of his application, a Breeder's Certificate in respect of a variety or a breed that complies with the conditions laid down in Articles 4 to 6.

(2) The Breeder's Certificate is to certify:

(a) the creation of a variety or a breed;

(b) the name of the variety or the breed, with an indication of the species (genus);

- (c) the holder of the Breeder 's Certificate by stating the variety or breed's trade name and seat, only if a legal person, and his name, surname, and permanent residence is a natural person;
- (d) the right of the owner of the Breeder 's Certificate to exploit the variety or the breed commercially;
- (e) the dates of commencement and termination of the protection of the rights in respect of the variety or the breed.

ARTICLE 4

CONDITIONS FOR THE GRANTING BREEDER'S CERTIFICATE IN RESPECT OF A VARIETY

- (1) The conditions for the granting of a Breeder 's Certificate in respect of a variety shall be satisfied if the variety is:
 - a) distinct,
 - b) uniform,
 - c) stable, and
 - d) new.
- (2) The variety is distinguished if it is clearly distinct by the way of expression of at least one describable and well distinguished important characteristic (property) or expression of a combination of characteristics (properties) from any other variety generally known about upon the date of the filing of the application.
- (3) The variety is consistent if it remains sufficiently uniform in the expression of those characteristics that are found in the tests for its distinguished character, as well as in the expression of any other characteristics referred to in the variety description, save for any deviations which may arise from certain peculiarities of propagation.
- (4) The variety is stable if it maintains its original distinguished characteristics in each generation or after each cycle of propagation.
- (5) The variety is "new" if its propagating or harvesting material has not been sold or otherwise disposed to others:
 - a) within the territory of the Slovak Republic previous to one year before the date of the riling the application (Art. 16),
 - b) within the territory of any other country:
 - 1. in the case of varieties of fruit trees, forest or garden woods, or vines, previous to six years before the date of riling the application,
 - 2. in the case of varieties of any other species, previous to four years before the date of the riling the application.
- (6) The varieties of genera and species of plants to which this Law has not applied until this day, shall be deemed to be new even if they do not fulfil the conditions stipulated in the clause above.
- (7) A variety shall also be deemed to be new if propagating or harvesting material has been sold or otherwise disposed of to others without the breeder 's consent.
- (8) For the purposes of this Law, a variety shall not be deemed to be sold or otherwise disposed to others and thus it is deemed to be new - also in cases where its propagating or harvesting material:
 - a) has been provided, under the terms and conditions stipulated in the Law, to the Ministry of Agriculture of the Slovak Republic (hereinafter referred to as the "Ministry") or any professional authority or organisation appointed by the Ministry for the purpose of determining characteristics and properties of the variety
 - b) has been used for a discovery, development or creation of any other variety
 - c) has been produced, propagated, treated after harvest or stored by a third person under a contract, provided the breeder has continued to hold the exclusive right to the disposal of such propagating material of the variety; this shall not apply if the propagating material has been used as a component for the production of a hybrid variety which has been sold or otherwise disposed of to others

- d) has been provided to a person who has been engaged in his own activity or, by way of his material support, in the discovery, development, or creation of the variety; unless said material is further sold or otherwise disposed of to others by such a person
 - e) has been used by a third party for experimental purposes
 - f) has been exhibited in any official or officially acknowledged exhibition under an international treaty.
- (9) For the purpose of reviewing the terms and conditions for granting a Breeder 's Certificate in respect of a variety, any other variety shall become generally known on the date of filing for an application in the Slovak Republic or abroad, provided that the application leads to the granting of the Breeder 's Certificate or entry into the national list of varieties.

ARTICLE 5

CONDITIONS FOR THE GRANTING OF A BREEDER'S CERTIFICATE IN RESPECT OF A BREED

- (1) The conditions for the granting of a Breeder's Certificate in respect of a breed to which special provisions apply shall be deemed to be complied with if the breed has been certified or released pursuant to the said special provisions less than one year before the filing of the application (Article 16).
- (2) The conditions for the granting of the Breeder's Certificate in respect of a breed to which special provisions do not apply shall be deemed to be complied with if the breed is:
- a) distinct by way of at least one major trait or property from any other breed that is commonly known of upon the date of the filing of the application
 - b) uniform to a level that is adequate to the biological properties of the breed concerned
 - c) stable in its major traits, while respecting the peculiarities ensuing from the environment in which the animals are bred
 - d) new
 - e) sufficiently large in number for reproduction
- (3) The condition of novelty shall be deemed to be complied with if the breed has not been sold or offered for sale:
- a) in the territory of the Slovak Republic for longer than one year before the date of the filing of the application,
 - b) in the territory of any other State for longer than six years before the date of the filing of the application.
- (4) The fact that the breed has been sold or offered for sale without the approval of its breeder shall not be considered detrimental to its novelty.

ARTICLE 6

DENOMINATION OF THE VARIETY OR THE BREED

- (1) Each variety or breed should be labeled by a name which is its general name. If the variety or the breed has been permitted or registered in the Slovak Republic pursuant to special regulations 2), it shall bear the name in accordance with these regulations.
- (2) The denomination of a variety or a breed shall not:
- a) consist solely of figures,
 - b) be identical or liable to cause confusion with a denomination used in the Slovak Republic or abroad for a variety or a breed of the same or a related species, or otherwise infringe upon the rights of other breeders,
 - c) be liable to mislead concerning the value, characteristics or origin of the variety or the breed, or the identity of the breeder or originator,

- d) be identical or liable to cause confusion with the trademark, indication of source or geographical designation used for the same or similar products, with a famous trademark irrespective of the kind of product, or otherwise infringe upon the rights and protected interests of other persons,
 - e) be contrary to public interests,
 - f) be unsuitable for linguistic reasons.
- (3) Foreign varieties or breeds shall retain their original names. Any other name may be used only provided that the original name does not comply with requirements stipulated in clause 2 above.
- (4) The right of priority of any third persons in respect of the name of a variety or a breed shall not be affected. If the application for the protection of a variety or a breed shall affect the right of priority (Art. 16 clause 2) in respect of the name of a variety or a breed of a third person, the provision of Art. 17 clause I of this Law shall apply.
- (5) The Ministry shall be liable for informing the public about any proposal of a name of a new variety or a breed for the purpose of ensuring the protection of the right of priority in respect of the name of a variety or a breed of third persons, and this liability shall be fulfilled by the timely filing of the application pursuant to Art. 18, clause I of this Law.
- (6) In any business use of a variety or, a breed, a trademark, a trade name or a similar labelling may be a part of the name of the variety. However, the denomination of the variety or the breed should be clearly and easily distinguishable.

ARTICLE 7

RIGHTS OF BREEDERS

- (1) The rights of breeders arising from the Breeder 's Certificate shall not be restricted by any third person in any way, save for in the exceptions stipulated in the Law.
- (2) Commercial exploitation of any derived or any certain other variety shall be possible only with the a written consent of the holder of the Breeder 's Certificate pertaining to the original variety. The owner of the original variety shall have the right to receive at least a reasonable consideration from the commercial use of any derived variety.
- (3) The "derived variety" shall mean a variety which is substantially derived from any protected variety, where the protected variety itself is not a substantially derived variety or is not secondarily derived from any variety which itself is substantially derived from any original variety, and
- a) retains its essential characteristics resulting from the genotype or a combination of genotypes of the original variety,
 - b) is clearly distinguishable from the original variety,
 - c) substantially corresponds to the original variety in the expression of essential characteristics resulting from the genotype or a combination of genotypes of the original variety, except in the case of differences arising from derivation.
- (4) A "certain other variety" shall mean a variety:
- a) which is not clearly distinguishable from the protected variety (Art. 4, clause 1, item a),
 - b) of which the production requires repeated use of the variety for which a Breeder 's Certificate has been granted.
- (5) The provisions used for protected varieties shall also apply to any derived varieties and certain other varieties accordingly, and
- a) the Breeder 's Certificate shall show also the owner of the original variety (Art. 3, clause 2, item c),
 - b) before commencing the commercial exploitation of any derived or certain other variety, its owner or any other user shall agree in writing with the owner of the original variety upon the consideration from the commercial exploitation of the derived or certain other variety (Art. 8, clause I and Art. 7, clause 2), otherwise he shall not be authorised to commercially exploit the same.
- (6) The breeder, having discovered, developed or created any variety or any breed within the activities of a Slovak organisation, shall have the right to have his name shown in the Breeder 's Certificate as its author, such right being untransferable.

(7) If more than one breeder contributed through their creative work to the discovery, development, or creation of a variety or a breed, they shall share their rights in proportion to their participation in the creation of the variety or the breed. If the shares of the breeders can not be determined, they shall be deemed to be equal.

(8) Any breeder, having discovered, developed or created a variety or a breed within the activities of a Slovak organisation, shall have the right to expect to receive from the holder of the Breeder's Certificate a share from the license fees or financial benefits from the commercial exploitation of the variety or the breed (the right to receive consideration). The agreement upon the consideration should be made in writing.

ARTICLE 8

RIGHTS AND DUTIES ARISING FROM THE BREEDER'S CERTIFICATE

(1) The owner of the Breeder's Certificate shall have the exclusive right to exploit the variety or breed commercially; the variety or breed shall not be commercially exploited during the period of protection without his consent.

(2) Slovak organisations which are engaged in the State system of the care of the development of animal breeding on the basis of a licence issued pursuant to special provisions shall not be required to obtain such consent if the owner of the Breeder's Certificate in respect of a breed is a Slovak legal or physical person.

(3) The consent of the owner of the Breeder's Certificate shall not be required if the variety or the breed serves for the breeding of another variety or breed, this shall not apply to cases where such a variety or breed is used repeatedly as a component for the production of another variety or the formation of another breed for purposes of sale.

(4) The right to commercially exploit a variety or a breed shall also include the right to authorise such commercial exploitation to other persons. Such authorisation (licence) shall be granted by means of a written contract which shall include the conditions of use and an agreement on the licence fees.

(5) The holder of the Breeder's Certificate may give his consent for a granted licence for the following licensed acts:

- a) the production or propagating of propagating material of a variety or a breed,
- b) treating material for the purposes of propagation,
- c) offering for sale,
- d) selling or any other form of trading,
- e) export,
- f) import,
- g) storing for the purposes referred to in subparagraphs a) through f) above.

(6) The consent for performing any of the acts referred to in clause 5) above, may be made conditional or restricted by the holder of the Breeder's Certificate.

(7) The consent of the holder of the Breeder's Certificate shall be required also for performing the acts referred to in clause 5, items a) through g) related to the harvesting material of a variety or a breed.

(8) Any products from the propagating material of a variety or a breed and from the harvesting material of a variety for which a Breeder's Certificate has been granted, may be produced under the written consent of the holder of the Breeder's Certificate.

(9) Granting a consent for performing acts pursuant to clauses 5), 6), and 8) above shall be required also for any derived varieties and certain other varieties.

ARTICLE 9

(1) If a variety or a breed has been created by several originators in the framework of their activity for several Slovak organisations, those organisations shall, as co-owners of the Breeder's Certificate, share the rights and duties in respect of the variety or the breed at the same ratio as the originators share their rights.

(2) The rights and duties of the co-owners of the Breeder's Certificate shall, in relation to third persons, be Joint and several. As for their mutual claims, they shall settle accounts according to their shares.

ARTICLE 10

COMPULSORY LICENCES

(1) If the owner of a Breeder's Certificate refuses to authorise the commercial exploitation of the variety or the breed, or refuses to do so to the extent necessary, the Ministry may substitute for his authorisation, in the public interest, a compulsory licence.

(2) In the case where a compulsory licence is granted, the owner of the Breeder's Certificate shall be entitled to compensation through licence fees. If the owner of the breeder's Certificate fails to reach agreement in respect of the value of the compensation with the organisation to the benefit of which the compulsory licence has been granted, the decision shall be made, upon the proposal of either of them, by an authority referred to in Article 25, due account being taken of the costs of the breeding of the variety or the breed and of the financial benefits expected from its commercial exploitation.

ARTICLE 10 A

OTHER RESTRICTIONS UPON THE BREEDER'S CERTIFICATE

(1) The following performed activities shall not mean any loss of rights for the holder of the Breeder's Certificate:

- a) for non-business activities,
- b) for testing purposes,
- c) for the purposes of creation, development, or discovery another variety.

(2) The rights of the holder of the Breeder's Certificate shall not be affected, when individual farmers propagate, on their own land, such varieties for which the Breeder's Certificates have been granted and use the propagating material which was obtained by them by seeding or planting and harvesting on their own land. The conditions of this restriction shall be stipulated in the generally valid legal regulation to be issued by the Ministry.

(3) The protection of the rights of the holder of the Breeder's Certificate will not be provided pursuant to this Law if the propagating or harvesting material of a variety has been provided to any third person by the holder of the Breeder's Certificate or upon his consent. However such person shall not use the same:

- a) for any propagation, except in cases when such propagation was the intention of providing the same,
- b) for export, except in cases when the exported material is intended for final consumption.

ARTICLE 11

TRANSFER OF THE BREEDER'S CERTIFICATE

(1) The owner of the Breeder's Certificate may transfer the Certificate to any other person by written contract. All the rights and duties ensuing from the Breeder's Certificate, except the rights of the originator, are thus passed on to the new owner. The owner of the breeder's Certificate shall be entitled to request the transferee to pay a financial compensation for the transfer.

(2) A co-owner of the Breeder's Certificate may transfer his share to any other co-owner. The Breeder's Certificate may be transferred to a third person only if none of the co-owners accepts a written offer of transfer within a period of one month.

(3) The contract relating to the transfer of the Breeder's Certificate shall come into force on the day of its entry in the Register of Protected Varieties or in the Register of Protected Breeds, both Registers being kept by the Ministry; the entry shall be made upon payment of an administrative fee.

(4) Any change in the person of the owner of the Breeder's Certificate other than through transfer in accordance with paragraphs (1) to (3) may only occur in cases determined by Law.

(5) Any change in the person of the owner of the Breeder's Certificate shall be entered in the Register of Protected Varieties or in the Register of Protected Breeds.

ARTICLE 12

TERMS OF VALIDITY OF THE BREEDER'S CERTIFICATE

The Breeder's Certificate shall be in force from the day of the filing of the application:

- a) for 30 years in the case of varieties of hop, grapevine, fruit, ornamental and forest woody species and rootstocks thereof,
- b) for 25 years in the case of varieties of other species,
- c) throughout the duration of the breed in the case of breeds.

ARTICLE 13

CANCELLATION OF THE BREEDER'S CERTIFICATE

- (1) The Ministry shall cancel the Breeder's Certificate, if:
 - a) the variety or the breed no longer shows any characteristics of homogeneity and stability ascertained at the time of granting the Breeder's Certificate,
 - b) the biological and documentary material for verification tests (Art. 22) fails to be submitted duly and in due time, of within the specified substitute time period,
 - c) the payment for performing the verification tests remains unpaid within the specified time period,
 - d) the holder of the Breeder 's Certificate fails to pay the administration fee in due time,
 - e) the holder of the Breeder 's Certificate shall announce in writing that he waives the Breeder's Certificate,
 - f) the holder of the Breeder 's Certificate fails to propose, within the specified time period, any new name of a variety or a breed if the original name has been cancelled.
- (2) The cancellation of the Breeder 's Certificate shall be entered into the register of protected varieties or in the register of the protected breeds and shall be published in the Bulletin of the Ministry (hereinafter referred to as the "Bulletin") within three months from the date of its cancellation.

ARTICLE 14

PROTECTION OF THE DENOMINATION

The denomination of a variety or a breed shall be used in the commercial exploitation of the variety or the breed and in further breeding. The denomination of the variety or the breed shall not be used for any other variety or breed of the same or a related species. not even after the termination of the Breeder's Certificate.

ARTICLE 15

RELATIONSHIPS WITH OTHER COUNTRIES

- (1) Under the condition of reciprocity, any foreign physical and legal person shall have the same rights and duties as Slovak nationals, if the rights of the owners of Breeder's Certificates are involved and where the State (of which the former person is a member or where the person has their seat) provides protection in respect of the species of plants or animals concerned. The Breeder's Certificate may be granted despite the fact that the above condition is not complied with in cases deserving special consideration.
- (2) Provisions of international agreements binding on the Slovak Republic shall remain unaffected.

PART THREE

PROCEDURE IN RELATION TO THE PROTECTION OF VARIETIES AND BREEDS

ARTICLE 16

FILING OF THE APPLICATION

- (1) The applicant (Article 2, item h) shall be entitled to file an application for the protection of a variety or a breed.
- (2) The application shall be filed with the Ministry; the filing shall confer a right of priority on the applicant.
- (3) The right of priority, as it may be derived from an international agreement, shall be claimed already in the application and shall be proved by due evidence within three months, failing which such a right of priority shall not be taken into consideration. The application shall contain the date and the name of the State of the first filing abroad from which the applicant derives his right of priority.
- (4) The Ministry shall enter the applications in the order in which they have been delivered into the Register of Applications for new varieties or into the Register of Applications for new breeds. If the applicant fails to pay the administration fee¹¹ when filing the application or no later than within the time period set by the Ministry, the Ministry shall cancel the entry of the application in the Register of Applications and shall notify the applicant immediately in writing. At the same time, the Ministry shall publish a notice canceling the entry of the application in the Register of Applications in the Bulletin. By canceling the entry of the application in the Register of Applications, the applicant's rights to file a new application for the protection of the same variety or breed shall not cease.

ARTICLE 17

EXAMINATION OF THE APPLICATION

- (1) If an application does not conform to the prescribed requirements, the Ministry shall request the applicant to remedy the insufficiencies within a prescribed period. In cases deserving special attention, the Ministry may assist in remedying the insufficiencies. If the insufficiencies are not remedied within the prescribed period, the procedure shall be discontinued. The applicant shall be notified of this eventuality at the time when the period is prescribed.
- (2) If the applicant remedies the insufficiencies in due course, his right of priority shall remain unaffected.
- (3) The requirements for the application shall be laid down by a generally binding regulation.

ARTICLE 18

PUBLICATION OF THE APPLICATION

- (1) The Ministry shall publish a notice about filed applications in the Bulletin within three months from the date of filing the application, and such notice should contain the information about the applicant, the name of the variety or the breed, the species name, and the information about its novelty. The decision on the objections shall be made by the Ministry. If an expert opinion is required for the decision on the objections (Article 20), the decision shall be made by the Ministry within three months from the receipt of the said expert opinion.
- (2) A change in the applicant may be made:
 - a) with the approval of the applicant,
 - b) without his approval, on the basis of a valid decision from an authority referred to in Article 25.
- (3) If during the course of the processing of the application, an argument arises as to whether the application has been filed by an entitled person, the Ministry shall continue to process the application, but the decision on the Breeder's Certificate shall only be issued after the decision from an authority referred to in Article 25 has come into force.
- (4) Any change in the applicant shall be entered in the Register of Application in respect of New Varieties or the Register of Applications in respect of New Breeds.
- (5) Any change of the information set forth in the application to be published should be published in the Bulletin within three months of such change.

ARTICLE 19

APPLICATIONS FOR THE PROTECTION OF SLOVAK VARIETIES AND
BREEDS IN OTHER COUNTRIES

- (1) An application for the protection of a Slovak variety or a breed may be filed in another country even before filing such application in the Slovak Republic, and also in the event such application has never been filed by the applicant in the Slovak Republic.
- (2) The person who files an application in respect of a Slovak variety or breed in another country shall notify the Ministry of the filing.

ARTICLE 20

DETERMINATION OF THE TRAITS AND PROPERTIES OF
VARIETIES AND BREEDS

- (1) Compliance with the conditions laid down in Articles 4 to 6 shall be examined by the Ministry on the basis of opinions of competent specialist authorities and organisations and, in the case of breeds to which special provisions apply, on the basis of the decision of an appropriate authority.
- (2) The competent specialist authorities and organisations shall, if requested to do so by the Ministry, determine the traits and properties of the varieties and breeds within a period determined upon agreement between them and the Ministry. For this purpose the applicant shall provide free of charge biological material and documentation to the competent specialist authority or organisation.
- (3) When examining varieties and breeds, the competent specialist authorities and organisations may also use the results of tests performed in other countries.
- (4) The competent specialist authorities and organisations shall be entitled, in relation to the applicant, to compensation for the operations associated with the examination of varieties and breeds, pursuant to the valid price regulations.

ARTICLE 21

THE GRANTING OF THE BREEDER'S CERTIFICATE

- (1) After the receipt of the opinion of a professional body or organisation, or the resolution of a relevant authority, the Ministry shall decide about granting the Breeder's Certificate within three months. If, based on the opinion, the Ministry shall not grant any Breeder's Certificate, it shall notify the applicant immediately in writing and, no later than within three months of the receipt of the opinion, it shall publish a resolution on rejecting the application for the protection of a variety or a breed in the Bulletin. Such resolution shall be subject to a review by the Court.
- (2) The decision on the granting of the Breeder's Certificate shall be entered in the Register of Protected Varieties or the Register of Protected Breeds. A Slovak originator who is not the applicant shall be given a copy of the Breeder's Certificate.
- (3) The Breeder's Certificate shall be published in the Bulletin, within three months of the date of granting the Breeder's Certificates in respect of varieties shall also be entered in the State Variety Book.

ARTICLE 22

VERIFICATION TESTS

- (1) While the Breeder's Certificate is in force, the owner of the Breeder's Certificate shall maintain the variety or the breed. If doubts arise as to whether the variety or the breed still complies with the conditions laid down in Article 4 (1) b) and c) or in Article 5(2) b), c) and e), the owner of the Breeder's Certificate shall have the obligation, when requested to do so by the Ministry, to provide free of charge the biological material and documentation for the verification of compliance with the said conditions.
- (2) The verification shall be performed by authorities and organizations entrusted with the tests by special provisions. In the case of breeds to which no special provisions apply the verification shall be performed by authorities and organizations entrusted by the Ministry.

(3) The authorities and organizations referred to in paragraph (2) shall be entitled, in relation to the owner of the Breeder's Certificate, to compensation for the operations associated with the performance of the verification tests, pursuant to the valid price regulations. This provision shall not apply to the verification tests of breeds to which special provisions apply.

ARTICLE 23

INVALIDITY OF THE BREEDER'S CERTIFICATE

(1) The Breeder's Certificate shall be invalid if:

- a) it is later revealed that the conditions for granting the same have not been fulfilled,
- b) it has been granted to a person who is not entitled for granting the same, in both cases mentioned above the Breeder's Certificate shall be deemed not to have been granted at all.

(2) The invalidity of the Breeder's Certificate shall be entered in the Register of Protected Varieties or in the Register of Protected Breeds and shall be published in the Bulletin within three months of the date of finding the invalidity of the Breeder's Certificate pursuant to clause 1 above. The invalidity of the Breeder's Certificate in varieties shall be also entered in the State Variety Book.

PART FOUR

JOINT, TRANSITIONAL AND FINAL PROVISIONS

ARTICLE 24

ADMINISTRATIVE PROCEDURE

The procedure to be observed before the Ministry shall be governed by the General Administrative Rules, unless otherwise provided for in this Law.

ARTICLE 25

SETTLEMENT OF DISPUTES

Civil courts shall be competent to deciding disputes concerning legal, relationships based on this Law.

ARTICLE 26

PROTECTION OF RIGHTS

In cases of infringement of a right protected under this Law, the owner of the Breeder's Certificate, or the originator if he is not the owner of the Breeder's Certificate, whose right has been infringed, may claim for the *infringement* to be enjoined by the law and the consequences of the infringement to be removed. If damage has been caused by the infringement, the person who suffered the damage shall be entitled to *compensation*. In cases of harm other than damage to property, the injured person shall be entitled to adequate satisfaction, which may also take the form of monetary compensation.

ARTICLE 27

PENAL SANCTIONS AGAINST ORGANISATIONS

(1) Any entrepreneur,

a) with the validity term of the Breeder's Certificate

1. commercially exploiting a variety or a breed without the approval of the holder of the Breeder's Certificate,
2. not using the registered name while commercially exploiting a variety or a breed, or using the registered name for another variety or breed of the same or related species,

b) fails to notify the Ministry of his application for the protection of a Slovak variety or a breed in another country (Art. 19, clause 2),

shall be liable for a fine which may be imposed by the Ministry, not exceeding the amount of SKK 1.000,000. In the event of any repeated unauthorised infringement of the rights of the holder of the Breeder's Certificate referred to in clauses a) and b) above, the Ministry may impose an additional fine not exceeding SKK 2,000,000 within the time periods referred to in Art. 27, clause 3 of the Law.

(2) In determining the fine, the Ministry shall consider mainly the seriousness, manner, duration and consequences of the infringement.

(3) The fine may only be imposed within one year of the day on which the Ministry learned of the infringement and within three years of the day on which the *infringement* was committed. The fine shall be paid within 30 days of the day on which the decision concerning its imposition came into force.

(4) Monies drawn from the fines shall be paid into the State Budget.

ARTICLE 28

MISDEMEANORS

(1) Any natural person, without being entitled to do so, commercially exploiting a variety or a breed for which a Breeder's Certificate has been issued or failing, to notify the Ministry of his application for the protection of a variety or a breed in another country (Art. 19, clause 2) shall be deemed to have committed a misdemeanor for which he may be liable for a fine imposed by the Ministry not exceeding SKK 20,000. In the event of any repeated infringement upon the right of the holder of the Breeder's Certificate in the manner mentioned above, the Ministry may impose an additional fine not exceeding SKK 50,000.

(2) The provisions of a special legal regulation 7) shall apply to misdemeanor proceedings.

ARTICLE 29

ENABLING PROVISIONS

(1) The Ministry, upon agreement with the Ministry of Agriculture and Food of the Czech Republic, the Ministry of Agriculture and Food of the Slovak Republic, the Ministry of Forestry, Water Management and the Woodworking Industry of the Czech Republic, the Ministry of Forestry, Water Management and Woodworking Industry of the Slovak Republic and the Federal Ministry of Foreign Trade, shall issue a generally binding regulation for the implementation of Article 1(2).

(2) The Ministry, upon agreement with the Ministry of Agriculture and Food of the Czech Republic and the Ministry of Agriculture and Food of the Slovak Republic, shall issue a generally binding regulation for the implementation of Article 7(5) and Article 17(3).

ARTICLE 30

TRANSITIONAL PROVISION

(1) The varieties which, on the basis of special provisions, have been entered as original varieties in the state Variety Book before the entry into force of this Law and have not been commercially exploited for longer than 10 years before the entry into force of this Law, as well as the existing breeds which have been certified or released pursuant to special provisions may be the subject of applications for protection in accordance with this Law. The provisions of Article 7(3) shall not apply to those varieties.

(2) The applications referred to in paragraph (1) shall be filed within 12 months from the day on which this Law enters into force.

(3) The owner of a Breeder's Certificate may commercially exploit the variety or the breed only if the variety or the breed for which the Breeder's Certificate has been issued has also been released pursuant to special provisions. In such cases the owner shall be regarded as if he were an entrusted organisation pursuant to the said special provisions.

ARTICLE 30 A

(1) The author's share in the financial benefit from the commercial exploitation of varieties and breeds which have applied for legal protection prior to the effective date of this Law shall be determined according to the current applicable legal regulations.

(2) The author and the Slovak organisation shall agree in writing on the amount of the consideration, the terms of payment, and due dates of payments for varieties and breeds which shall be applied for a legal protection after the effective date of this Law,

the creation of which commenced prior to the effective date of the same and no more than three months from the effective date of this Law. In the event that they fail to enter into such an agreement within the specified time period, the breeder shall have the right to receive a consideration at least in the amount applicable, pursuant to the current applicable legal regulations.

ARTICLE 31

Article 2 (1), second sentence, of Notice No. 62/1964 of Coll. of the Ministry of Agriculture, Forestry and Water Management and the Ministry of Justice, containing implementing regulations for the Law on the Development of Crop Protection, is hereby amended so as to substitute "are submitted by entrusted organisations (Article 1 (1))" for the words "are submitted".

ARTICLE 32

ABOLISHING PROVISIONS

The following are hereby abolished:

1. Article 4(2) and (4) of Law No. 61/1964 of Coll. on the Development of Crop Production,
2. Article I and Article 2, third sentence, of Notice No. 62/1964 of Coll. of the Ministry of Agriculture, Forestry and Water Management and the Ministry of Justice, containing implementing regulations, for the Law on the Development of Crop Production.

ARTICLE 33

ENTRY INTO FORCE

Law No. 132/1989 Coll. shall enter into force on January 1, 1990.

Husak v.r.
Indra v.r.
Adamec v.r.

Law No. 22/1996 Coll. shall become effective on February 1, 1996.

Michal Kovac v.r.
Ivan Gasparovik v.r.
Vladimir Meciar v.r.