

**REGULATION No. 77 OF 31 MAY 2006 SETTING OUT THE PROCEDURE FOR
ACCEPTANCE FOR INCLUSION OF NEW VARIETIES OF AGRICULTURAL
PLANT SPECIES, CONSERVATION VARIETIES, AND VARIETIES DEVELOPED
FOR GROWING UNDER PARTICULAR CONDITIONS IN THE OFFICIAL VARIETY
LIST OF THE REPUBLIC OF BULGARIA AND THE COMMON CATALOGUE OF
THE EU MEMBER STATES (HEADING AMENDED, SG No. 60/2010, EFFECTIVE
DATE 03.08.2010)**

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*Promulgated, SG, No. 51 of 23 June 2006, amended, SG, No. 68 of 1 August 2008, amended, SG
No. 35 of 12 May 2009, **amended, SG No. 60 of 3 August 2010***

Article 1. (1) (Amended, SG No. 60/2010, effective date 03.08.2010) This Regulation shall apply to:

1. the procedure for acceptance for inclusion of new varieties of agricultural plant species in the Official Variety List of the Republic of Bulgaria and the Common Catalogue of the EU Member States;
2. the procedure for acceptance for inclusion in the Official Variety List of vegetable species of varieties which have been traditionally grown in particular localities and regions and threatened by genetic erosion, hereinafter 'local conservation varieties'; and
3. the procedure for acceptance for inclusion in the Official Variety List of vegetable species of varieties with no intrinsic value for commercial crop production but developed for growing under particular conditions, hereinafter "varieties developed for growing under particular conditions";
4. the procedure for acceptance for inclusion in the Official Variety List of the Republic of Bulgaria of landraces and varieties which are naturally adapted to the local and regional conditions and threatened by genetic erosion, which belong to the agricultural vegetable species within the scope of the Regulations referred to in paragraph 2, and which are intended for conservation *in situ* and the sustainable use of plant genetic resources through production and marketing of seed thereof, hereinafter "conservation varieties";
5. the marketing of seed of such conservation varieties and varieties developed for growing under particular conditions.

(2) (Amended, SG No. 35/2009, effective date 12.05.2009, amended, SG No. 60/2010, effective date 03.08.2010) The varieties of agricultural plant species provided for in paragraph 1, subparagraph 2 are varieties of beet, fodder plants, cereals, potatoes, oil and fibre plants, the seed of which may be marketed in accordance with Regulation No. 98 of 2006 on the marketing of beet seed within the European Union (Promulgated, SG No. 76/2006, amended, SG No. 14/2007 and SG No. 49/2009), Regulation No. 99 of 2006 on the marketing of fodder plant seed within the European Union (Promulgated, SG No. 77/2006, amended, SG No. 4/2007, SG No. 49/2009 and SG No. 38/2010), Regulation No. 21 of 2007 on the marketing of cereal seed within the European Union (Promulgated, SG No. 1/2008, amended, SG No. 49/2009 and SG No. 38 of 2010), Regulation No. 16 of 2008 on the marketing of seed potatoes within the European Union (Promulgated, SG No. 54/2008; Amended, SG No. 49/2009) and Regulation No. 100 of 2006 on the marketing of oil and fibre plant seed within the European Union (Promulgated, SG No. 77/2006; Amended, SG No. 11/2007, No. 49/2009 and No. 41/2010).

(3) The Official Variety List of the Republic of Bulgaria is an integral part of the EU Common Catalogue.

(4) The requirements provided for in this Regulation shall not apply to varieties the seed or propagating material of which is intended for export outside the European Union.

Article 2. Official measures are the measures implemented within the territory of the Republic of Bulgaria:

1. by State authorities;
2. by the Executive Agency for Plant Variety Testing, Field Inspection and Seed Control (IASAS):

Article 3. (1) The Official Variety List of the Republic of Bulgaria shall include the varieties officially accepted for certification and marketing within its territory.

(2) The Official Variety List is accessible to the public and any person is entitled to make inquiries therein.

(3) For varieties (inbred lines, hybrids) which are intended solely as initial material (components) for other varieties, paragraph 1 shall apply only insofar as their seed will be placed on the market under their names.

Article 4. (1) The Executive Agency for Plant Variety Testing, Field Inspection and Seed Control shall accept a variety only if it is distinct, stable and sufficiently uniform and if it is of satisfactory value for cultivation and use (VCU).

(2) Examination of the value for cultivation and use shall not be required:

1. for the acceptance of varieties of grasses if the breeder declares that the seed of his variety is not intended for the production of fodder plants;
2. for the acceptance of varieties if the seed is to be marketed in another Member State which has already accepted the varieties, having regard to their VCU;
3. the acceptance of varieties (inbred lines, hybrids) which are intended solely as components (components, parent components) for hybrid varieties satisfying the conditions laid down in paragraph 1.

(3) In the case of a genetically modified variety within the meaning of the Genetically Modified Organisms Act (transposing Directive 2001/18/EC), the deliberate release into the environment of the variety shall be accepted only if all appropriate measures have been taken to avoid adverse effects on human health and the environment.

(4) Where material derived from a plant variety is intended to be used as a genetically modified food or feed or food or feed ingredient, it shall be accepted only if it is authorised in accordance with the Genetically Modified Organisms Act.

Article 5. (1) A variety shall be regarded as distinct if, whatever the origin, artificial or natural, of the initial variation from which it has resulted, it is clearly distinguishable on one or more important characteristics from any other variety known in the EU Member States. The characteristics of a variety must be capable of precise recognition and precise definition.

(2) A variety known in the EU shall be any variety which, at the time when the application for the acceptance of the variety to be assessed is duly made, is:

1. either listed in the Common Catalogue of varieties of vegetable species or in the common catalogue of agricultural plant species, or
2. without being listed in one of those catalogues, has been accepted or submitted for acceptance in the Republic of Bulgaria or in another EU Member State, either for certification and marketing, or for certification for other countries, unless acceptance was refused prior to the decision on the application.

(3) A variety shall be stable if, after successive propagation or multiplications or at the end of each cycle (where the breeder has defined a particular cycle of propagation or multiplications) it remains true to the description of its essential characteristics.

(4) A variety shall be sufficiently uniform if, apart from a very few aberrations, the plants of which it is composed are, account being taken of the distinctive features of the reproductive systems of the plants, similar or genetically identical as regards the characteristics, taken as a whole, which are considered for this purpose.

(5) The value of a variety for cultivation or use shall be satisfactory if, compared to other varieties accepted in the Official Variety List, its qualities, taken as a whole, offer, at least as far as production in any given region is concerned, a clear improvement either for cultivation or as regards the uses which can be made of the crops or the products derived therefrom. Where other, superior characteristics of the variety are present, individual inferior characteristics may be disregarded.

Article 6. Varieties coming from other Member States shall be subject to the same requirements, as regards the acceptance procedure, as those which apply to domestic varieties.

Article 7. (1) The acceptance of varieties shall be based on the results of official examinations, particularly growing trials, covering a sufficient number of characteristics for the variety to be described. The methods used for determining characteristics must be exact and reliable. In order to establish distinctness, the growing trials shall include at least the available comparable varieties which are varieties known in the EU Member States within the meaning of Article 5(1). For the purpose of applying Article 9, other available comparable varieties shall be included.

(2) The following shall be fixed in accordance with the acts of the European Commission, account being taken of current scientific and technical knowledge:

1. the characteristics to be covered as a minimum by the examinations of the various species;
2. the minimum requirements for carrying out the examinations.
3. the necessary arrangements for the growing trials to be carried out with a view to assessing the VCU on the basis of methods approved by the Executive Director of the IASAS in accordance with Article 19(1) SPMA;

(3) Where examination of the genealogical (parent) components is necessary in order to study hybrids and synthetic varieties, the IASAS shall ensure that the results of the examination and the description of the genealogical (parent) components are, if the breeder so requests, treated as confidential.

(4) In the case of a genetically modified variety referred to in Article 4(4), an environmental risk assessment equivalent to that laid down in Directive 90/220/EEC transposed with the Genetically Modified Organisms Act shall be carried out.

(5) The Executive Agency for Plant Variety Testing, Field Inspection and Seed Control shall accept varieties intended to be used as food or feed in accordance with the Food Act.

Article 8. (1) (Amended, SG No. 68/2008, effective date 1.08.2008, amended, SG No. 60/2010, effective date 3.08.2010) When lodging an application for the acceptance of a variety, the applicant shall indicate whether acceptance has already been applied for in another Member State, which Member State was concerned and whether the application was granted officially.

(2) (Amended, SG No. 68/2008, effective date 01.08.2008) The Executive Agency for Plant Variety Testing, Field Inspection and Seed Control shall require from the applicant for acceptance to state whether acceptance has already been applied for in another Member State concerned and whether the application was granted.

Article 9. The Executive Agency for Plant Variety Testing, Field Inspection and Seed Control shall arrange for official publication of the Official Variety List of the Republic of Bulgaria pursuant to Article 13(9) SPMA, indicating the varieties newly accepted in the territory of the Republic of Bulgaria and of the name of the person or persons responsible for maintenance of the variety. Where several persons are responsible for the maintenance of a variety, the names need not be published. In such cases, the Official Variety List shall indicate the IASAS as the authority holding the list of names of persons responsible for maintenance of the variety.

(2) The IASAS shall, as far as possible, ensure at the time of acceptance that the variety is known by the same name in all Member States. If it is known that seed or propagating material of a given variety are marketed in another country under a different name, that name shall also be indicated in the List.

(3) A variety which is not clearly distinguishable:

1. from a variety previously accepted in the Republic of Bulgaria or in another Member State; or
2. from another variety which has been assessed with regard to distinctness, stability and uniformity in accordance with rules corresponding to those of this Regulation, without, however, being a variety known in the Community within the meaning of Article 5(1), shall bear the name of that variety.

(4) The provision of paragraph 3 shall not apply if this name is likely to mislead or cause confusion concerning the variety in question, or if, pursuant to all the provisions governing the names of varieties, other facts prevent its utilisation, or if the rights of third parties impede the free use of that name in connection with the variety in question.

The Executive Agency for Plant Variety Testing, Field Inspection and Seed Control shall compile a special file on each variety accepted, containing a description of the variety and a clear summary of all the facts on which the acceptance was based. The description of the varieties shall relate to plants produced directly from seed of the category "certified seed" and propagating material.

(6) The Executive Agency for Plant Variety Testing, Field Inspection and Seed Control shall ensure that genetically modified varieties which have been accepted are clearly indicated as such in the Official Variety List.

(7) Any person marketing a genetically modified variety shall clearly indicate in his sales catalogue that the variety is genetically modified.

(8) So far as the suitability of the denomination of a variety is concerned, Article 63 of Council Regulation (EC) No. 2100/94 of 27 July 1994 on Community plant variety rights shall apply.

Article 10. (1) The Executive Agency for Plant Variety Testing, Field Inspection and Seed Control shall notify forthwith to the other Member States and the EC of any application or withdrawal of an application for acceptance of a variety, any entry in the variety list as well as any amendment thereto.

(2) The Executive Agency for Plant Variety Testing, Field Inspection and Seed Control shall, for each new variety accepted, send the other Member States and the European Commission a brief description of its most important characteristics for use. This provision shall not apply in the case of varieties (inbred lines, hybrids) which are intended solely as components for other varieties. Member States shall, on request, also communicate the special qualities which enable the variety to be distinguished from other similar varieties.

(3) The Executive Agency for Plant Variety Testing, Field Inspection and Seed Control shall make available to the other Member States and the EC the files referred to in Article 9(4) on the varieties which are accepted or which have ceased to be accepted. Information exchanged concerning these files shall be treated as confidential.

(4) The Executive Agency for Plant Variety Testing, Field Inspection and Seed Control shall ensure that the acceptance files are made available for the personal and exclusive use of any person able to show a legitimate interest. These provisions shall not apply where the information must, under Article 7(3), be treated as confidential.

(5) Where acceptance of a variety is refused or revoked, the results of the examinations shall be made available by the IASAS to persons affected by such decision.

Article 11. The Executive Agency for Plant Variety Testing, Field Inspection and Seed Control shall introduce rules and schemes to ensure the maintenance of the varieties accepted according to accepted practices.

(2) It must at all times be possible for the IASAS to check maintenance from the records kept by the person or persons responsible for the variety. These records shall also cover the production of all generations prior to basic seed or propagating material.

(3) The Executive Agency for Plant Variety Testing, Field Inspection and Seed Control may request samples from the person responsible for the variety and take such samples, if necessary.

(4) Where maintenance of the variety takes place in a Member State other than that in which the variety was accepted, the Member States concerned shall assist each other administratively as regards checks.

Article 12. (1) Acceptance shall be valid until the end of the tenth calendar year following acceptance.

(2) Acceptance of a variety may be renewed at given intervals if it is still cultivated on such a scale as to justify this, or should be retained in the interest of conserving plant genetic resources, and providing that the requirements as to distinctness, uniformity and stability, or the criteria determined under Article 19(2) and (3), are still satisfied. Except in the case of plant genetic resources within the meaning of Article 19 applications for renewal shall be submitted not later than two years before expiry of acceptance.

(3) The period of validity of acceptance shall be extended provisionally until a decision is taken by the IASAS on the application for renewal.

Article 13. (1) The Executive Agency for Plant Variety Testing, Field Inspection and Seed Control shall ensure that any doubts which arise after the acceptance of a variety concerning the appraisal of its distinctness or of its name at the time of acceptance are removed.

(2) Where, after acceptance of a variety, it is established that the condition concerning distinctness within the meaning of Article 5 was not fulfilled at the time of acceptance, acceptance shall be replaced by another decision or, where appropriate, a revocation, which conforms with this Regulation. By this other decision, the variety shall, with effect from the date of its initial acceptance, no longer be regarded as a variety known in the EU Member States within the meaning of Article 5(1).

(3) Where, after acceptance of a variety, it is established that its name within the meaning of Article 9(7) was not acceptable when the variety was accepted, the name shall be adapted in such a way that it conforms with this Regulation. The Executive Agency for Plant Variety Testing, Field Inspection and Seed Control may permit the previous name to be used temporarily as an additional name.

Article 14. The Executive Agency for Plant Variety Testing, Field Inspection and Seed Control shall revoke the acceptance of a variety:

1. if it is proved, on examination, that the variety is no longer distinct, stable or sufficiently uniform;
2. if the person or persons responsible for the variety so request, unless maintenance of the variety is assured.

(2) The Executive Agency for Variety Testing, Field Inspection and Seed Control may reject an application for acceptance of a variety in any of the following cases:

1. if the provisions of this Regulation are not complied with;
2. if, at the time of the application for acceptance or during examination, false or fraudulent particulars were supplied concerning the facts on the basis of which acceptance was granted.

Article 15. (1) The Executive Agency for Plant Variety Testing, Field Inspection and Seed Control shall announce that a variety is deleted from the Official Variety List if acceptance of the variety has been revoked or if the period of validity of the acceptance has expired.

The Executive Agency for Plant Variety Testing, Field Inspection and Seed Control shall allow a period for the certification and marketing of seed or propagating material within the territory of the Republic of Bulgaria. This period shall extend up to 30 June of the third year at the most after expiry of the acceptance of the variety in the Official Variety List.

(3) In the case of varieties that were listed pursuant to Article 16(3) in the Common Catalogue of varieties, the period which expires last among those granted by the various Member States of acceptance under paragraph 1 shall apply to marketing in all the Member States, provided that the seed or propagating material of the variety concerned has not been subject to any marketing restriction as regards the variety.

Article 16. (1) The Executive Agency for Plant Variety Testing, Field Inspection and Seed Control shall ensure that, with effect from the publication, seed of varieties accepted in accordance with Directive 2002/53/EC or in accordance with principles corresponding to those of that Directive is not subject to any marketing restrictions relating to variety.

(2) The Executive Agency for Plant Variety Testing, Field Inspection and Seed Control may, upon application which shall be dealt with by the European Commission in the case of genetically modified varieties, be authorised to prohibit the use of the variety in all or in part of its territory or to lay down appropriate conditions for cultivating the variety in accordance, in cases provided for in subparagraph 1(b), with the conditions for using the products resulting from such cultivation:

1. where it is established that the cultivation of the variety could be harmful from the point of view of plant health to the cultivation of other varieties or species; or

2. where official growing trials carried out in the applicant Member States, Article 5(4) being applied correspondingly, show that:

(a) the variety does not, in any part of its territory, produce results corresponding to those obtained from a comparable variety accepted in the territory of that Member State; or

(b) where it is well known that the variety is not suitable for cultivation in any part of its territory because of its type of maturity class; in such case, the application shall be lodged before the end of the third calendar year following that of acceptance;

3. where it has valid reasons other than those already mentioned in subparagraphs 1 and 2 or which may have been mentioned during the procedure referred to in Article 10(2) for considering that the variety presents a risk for human health or the environment.

Article 17. If it is established that the cultivation of a variety included in the common catalogue of varieties could in any Member State be harmful from the point of view of plant health to the cultivation of other varieties or species, or present a risk for the environment or for human health, that Member State may upon application, be authorised by the European Commission in the case of a genetically modified variety to prohibit the marketing of the seed or propagating material of that variety in all or part of its territory. Where there is danger of the spread of harmful organisms or serious danger for human health or for the environment, that prohibition may be imposed by the Member State concerned as soon as its application has been lodged until such time as a final decision has been taken.

Article 18. Where a variety ceases to be accepted in the Member State which initially accepted it, one or more other Member States may continue to accept that variety provided that the requirements for acceptance continue to be met in their territory and that maintenance remains assured.

Article 19. (1) Specific conditions may be established by the European Commission in accordance with the EU legislation to take account of developments in relation to the conditions under which chemically treated seed may be marketed.

(2) Without prejudice to Council Regulation (EC) No. 1467 of 20 June 1994 on the conservation, characterisation, collection and utilisation of genetic resources in agriculture, specific conditions shall be established by the European Commission in accordance with the EU legislation to take account of developments in relation to the conservation *in situ* and the sustainable use of plant genetic resources through growing and marketing of seed of landraces and varieties which are naturally adapted to the local and regional conditions and threatened by genetic erosion.

(3) The specific conditions referred to in paragraph 2 above shall include in particular the following points:

1. landraces and varieties shall be accepted in accordance with the provisions of this Regulation; the procedure for official acceptance shall take into account specific quality characteristics and requirements; in particular the results of unofficial tests and knowledge gained from practical experience during cultivation, reproduction and use and the detailed descriptions of the varieties

and their relevant denominations, as notified to the Member State concerned, shall be taken into account and, if sufficient, shall result in exemption from the requirement of official examination. Upon acceptance of such a landrace or variety, it shall be indicated as a "local conservation variety" in the common catalogue;

2. appropriate quantitative restrictions.

Article 20. (New, SG No. 35/2009, effective date 12.05.2009) (1) The following derogations shall apply to landraces and varieties which are naturally adapted to the local and regional conditions and threatened by genetic erosion, which belong to the agricultural vegetable species within the scope of the Regulations referred to in Article 1(2), and which are intended for conservation *in situ* and the sustainable use of plant genetic resources through production and marketing of seed thereof:

1. in the case of acceptance for inclusion in the national catalogue of varieties of agricultural plant species (the Official Variety List (OVL) of the Republic of Bulgaria) - release from the obligations provided for in Articles 2 through 18;

2. in the case of marketing of seed potatoes and tubers of such varieties - release from the obligations provided for in the Regulations referred to in Article 1(2).

(2) The varieties referred to in paragraph 1 shall be accepted and included in the OVL and the EU Common Catalogue of the varieties of agricultural plant species provided that the conditions laid down in Articles 21 and 22 are satisfied and the varieties are accepted as "conservation varieties".

(3) All requirements provided for in the Regulation to the acceptance and inclusion of conservation varieties, other than those laid down in Articles 20 through 26, shall apply.

Article 20a. (New, SG No. 60/2010, effective date 3.08.2010) (1) Seed of conservation varieties referred to in Article 1(1)(2) may be certified as as certified seed of a local conservation variety or verified as standard seed of a local conservation variety.

(2) The seed of local conservation varieties referred to in Article 1(1)(2) may be verified as standard seed of a local conservation variety only provided that it satisfies the conditions provided for in Regulation No. 96 of 2006 on the marketing of vegetable seed on the market of the European Union (Promulgated, SG No. 71/2006, amended, SG No. 13/2007, SG No. 45/2007, SG No. 82/2008 and SG No. 41/2010), except for the requirements for minimum varietal purity.

Article 21. (New, SG No. 35/2009, effective date 12.05.2009, amended, SG No. 60/2010, effective date 03.08.2010) (1) Landraces or varieties which are naturally adapted to the conditions of their region may be accepted as "conservation varieties" and "local conservation varieties" if they present an interest for the conservation and protection of the plant genetic resources of the relevant region and the genetic resources of plant species.

(2) The Executive Agency for Plant Variety Testing, Field Inspection and Seed Control may, by way of derogation from Article 17a(2)(a) and (b) of Regulation No. 12 of 2004 on the terms and conditions for the examination, acceptance, inclusion and revocation of plant varieties in the Official Variety List of the Republic of Bulgaria (Promulgated, SG No. 40/2004, amended, SG No. 25/2007, SG No. 95/2007, SG No. 68/2008 and SG No. 41/2010), adopt national methods in relation to the growing trials for distinctness, stability and uniformity of "conservation varieties" and "local conservation varieties".

(3) The IASAS methods referred to in paragraph 2 to establish the distinctness and stability of conservation varieties and local conservation varieties shall apply at least the characteristics provided for in:

1. the technical questionnaires associated with the test protocols of the Community Plant Variety Office (CPVO), for the species listed in Annex No. 7a of Regulation No. 12 of 2004;

1. the technical questionnaires of the Guidelines of the International Union for the Protection of New Varieties of Plants (UPOV), for the species listed in Annex No. 8a of Regulation No. 12 of 2004.

(4) For the assessment of the uniformity of conservation varieties and local conservation varieties, the provisions of Article 15 of Regulation No. 12 of 2004 shall apply. If the uniformity level is established on the basis of off-types, a population standard of 10% and an acceptance probability of at least 90% shall be applied.

Article 22. (New, SG No. 35/2009, effective date 12.05.2009, amended, SG No. 60/2010, effective date 3.08.2010) By way of derogation from Article 7(1), no official examination shall be required by the IASAS, in case an application for acceptance of the variety has been submitted in accordance with Annex No. 2, if the following information has been provided by the applicant and it is sufficient for the decision on the acceptance of the conservation varieties and local conservation varieties:

1. the description of the conservation variety and the local conservation variety and its denomination;
2. the results of unofficial tests;
3. knowledge gained from practical experience during cultivation, reproduction and use of conservation varieties and local conservation varieties as notified by the applicant;
4. other information, including information from the Ministry of Agriculture and Food which is the plant genetic resource authority within the meaning of this Regulation and notified to the European Commission for this purpose.

Article 23. (New, SG No. 35/2009, effective date 12.05.2009, amended, SG No. 60/2010, effective date 3.08.2010) A conservation variety or a local conservation variety shall not be accepted for inclusion in the OVL if:

1. it is already listed in:
 - (a) the Common Catalogue of varieties of vegetable species as a variety other than a conservation variety, or it was deleted from that Common Catalogue within the last 2 years, or the period granted under Article 15(2) expired less than 2 years ago; or
 - (b) the Common Catalogue of varieties of vegetable species as a variety other than a local conservation variety, or it was deleted from that Common Catalogue within the last 2 years, or the period granted under Article 15(2) expired less than 2 years ago; or
2. it is protected by a Community plant variety right, as provided for in Council Regulation (EC) No. 2100/94 of 27 July 1994 on Community plant variety rights (OJ L 227, 1.9.1994, p. 1), or by a national plant variety right at the Patent Office, or an application for such a right is pending.

Article 24. (New, SG No. 35/2009, effective date 12.05.2009) (1) (Supplemented, SG No. 60/2010, effective date 03.08.2010) With respect to denominations of conservation varieties and local conservation varieties which were known before 25 May 2000, the IASAS may permit derogations from some provisions of Articles 11 and 12 of Regulation No. 12 in relation to Commission Regulation (EC) No. 930/2000 of 4 May 2000 establishing implementing rules as to the suitability of the denominations of varieties of agricultural plant species and vegetable species (OJ L 108, 5.5.2000, p. 3), except where such denomination of the variety is traditional of the region/locality.

(2) Paragraph 1 shall not apply where such derogations would violate prior rights of a third party which are protected under Article 2 of Commission Regulation (EC) No. 930/2000 with regard to a prior trademark registered in one or more EU Member States with a denomination identical or similar to that of the variety, and where the trademark applies to a product identical or similar to the plant variety.

(3) (Supplemented, SG No. 60/2010, effective date 03.08.2010) Notwithstanding Article 9(2), more than one name for a conservation variety or a local conservation variety may be accepted if the names concerned are historically known.

Article 25. (New, SG No. 35/2009, effective date 12.05.2009) (1) (Supplemented, SG No. 60/2010, effective date 03.08.2010) When the IASAS accepts a conservation variety or a local conservation variety, it shall identify the locality or localities, region or regions, in which the variety has historically been grown and to which it is naturally adapted, hereinafter 'region of origin'. It shall take into account information from plant genetic resource authorities or from organisations recognised for that purpose by the Ministry of Agriculture and Food.

(2) Where the region of origin is located in more than one Member States, it shall be identified by all Member States concerned by common accord.

(3) The Ministry of Agriculture and Food/IASAS shall notify the identified region of origin referred to in paragraph 1 to the Commission, and in the cases referred to in paragraph 2, the notification shall be performed jointly by Bulgaria and the Member State with which the region has been identified by a common accord.

Article 26. (New, SG No. 35/2009, effective date 12.05.2009) (1) (Supplemented, SG No. 60/2010, effective date 03.08.2010) A conservation variety or a local conservation variety shall be maintained in its region of origin by the persons referred to in Article 26 of the Seed and Propagating Material Act (SPMA) in accordance with Article 27(1) SPMA.

(2) In relation to the application of paragraph 1, pursuant to Article 27(2) SPMA, the IASAS shall take verification samples at the various staged of the maintenance of the variety.

Article 27. (New, SG No. 60/2010, effective date 03.08.2010) (1) The seed of varieties developed for growing under particular conditions which is referred to in Article 1(1)(3) may be verified only as standard seed of a variety developed for growing under particular conditions provided that it satisfies the conditions provided for in Regulation No. 96 of 2006 on the marketing of vegetable seed on the market of the European Union, except for the requirements for minimum varietal purity.

Article 28. (New, SG No. 60/2010, effective date 03.08.2010) (1) In order to be accepted as a variety developed for growing under particular conditions, a variety shall be with no intrinsic value for commercial crop production but developed for growing under particular conditions.

(2) The Executive Agency for Plant Variety Testing, Field Inspection and Seed Control may, by way of derogation from Article 17a(2)(a) and (b) of Regulation No. 12 of 2004, adopt national methods in relation to the growing trials for distinctness, stability and uniformity of varieties developed for growing under particular conditions.

(3) The IASAS methods referred to in paragraph 2 to establish the distinctness and stability of varieties developed for growing under particular conditions shall apply at least the characteristics provided for in:

1. the technical questionnaires associated with the test protocols of the Community Plant Variety Office (CPVO), for the species listed in Annex No. 7a of Regulation No. 12 of 2004;

1. the technical questionnaires of the Guidelines of the International Union for the Protection of New Varieties of Plants (UPOV), for the species listed in Annex No. 8a of Regulation No. 12 of 2004.

(4) For the assessment of the uniformity of varieties developed for growing under particular conditions, the provisions of Article 15 of Regulation No. 12 of 2004 shall apply. If the uniformity level is established on the basis of off-types, a population standard of 10% and an acceptance probability of at least 90% shall be applied.

Article 29. (New, SG No. 60/2010, effective date 03.08.2010) By way of derogation from Article 7(1), no official examination shall be required by the IASAS, in case an application for acceptance of the variety has been submitted in accordance with Annex No. 2, if the following information has been provided by the applicant and it is sufficient for the decision on the acceptance of the varieties developed for growing under particular conditions:

1. the description of the variety developed for growing under particular conditions and its denomination;

2. the results of unofficial tests;
3. knowledge gained from practical experience during cultivation, reproduction and use of varieties developed for growing under particular conditions as notified by the applicant;
4. other information, including information from the Ministry of Agriculture and Food which is the plant genetic resource authority within the meaning of this Regulation and notified to the European Commission for this purpose.

Article 30. (New, SG No. 60/2010, effective date 03.08.2010) A variety developed for growing under particular conditions shall not be accepted for inclusion in the OVL if:

- (b) it is already listed in the Common Catalogue of varieties of vegetable species as a variety other than a conservation variety, or it was deleted from that Common Catalogue within the last 2 years, or the period granted under Article 15(2) expired less than 2 years ago; or
2. it is protected by a Community plant variety right, as provided for in Council Regulation (EC) No. 2100/94 of 27 July 1994 on Community plant variety rights (OJ L 227, 1.9.1994, p. 1), or by a national plant variety right at the Patent Office, or an application for such a right is pending.

Article 31. (New, SG No. 60/2010, effective date 03.08.2010) (1) With respect to denominations of varieties developed for growing under particular conditions which were known before 25 May 2000, the IASAS may permit derogations from some provisions of Articles 11 and 12 of Regulation No. 12 of 2004 in relation to Commission Regulation (EC) No. 637/2009 of 22 July 2009 establishing implementing rules as to the suitability of the denominations of varieties of agricultural plant species and vegetable species (OJ L 12, p. 2004).

(2) Paragraph 1 shall not apply where such derogations would violate prior rights of a third party which are protected under Article 2 of Commission Regulation (EC) No. 637/2009 with regard to a prior trademark registered in one or more EU Member States with a denomination identical or similar to that of the variety, and where the trademark applies to a product identical or similar to the plant variety.

(3) Notwithstanding Article 9(2), more than one name for a variety developed for growing under particular conditions may be accepted if the names concerned are historically known.

Article 32. (New, SG No. 60/2010, effective date 03.08.2010) (1) Producers and traders of seed referred to in Article 1(1)(2) and (3) shall notify the quantity of seed of a local conservation variety and of a variety developed for growing under particular conditions which is placed on the market to the IASAS in each production season.

(2) The notification referred to in paragraph 1 shall be performed at request also to the other Member States and to the European Commission.

SUPPLEMENTARY PROVISIONS

§ 1. This Regulation transposes Council Directive 2002/53/EC of 13 June 2002 on the common catalogue of varieties of agricultural plant species.

§ 1a. (New, SG No. 35/2009, effective date 12.05.2009) For the purposes of this Regulation:

1. 'Conservation *in situ*' means the conservation of genetic material in its natural surroundings and, in the case of cultivated plant species, in the farmed environment where they have developed their distinctive properties;
2. 'Genetic erosion' means loss of genetic diversity between and within populations or varieties of the same species over time, or reduction of the genetic basis of a species due to human intervention or environmental change;
3. 'Landrace' means a set of populations or clones of a plant species which are naturally adapted to the environmental conditions of their region;
4. "Seed" means seed of various plant species and seed potatoes (tubers), unless the latter have been expressly (deliberately) excluded;

5. "Population" means a group of individuals of the same biological species sharing a common habitat (inhabiting the same area permanently) and maintaining a relatively uniform progeny;
6. "Population standard" means the tolerance of off-types of plants typical of the population of a plant species used to compare the results of the examinations (tests);
7. "Probability level" means the percentage of plants typical of a variety, which is measured by authenticity criteria;
8. "Ministry of Agriculture and Food and the IASAS respectively" is the plant genetic resource authority for conservation *in situ* and the sustainable use of plant genetic resources through the acceptance of landraces and varieties which are naturally adapted to the local and regional conditions, and the production and marketing of seed thereof.
9. (New, SG No. 60/2010, effective date 03.08.2010) "Variety developed for growing under particular conditions" means any variety developed for growing under particular agrotechnical, climatic or soil conditions.

FINAL PROVISIONS

§ 2. This Regulation is issued pursuant to Article 14(4) of the Seed and Propagating Material Act.

§ 3. This Regulation shall enter into force on 1 January 2007.

Final Provisions

AMENDING REGULATION TO REGULATION No. 77 OF 2006 ON THE PROCEDURE FOR ACCEPTANCE FOR INCLUSION OF NEW VARIETIES OF AGRICULTURAL PLANT SPECIES IN THE OFFICIAL VARIETY LIST OF THE REPUBLIC OF BULGARIA AND THE COMMON CATALOGUE OF THE EU MEMBER STATES

(PROMULGATED, SG No. 68/2008, EFFECTIVE DATE 01.08.2008)

§ 3. This Regulation shall enter into force on the day of its promulgation in The State Gazette.

Supplementary Provisions

AMENDING REGULATION TO REGULATION No. 77 OF 2006 ON THE PROCEDURE FOR ACCEPTANCE FOR INCLUSION OF NEW VARIETIES OF AGRICULTURAL PLANT SPECIES IN THE OFFICIAL VARIETY LIST OF THE REPUBLIC OF BULGARIA AND THE COMMON CATALOGUE OF THE EU MEMBER STATES

(PROMULGATED, SG No. 35/2009, EFFECTIVE DATE 12.05.2009)

§ 4. This Regulation transposes Commission Directive 2008/62/EC of 1 June 2008 providing for certain derogations for acceptance of agricultural landraces and varieties which are naturally adapted to the local and regional conditions and threatened by genetic erosion and for marketing of seed and seed potatoes of those landraces and varieties (OJ L 162, 21.6.2008, p. 21), Articles 13 through 20.

Final Provisions

**AMENDING REGULATION TO REGULATION No. 77 OF 2006 ON THE
PROCEDURE FOR ACCEPTANCE FOR INCLUSION OF NEW VARIETIES OF
AGRICULTURAL PLANT SPECIES IN THE OFFICIAL VARIETY LIST OF THE
REPUBLIC OF BULGARIA AND THE COMMON CATALOGUE OF THE EU
MEMBER STATES**

(PROMULGATED, SG No. 35/2009,EFFECTIVE DATE 12.05.2009)

§5. This Regulation shall enter into force on the day of its promulgation in The State Gazette.

Supplementary Provisions

**AMENDING REGULATION TO REGULATION No. 77 OF 2006 ON THE
PROCEDURE FOR ACCEPTANCE FOR INCLUSION OF NEW VARIETIES OF
AGRICULTURAL PLANT SPECIES IN THE OFFICIAL VARIETY LIST OF THE
REPUBLIC OF BULGARIA AND THE COMMON CATALOGUE OF THE EU
MEMBER STATES**

(PROMULGATED, SG No. 60/2010,EFFECTIVE DATE 03.08.2010)

§ 20. This Regulation transposes Commission Directive 2009/145/EC of 26 November 2009 providing for certain derogations, for acceptance of vegetable landraces and varieties which have been traditionally grown in particular localities and regions and are threatened by genetic erosion and of vegetable varieties with no intrinsic value for commercial crop production but developed for growing under particular conditions and for marketing of seed of those landraces and varieties (OJ L 312, 27.11.2009)

Final Provisions

**AMENDING REGULATION TO REGULATION No. 77 OF 2006 ON THE
PROCEDURE FOR ACCEPTANCE FOR INCLUSION OF NEW VARIETIES OF
AGRICULTURAL PLANT SPECIES IN THE OFFICIAL VARIETY LIST OF THE
REPUBLIC OF BULGARIA AND THE COMMON CATALOGUE OF THE EU
MEMBER STATES**

(PROMULGATED, SG No. 60/2010,EFFECTIVE DATE 03.08.2010)

§ 21. This Regulation shall enter into force on the day of its promulgation in The State Gazette.

Annex No. 1 to Article 8 (1)

(Amended, SG No. 68/2008, effective date 01.08.2008, ex Annex to Article 8(1), SG No. 60/2010, effective date 03.08.2010)

Ministry of Agriculture and Food

EXECUTIVE AGENCY FOR VARIETY TESTING, FIELD INSPECTION
AND SEED CONTROL

To the Executive
Director
of the IASAS

APPLICATION
(Ref. No. to be filled in by the IASAS)
to CONTRACT No.....
(to be filled in by the IASAS)

Re: Official examination of plant varieties and breeds/hybrids of domestic silk moth

- for the purpose of acceptance and inclusion in List A and List B of the Official Variety List
- for the purpose of granting plant variety rights

1. Applicant/s/ (Name, principal office of business/address, telephone, fax, e-mail):
- correspondence address (if different from the address above)

2. Variety breeder/s/:

- applicant/s/
- person/s/ if different from the applicant:
- name/s/, address/es/, telephone, fax, e-mail:
.....
.....

If the breeder/s/ is/are not the applicant/s/, please specify how the variety has been transferred to the applicant/s/:

- contract
- inheritance
- other

Note. Please submit either the original documents or officially attested copies of the documents under this section.

3. Species and subspecies (Latin botanical name):

4. Denomination of the variety:

- provisional (breeder No.) -
.....
- permanent Code
- Name

5. Way in which the variety has been developed:

Formula (please specify)

6. Has the denomination of the variety been applied for or has it been registered as a trademark in the EU, in a UPOV Member State, or in WIPO

(International Office of the World Intellectual Property Organization):

- Yes
- No

If "Yes", please fill in the relevant columns of the table:

Member State of the EU and/or UPOV or in WIPO	Date of filing	Date of registration	Registration number
---	----------------	----------------------	---------------------

7. Details of all other applications filed in a Member State of the European Union and/or a Member State of UPOV

Member State of the European Union and/or a Member State of UPOV	Member State of the European Union and/or a Member State of UPOV
(Name of the country)	(Name of the country)

- | | |
|--|--|
| <input type="checkbox"/> Plant variety rights | <input type="checkbox"/> Plant variety rights |
| <input type="checkbox"/> Official catalogue of the country | <input type="checkbox"/> Official catalogue of the country |
| - <input type="checkbox"/> Registration - year | - <input type="checkbox"/> Registration - year |
| - <input type="checkbox"/> Registration pending - year | - <input type="checkbox"/> Registration pending - year |
| - <input type="checkbox"/> Not subject to registration yet | - <input type="checkbox"/> Not subject to registration yet |

Authorised body:

Authorised body:

Application No.

Application No.

Stage:

Stage:

Denomination of the variety or breeder No. Denomination of the variety or breeder No.
.....

If the variety applied for acceptance and inclusion in the Official Variety List of the Republic of Bulgaria is a parent component of a hybrid variety and has been examined in a Member State of the EU and/or UPOV, please specify in relation to the hybrid variety examination the denomination of the hybrid variety and the country where the examination was carried out:

8. Priority right in relation to prior application for patent protection:

In country -

On date: (day, month and year of the application)

9. Has the variety been placed on the market or used in any other way:

Yes

Date - Country - Denomination of the variety.....
(day, month and year) (EU Member State or a third country)

No

If "Yes", please specify the country of first placement (marketing) of the variety and its intended use

10. For hybrid varieties applied for: (please fill in the parent components)

(a) Details of all other applications for the parent component filed in a Member State of the European Union and/or a Member State of UPOV

Member State of the European Union and/or UPOV

Member State of the European Union and/or UPOV

.....

.....

(Name of the country)

(Name of the country)

Plant variety rights

Plant variety rights

Official catalogue of the country

Official catalogue of the country

- Registration - year

- Registration - year

- Registration pending - year

- Registration pending - year

- Not subject to registration yet

- Not subject to registration yet

Authorised body:

Authorised body:

Application No.

Application No.

Period:

Period:

Denomination of the variety or breeder No.

Denomination of the variety or breeder No.

(b) Has the parent component been used to develop other hybrid varieties:

Yes

No

If "Yes", please specify:

Denomination of the parent component:

Denomination of the hybrid variety:

.....

.....

11. Is the variety genetically modified:

Yes

No

12. Maintenance of the variety (please specify the organisation and locality where the variety is maintained):

.....

13. Is the variety listed in:

- the Common Catalogue of the European Union

Yes Year -

No

- an official catalogue of an EU Member State

Yes Year - Country -

Year - Country -

Year - Country -

No

- The application is filed for each variety which is newly applied for.

- The application may be filed also by a person authorised by the author of the variety.

- In case of change of the circumstances (under points 4, 6, 7, 8, 9, 10 and 13), the application shall notify them to the Executive Agency for Variety Testing, Field Inspection and Seed Control within a month.

Place:

Date:

Applicant:

(signature and stamp)

Annex No. 2 to Articles 22 and 29

(New, SG No. 60/2010, effective date 03.08.2010)

- Conservation variety Local conservation variety Variety developed for growing under particular conditions

APPLICATION

(Ref. No. to be filled in by the IASAS)

Re: acceptance of a variety for inclusion in the Official Variety List

1. Applicant/s/ (name, address, telephone, fax, e-mail):

.....

- correspondence address (if different from the address above)

.....

2. Species (Latin botanical name):

.....

3. Denomination of the variety:

.....

4. Maintenance of the variety (please specify the locality where the variety is maintained):

.....

– The application is filed for each variety which is newly applied for.

- In case of change of the circumstances (under points 4, 6, 7, 8, 9, 10 and 13), the application shall notify them to the Executive Agency for Variety Testing, Field Inspection and Seed Control within a month.

Date:

Applicant:

(signature and stamp)