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DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council
on the production and making available on the market of plant reproductive
material (plant reproductive material law)
(COM(2013)0262 – C7-0121/2013 – 2013/0137(COD))

Committee on Agriculture and Rural Development

Rapporteur: Sergio Paolo Francesco Silvestris

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ¶ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council on the production and making available on the market of plant reproductive material (plant reproductive material law)
(COM(2013)0262 – C7-0121/2013 – 2013/0137(COD))**

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2013)0262),
 - having regard to Article 294(2) and Article 43(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0121/2013),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Austrian Federal Council and the Netherlands House of Representatives, asserting that the draft legislative act does not comply with the principle of subsidiarity,
 - having regard to the opinion of the European Economic and Social Committee of ¹,
 - having regard to the opinion of the Committee of the Regions of ²,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Agriculture and Rural Development and the opinion of the Committee on the Environment, Public Health and Food Safety (A7-0000/2013),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ Not yet published in the Official Journal.

² Not yet published in the Official Journal.

Amendment 1

Proposal for a regulation

Recital 7

Text proposed by the Commission

(7) Given the needs of producers and the requirements for flexibility and proportionality, this Regulation should not apply to reproductive material intended solely for testing, scientific and breeding purposes, to gene banks, organisations and networks devoted to the exchange and conservation of genetic resources (including on-farm conservation), or to reproductive material exchanged in kind between persons other than professional operators.

Amendment

(7) Given the needs of producers and the requirements for flexibility and proportionality, this Regulation should not apply to reproductive material intended solely for testing, scientific and breeding purposes, to **natural persons**, gene banks, organisations and networks devoted to the exchange and conservation of genetic resources (including on-farm conservation), or to reproductive material exchanged in kind between persons other than professional operators.

Or. en

Justification

It is also possible that individual farmers are dedicated to the conservation of genetic resources (in particular, on-farm conservation).

Amendment 2

Proposal for a regulation

Recital 14

Text proposed by the Commission

(14) In order to ensure the widest possible availability of plant reproductive material and choices by its users, professional operators should, in principle, be able to make available on the market plant reproductive material belonging to listed genera or species under any of the categories. However, in order to ensure food and feed security, **and** to achieve a high level of identity, quality and health of plant reproductive material, plant

Amendment

(14) In order to ensure the widest possible availability of plant reproductive material and choices by its users, professional operators should, in principle, be able to make available on the market plant reproductive material belonging to listed genera or species under any of the categories. However, in order to ensure food and feed security **or** to achieve a high level of identity, quality and health of plant reproductive material, plant reproductive

reproductive material should not be made available on the market as standard material if the certification costs are proportionate to those objectives.

material should not be made available on the market as standard material if the certification costs are proportionate to those objectives.

Or. en

Justification

To enlarge the scope of this provision, the conditions mentioned (food and feed security, a high level of identity, quality and health) should not be cumulative.

Amendment 3

Proposal for a regulation

Recital 15

Text proposed by the Commission

(15) Plant reproductive material belonging to varieties with officially recognised description, as well as heterogeneous material and niche market *material*, should be subject to minimum requirements. Therefore, such material should in all cases be produced and made available on the market only as standard material.

Amendment

(15) Plant reproductive material belonging to varieties with officially recognised description, as well as heterogeneous material and niche market *varieties*, should be subject to minimum requirements. Therefore, such material should in all cases be produced and made available on the market only as standard material.

Or. en

Amendment 4

Proposal for a regulation

Recital 17

Text proposed by the Commission

(17) In order to facilitate adaptation to developments in plant breeding, and to possible new techniques, heterogeneous plant reproductive material, which does not fulfil the definition of a variety in the meaning of this Regulation, should be

Amendment

(17) In order to facilitate adaptation to developments in plant breeding, and to possible new techniques, heterogeneous plant reproductive material, which does not fulfil the definition of a variety in the meaning of this Regulation, should be

allowed to be produced or made available on the market, under certain conditions, without belonging to a registered variety, and even if it does not comply with the requirements concerning registration of varieties, namely distinctiveness, uniformity or stability, or the requirements concerning the *satisfactory value for cultivation or those concerning the sustainable* value for cultivation. The registration of such material should take into account its contribution to increase the genetic variability of agricultural crops, the genetic resource basis and biodiversity in the Union, as well as to the sustainability of agriculture and thus to the adaptation to climate change. The methodology for the registration should particularly take into account those specific characteristics and it should be based on the minimum possible burden for operators who wish to register such material. It would also be appropriate and proportionate to exempt from the same requirement rootstocks, as they have a significant commercial and practical value for the sectors where they are used, but they frequently do not fulfil the definition of a variety.

allowed to be produced or made available on the market, under certain conditions, without belonging to a registered variety, and even if it does not comply with the requirements concerning registration of varieties, namely distinctiveness, uniformity or stability, or the requirements concerning the value for cultivation. The registration of such material should take into account its contribution to increase the genetic variability of agricultural crops, the genetic resource basis and biodiversity in the Union, as well as to the sustainability of agriculture and thus to the adaptation to climate change. The methodology for the registration should particularly take into account those specific characteristics and it should be based on the minimum possible burden for operators who wish to register such material. It would also be appropriate and proportionate to exempt from the same requirement rootstocks, as they have a significant commercial and practical value for the sectors where they are used, but they frequently do not fulfil the definition of a variety.

Or. en

Justification

There should not be a split between satisfactory value for cultivation and sustainable value for cultivation. This distinction is based on highly overlapping criteria and would cause major confusion. All testing for value for cultivation and/or use must ensure relevant criteria for sustainable production.

Amendment 5

Proposal for a regulation

Recital 27

Text proposed by the Commission

(27) Plant reproductive material which is made available on the market only in limited quantities *by small producers* (“niche market *plant reproductive material*”) should be *exempted from the requirement of belonging to a registered variety*. That *derogation* is necessary to prevent undue constraints to the making available on the market of plant reproductive material, which is of lesser commercial interest, but is important for the maintenance of genetic diversity. However, it should be ensured that that derogation is not regularly used by a wide range of professional operators and it is *only used by professional operators which cannot afford the costs and administrative burden of variety registration. This is important to avoid abuses of that derogation and to ensure the application of the rules of this Regulation. Therefore, niche market material should only be made available on the market by professional operators employing a small number of persons and with a small annual turnover.*

Amendment

(27) Plant reproductive material which is *produced locally and* made available on the market only in limited quantities (“niche market *varieties*”) should be *made available on the basis of an officially recognised description*. That is necessary to prevent undue constraints to the making available on the market of plant reproductive material, which is of lesser commercial interest, but is important for the maintenance of genetic diversity. However, it should be ensured that that derogation is not regularly used by a wide range of professional operators and *that* it is *not abused*.

Or. en

Justification

The rapporteur considers that niche material should be defined as locally produced and placed on the market in small quantities adapted to the kind of plant material sold, removing the criterion of the Commission which associated niche market materials to micro enterprises.

Amendment 6

Proposal for a regulation
Recital 29

Text proposed by the Commission

Amendment

(29) Exported plant reproductive material of listed genera or species to third countries should ***comply with the rules on plant reproductive material produced and made available on the market in the Union***, unless the material concerned is subject to bilateral or multilateral agreements or rules of third countries.

(29) Exported plant reproductive material of listed genera or species to third countries should ***be regulated by agreements drawn up between operators*** unless the material concerned is subject to bilateral or multilateral agreements or rules of third countries.

Or. en

Justification

In case there are no bilateral or multilateral agreements, or rules of third countries applicable to exported plant reproductive material, EU operators should not be placed in a disadvantaged position affecting their competitiveness in non-EU markets.

Amendment 7

Proposal for a regulation

Recital 34

Text proposed by the Commission

Amendment

(34) Further to the basic registration requirements, varieties belonging to species with particular importance for the development of agriculture and horticulture in the Union should be subject to the additional requirements ensuring ***satisfactory and sustainable*** value for cultivation or use.

(34) Further to the basic registration requirements, varieties belonging to species with particular importance for the development of agriculture and horticulture in the Union should be subject to the additional requirements ensuring ***their*** value for cultivation or use.

Or. en

Justification

There should not be a split between satisfactory value for cultivation and sustainable value for cultivation. This distinction is based on highly overlapping criteria and would cause major confusion. All testing for value for cultivation and/or use must ensure relevant criteria for sustainable production.

Amendment 8

Proposal for a regulation Recital 35

Text proposed by the Commission

(35) The requirements ensuring **sustainable** value for cultivation should be established **at Union level** in order to support sustainable development, direct plant breeding and meet breeders', producer and consumer demands **concerning that type of development. The requirements ensuring satisfactory value for cultivation and use may be only developed** by Member States **according to** their agro-climatic and agricultural conditions. Therefore, the respective varieties should only be registered in the national variety registers. **The requirements ensuring satisfactory value for cultivation and use should concern** yields and quality characteristics. When Member States develop and apply such requirements, they should consider the constraints characterising specific agricultural management practices. In particular, they should duly take into account the specific needs of organic farming as regards resilience and low input conditions.

Amendment

(35) The requirements ensuring value for cultivation should be established by Member States **taking account of** their agro-climatic and agricultural conditions, yields and quality characteristics **of the varieties, and** in order to support sustainable development, direct plant breeding and meet breeders', producer and consumer demands. Therefore, the respective varieties should only be registered in the national variety registers. When Member States develop and apply such requirements, they should consider the constraints characterising specific agricultural management practices. In particular, they should duly take into account the specific needs of organic farming as regards resilience and low input conditions.

Or. en

Justification

There should not be a split between satisfactory value for cultivation and sustainable value for cultivation. This distinction is based on highly overlapping criteria and would cause major confusion. All testing for value for cultivation and/or use must ensure relevant criteria for sustainable production.

Amendment 9

Proposal for a regulation Recital 43

Text proposed by the Commission

(43) In order to facilitate the registration of varieties which serve at combating genetic erosion in the Union, Member States should apply a reduced fee for varieties with officially recognised description and for heterogeneous material. Such reduced fees should be sufficiently low as not to constitute a deterrent or a barrier to the making available on the market of those varieties. ***In order to provide support to microenterprises, they should be fully exempted from the payment of fees.***

Amendment

(43) In order to facilitate the registration of varieties which serve at combating genetic erosion in the Union, Member States should apply a reduced fee for varieties with officially recognised description, ***niche market varieties*** and for heterogeneous material. Such reduced fees should be sufficiently low as not to constitute a deterrent or a barrier to the making available on the market of those varieties.

Or. en

Justification

The elimination of fees being charged to microenterprises entails a big mass of exemptions which does not correspond to the market value of the new varieties to be registered. It may provoke a mass of fraud cases and it is not compatible with the obligation to cover the costs for the examination of varieties laid down in Article 87 (see also amendment to Article 89 (2))

Amendment 10

Proposal for a regulation Recital 52

Text proposed by the Commission

(52) In order to ensure that ***the*** Annexes of this Regulation are adapted to the technical and scientific developments, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of amending ***the*** Annexes ***of this Regulation.***

Amendment

(52) In order to ensure that Annexes ***II to VIII and X to XIV*** of this Regulation are adapted to the technical and scientific developments, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of amending ***those*** Annexes.

Justification

Given their importance, the list of genera and species set out in Annex I, as well as the list of Annex IX, should be amended through a Commission proposal under the ordinary legislative procedure.

Amendment 11**Proposal for a regulation****Recital 53**

Text proposed by the Commission

Amendment

(53) In order to follow the technical and economic developments of the sector, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of listing the genera or species whose plant reproductive material may not be placed on the market as standard material.

deleted

Amendment 12**Proposal for a regulation****Recital 57**

Text proposed by the Commission

Amendment

(57) In order to adapt the rules concerning the official labels and operators' labels to the characteristics of certain types of plant reproductive material, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of setting out additional rules concerning the label for specific categories and other groups of plant reproductive material, indications concerning a label

(57) In order to adapt the rules concerning the official labels and operators' labels to the characteristics of certain types of plant reproductive material, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of setting out additional rules concerning the label for specific categories and other groups of plant reproductive material, indications concerning a label

number, indications of generations of pre-basic, basic, certified and standard material, the indication of variety types including intraspecific or interspecific hybrids, the indication of subdivisions of categories satisfying different conditions, in case of mixtures, the indication of the percentage by weight of the various components by species and, **where appropriate**, by variety, and indications concerning the intended use of the material.

number, indications of generations of pre-basic, basic, certified and standard material, the indication of variety types including intraspecific or interspecific hybrids, the indication of subdivisions of categories satisfying different conditions, in case of mixtures, the indication of the percentage by weight of the various components by species and by variety, and indications concerning the intended use of the material.

Or. en

Amendment 13

Proposal for a regulation Recital 63

Text proposed by the Commission

(63) In order to ensure that niche market **material is** made available on the market in a limited and transparent manner, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of setting out the maximum size of packages, containers or bundles, and requirements concerning traceability, lots, and labelling of the niche market **material** concerned.

Amendment

(63) In order to ensure that niche market **varieties are** made available on the market in a limited and transparent manner, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of setting out the maximum size of packages, containers or bundles, and requirements concerning traceability, lots, and labelling of the niche market **varieties** concerned.

Or. en

Amendment 14

Proposal for a regulation Recital 66

Text proposed by the Commission

Amendment

(66) It is important to ensure that the production and making available on the market of plant reproductive material of particular genera or species responds to increased requirements of the society concerning their agricultural performance and quality characteristics for processing. In order to follow the technical and economic developments of the sector, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of listing the genera or species with particular importance for the ***satisfactory and*** sustainable development of agriculture in the Union.

(66) It is important to ensure that the production and making available on the market of plant reproductive material of particular genera or species responds to increased requirements of the society concerning their agricultural performance and quality characteristics for processing. In order to follow the technical and economic developments of the sector, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of listing the genera or species with particular importance for the sustainable development of agriculture in the Union.

Or. en

Justification

There should not be a split between satisfactory value for cultivation and sustainable value for cultivation. This distinction is based on highly overlapping criteria and would cause major confusion. All testing for value for cultivation and/or use must ensure relevant criteria for sustainable production.

Amendment 15

**Proposal for a regulation
Recital 67**

Text proposed by the Commission

Amendment

(67) In order to ensure updated standards for the registration of varieties as appropriate for the characteristics of genera or species with particular importance for the sustainable development of agriculture in the Union, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of

deleted

setting out rules for the registration of varieties of those genera or species concerning resistance to pests, reduced need for input of specific resources, decreased content of undesirable substances and increased adaptation to divergent agro-climatic environment.

Or. en

Justification

These rules should be adopted by Member States. Articles 58 and 59 should be merged in a single article on value for cultivation and/or use.

Amendment 16

Proposal for a regulation
Article 2 – point c

Text proposed by the Commission

(c) intended solely for, and maintained by, gene banks, organisations and networks **of conservation of** genetic resources, **or persons belonging to those organisations or networks**;

Amendment

(c) intended solely for, and maintained by, **natural persons**, gene banks, organisations and networks **with a statutory objective to conserve** genetic resources, **including on - farm conservation**;

Or. en

Justification

It is important to make the wording of the exclusion more precise.

Amendment 17

Proposal for a regulation
Article 3 – point 6 – introductory part

Text proposed by the Commission

(6) 'professional operator' means any natural or legal person carrying out, as a

Amendment

(6) 'professional operator' means any natural or legal person carrying out, as a

profession, at least one of the following activities with regard to plant reproductive material:

profession, at least one of the following activities with regard to plant reproductive material *with a view to commercial exploitation*:

Or. en

Amendment 18

Proposal for a regulation Article 3 – point 6 – point b a (new)

Text proposed by the Commission

Amendment

(ba): multiplying;

Or. en

Amendment 19

Proposal for a regulation Article 3 – point 9

Text proposed by the Commission

Amendment

(9) 'forest reproductive material' means ***plant reproductive*** material intended for forestry ***purposes***;

(9) 'forest reproductive material' means material intended for ***the multiplication of*** forestry ***species***;

Or. en

Justification

It fits with the definition approved by the OECD international system at its last meeting which took place in Verona on 22 April 2013.

Amendment 20

Proposal for a regulation Article 10 – point 10 a (new)

Text proposed by the Commission

Amendment

(10a) ‘heterogeneous material’ means plant reproductive material that does not belong to a variety as defined in point (1) of this Article, and is not a mixture of varieties.

Or. en

Justification

It is clearer if Article 10 also includes a definition for heterogeneous material.

Amendment 21

Proposal for a regulation Article 11 – paragraph 3

Text proposed by the Commission

Amendment

3. The Commission ***shall be empowered to adopt delegated acts***, in accordance with ***Article 140***, amending Annex I in order to adapt it to the developments of technical knowledge, scientific knowledge and economic data.

3. The Commission ***may submit legislative proposals***, in accordance with ***the ordinary legislative procedure***, amending Annex I in order to adapt it to the developments of technical knowledge, scientific knowledge and economic data.

Or. en

Justification

Given its importance, the list of genera and species set out in Annex I should be amended through a Commission proposal under the ordinary legislative procedure.

Amendment 22

Proposal for a regulation Article 11 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. By way of derogation, this Title shall not apply to genera and species listed in Annex I when they are produced and made available on the market for ornamental use.

Or. en

Justification

The Commission text as it stands would apply to the species listed in Annex I even when they are used for ornamental purposes, as happens with sunflowers or peppers for instance. However, the rules for ornamental use should be lighter.

Amendment 23

Proposal for a regulation

Article 12 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) to the purpose of ensuring food and feed security; ***and***

(a) to the purpose of ensuring food and feed security; ***or***

Or. en

Justification

To enlarge the scope of this provision, the conditions mentioned (food and feed security, a high level of identity, quality and health) should not be cumulative.

Amendment 24

Proposal for a regulation

Article 12 – paragraph 3

Text proposed by the Commission

Amendment

3. The Commission shall be empowered to adopt delegated acts, in accordance with

deleted

Article 140, listing the genera or species whose plant reproductive material may not be placed on the market as standard material, as referred to in paragraph 2.

Or. en

Amendment 25

Proposal for a regulation Article 12 – paragraph 4 – point b

Text proposed by the Commission

(b) it is heterogeneous material in the meaning of Article **14(3)**;

Amendment

(b) it is heterogeneous material in the meaning of Article **15b**;

Or. en

Amendment 26

Proposal for a regulation Article 12 – paragraph 4 – point c

Text proposed by the Commission

(c) it *is* niche market **material** in the meaning of Article **36(1)**.

Amendment

(c) it **belongs to a** niche market **variety** in the meaning of Article **15a**.

Or. en

Justification

To enlarge the scope of this provision, the conditions mentioned (food and feed security, a high level of identity, quality and health) should not be cumulative.

Amendment 27

Proposal for a regulation Article 14 – paragraph 3

3. The Commission shall be empowered to adopt delegated acts, in accordance with Article 140, setting out that, by way of derogation to paragraph 1 of this Article, plant reproductive material may be produced and made available on the market without belonging to a variety in the meaning of point (1) of Article 10 ('hereafter 'heterogeneous material') and not fulfilling the requirements on distinctiveness, uniformity and stability as set out in articles 60, 61 and 62 and satisfactory value for cultivation and/or use or sustainable value for cultivation and/or use as set out in articles 58 and 59.

deleted

Those delegated acts may set out one or more of the following for heterogeneous material:

(a) rules on labelling and packaging;

(b) rules concerning description of the material, including the breeding methods and parental material used, description of the production scheme for the plant reproductive material and availability of standard samples;

(c) rules relating to information and samples of production to be kept by the professional operators and the maintenance of the material;

(d) establishment by the competent authorities of registers for heterogeneous material, modalities for registration and content of those registers;

(e) establishment of fees, and cost items for the calculation of those fees, concerning the registration of heterogeneous material referred to in point (d) in a manner ensuring that the fee does not constitute a barrier to the registration of the heterogeneous material concerned.

Those delegated acts shall be adopted by [Office of Publications, please insert date of application of this Regulation...]. They may be adopted per particular genera or species.

Or. en

Justification

The rapporteur wishes to create a separate article dedicated to heterogeneous material (see Article 15b).

Amendment 28

**Proposal for a regulation
Article 15 a (new)**

Text proposed by the Commission

Amendment

Article 15a

Requirements for niche market varieties

- 1. Plant reproductive material may be produced locally and made available on the market in limited quantities as niche market varieties registered in a national variety register referred to in Article 51, on the basis of an officially recognised description.***
- 2. The persons who produce niche market varieties shall keep records of the quantities of the material produced and made available on the market, per genera, species or type of material. On request, they shall make those records available to the competent authorities.***
- 3. The Commission shall be empowered to adopt delegated acts in accordance with Article 140, setting out, with regard to the production and making available on the market of niche market varieties the following:***
 - (a) the maximum size of packages,***

containers or bundles per particular genera or species concerned;

(b) requirements concerning traceability, lots and labelling of the niche market varieties concerned;

(c) modalities of making available on the market.

Or. en

Amendment 29

Proposal for a regulation Article 15 b (new)

Text proposed by the Commission

Amendment

Article 15b

Heterogeneous material

1. Plant reproductive material may be produced and made available on the market as heterogeneous material, registered in a national variety register referred to in Article 51, on the basis of an officially recognised description.

2. The Commission shall be empowered to adopt delegated acts, in accordance with Article 140, setting out the conditions under which heterogeneous material of particular genera or species may be made available on the market.

3. Those delegated acts shall set out the following:

(a) the genera or species to which the provisions of this Article may apply;

(b) requirements concerning the labelling and packaging of the heterogeneous material concerned;

(c) modalities of making available on the market in a manner ensuring that such modalities do not constitute a barrier to

the registration and marketing of the heterogeneous material concerned.

Those delegated acts shall be adopted by... [Office of Publications, please insert date of application of this Regulation]. They may be adopted per particular genera or species.

Or. en

Amendment 30

Proposal for a regulation Article 16 – paragraph 2

Text proposed by the Commission

2. The Commission shall be empowered to adopt delegated acts, in accordance with Article 140, *supplementing the requirements referred to in paragraph 1. Where appropriate, those delegated acts may specify those requirements set out in Part D of Annex II.*

Amendment

2. The Commission shall be empowered to adopt delegated acts, in accordance with Article 140, *amending Parts A and B of Annex II in order to adapt them to the technical and scientific developments.*

Or. en

Justification

There is no reason to have two kinds of delegated acts in paragraphs 2 and 4 of Article 16. They should be merged in a single paragraph.

Amendment 31

Proposal for a regulation Article 16 – paragraph 4

Text proposed by the Commission

4. The Commission shall be empowered to adopt delegated acts, in accordance with Article 140, amending Part A and Part B

Amendment

deleted

of Annex II to adapt them to the technical and scientific developments.

Or. en

Justification

See under Article 16 – paragraph 2.

Amendment 32

**Proposal for a regulation
Article 20 – paragraph 2**

Text proposed by the Commission

2. The Commission shall be empowered to adopt delegated acts, in accordance with Article 140, *supplementing the certification schemes. Where appropriate, those delegated acts may specify those schemes, as set out in Part D of Annex II.*

Amendment

2. The Commission shall be empowered to adopt delegated acts, in accordance with Article 140, *amending Part C of Annex II in order to adapt it to the technical and scientific developments.*

Or. en

Justification

There is no reason to have two kinds of delegated acts in paragraphs 2 and 4 of Article 20. They should be merged in a single paragraph.

Amendment 33

**Proposal for a regulation
Article 20 – paragraph 4**

Text proposed by the Commission

4. The Commission shall be empowered to adopt delegated acts, in accordance with Article 140, amending Part C and Part D of Annex II to adapt them to the technical and scientific developments

Amendment

deleted

Justification

See under Article 20 – paragraph 2.

Amendment 34

**Proposal for a regulation
Article 21 – paragraph 5 – point f**

Text proposed by the Commission

(f) in case of mixtures, the indication of the percentage by weight of the various components by species and, **where appropriate**, by variety;

Amendment

(f) in case of mixtures, the indication of the percentage by weight of the various components by species and by variety;

Or. en

Amendment 35

**Proposal for a regulation
Article 28 – paragraph 1 a (new)**

Text proposed by the Commission

Amendment

1a. Competent authorities may carry out controls to verify that operators have complied with the production and quality requirements referred to in Article 16.

Or. en

Justification

Member States should be able to carry out controls to verify that operators are complying with quality requirements and adequately labelling their produce.

Amendment 36

Proposal for a regulation

Article 33 – paragraph 3 – point e

Text proposed by the Commission

Amendment

(e) rules on the identification of region of origin; ***deleted***

Or. en

Justification

The region of origin does not seem to be equally regulated in all cases. The rapporteur considers that it should be left to the competent authorities to determine it (compare with Article 57 (2) (a) and Article 54 (f) where there is no delegation of powers).

Amendment 37

Proposal for a regulation

Article 34 – paragraph 3

Text proposed by the Commission

Amendment

3. In order to obtain the authorisation referred to in paragraph 1, the professional operator shall submit to the competent authorities of the Member ***States***, where the ***relevant tests and trials are to take place, a request with the following information:***

3. In order to obtain the authorisation referred to in paragraph 1, the professional operator shall submit ***a request*** to the competent authorities of the Member ***State*** where the ***application for registration has been made.***

The Commission shall be empowered to adopt delegated acts, in accordance with Article 140, to lay down the information required for such a request for specific genera or species.

(a) a description of the proposed tests and trials;

(b) the objectives pursued by those proposed tests and trials;

(c) the locations in which those tests and

trials are to be carried out;

(d) the provisional denomination of the variety indicated in the application for registration;

(e) the procedure for the maintenance of the variety;

(f) information about the authority before which the application for the registration of the variety is pending, and the reference assigned to that application;

(g) the duration of the authorisation requested;

(h) the quantities of the material to be made available on the market.

Or. en

Justification

The details on the information to be provided when making such a request should be laid down in delegated acts, as they vary from species to species.

Amendment 38

Proposal for a regulation

Article 36

Text proposed by the Commission

Amendment

Article 36

deleted

Derogations from registration requirements in the case of niche market plant reproductive material

1. Article 14(1) shall not apply to plant reproductive material where all of the following conditions are fulfilled:

(a) it is made available on the market in small quantities by persons other than professional operators, or by professional operators employing no more than ten persons and whose annual turnover or balance sheet total does not exceed EUR 2

million;

(b) it is labelled with the indication 'niche market material'.

That plant reproductive material is hereinafter referred to as 'niche market material'.

2. The persons who produce niche market material shall keep records of the quantities of the material produced and made available on the market, per genera, species or type of material. On request, they shall make those records available to the competent authorities.

3. The Commission shall be empowered to adopt delegated acts, in accordance with Article 140, setting out, with regard to the production and making available on the market of niche material belonging to particular genera or species, one or more of the following:

(a) the maximum size of packages, containers or bundles;

(b) requirements concerning traceability, lots and labelling of the niche market material concerned.

(c) modalities of making available on the market.

Or. en

Justification

It has been replaced by Article 15a.

Amendment 39

Proposal for a regulation
Article 41 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Measures adopted under this article

shall remain in force for a period not exceeding twelve months. If after this period the specific problems that have led to the adoption of those measures persist, the Commission may, in order to establish a permanent solution, adopt delegated acts in accordance with Article 140 or present appropriate legislative proposals.

Or. en

Justification

Emergency measures, by definition, should be limited in time.

Amendment 40

Proposal for a regulation

Article 44 – paragraph 1 – subparagraph 1 – introductory part

Text proposed by the Commission

1. The Commission *may* decide, *by means of implementing acts*, whether plant reproductive material of specific genera, species or categories produced in a third country, or particular areas of a third country, fulfils requirements equivalent with those applicable to plant reproductive material produced and made available on the market in the Union, on the basis of:

Amendment

1. The Commission *shall be empowered to adopt delegated acts, in accordance with Article 140, in order to* decide whether plant reproductive material of specific genera, species or categories produced in a third country, or particular areas of a third country, fulfils requirements equivalent with those applicable to plant reproductive material produced and made available on the market in the Union, on the basis of:

Or. en

Amendment 41

Proposal for a regulation

Article 44 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 141(3).

deleted

Or. en

Amendment 42

Proposal for a regulation

Article 44 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Pending the Commission decisions referred to in paragraph 1, Member States may authorise the import of plant reproductive material that has been proven to fulfil requirements equivalent with those applicable to the market in the Union.

Or. en

Justification

It is necessary to avoid a regulatory gap in the market between the directives currently in force that regulate the various sectors of plant material and the proposed Regulation that imposes to the Commission new regulatory tasks in many sectors which will require a considerable amount of time.

Amendment 43

Proposal for a regulation

Article 46 – paragraph 3

Text proposed by the Commission

Amendment

3. Where the export of plant reproductive material to a third country is neither governed by an agreement with a third

3. Where the export of plant reproductive material to a third country is neither governed by an agreement with a third

country nor by the rules of the third country into which that plant reproductive material is to be exported, *the requirements for production and making available on the market of plant reproductive material within the Union territory, as set out in Articles 13 to 42, shall apply.*

country nor by the rules of the third country into which that plant reproductive material is to be exported, *it shall be governed by agreements between the operators concerned.*

Or. en

Justification

In case there are no bilateral or multilateral agreements, or rules of third countries applicable to exported plant reproductive material, EU operators should not be placed in a disadvantaged position affecting their competitiveness in non-EU markets.

Amendment 44

Proposal for a regulation Article 47 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. This Title shall also apply to genera and species listed in Annex I when these are produced and made available on the market for ornamental use.

Or. en

Justification

The Commission text as it stands would apply to the species listed in Annex 1 even when they are used for ornamental purposes, as happens with sunflowers or peppers for instance. However, the rules for ornamental use should be lighter.

Amendment 45

Proposal for a regulation Article 53 – paragraph 1 – point ba (new)

Text proposed by the Commission

Amendment

(ba) the method by which the variety was obtained;

Or. en

Amendment 46

Proposal for a regulation Article 53 – paragraph 1 – point k

Text proposed by the Commission

Amendment

(k) where applicable, a summary of the results of the examinations for ***satisfactory*** value for cultivation and/or use as referred to in Article 58, ***or sustainable value for cultivation and/or use as referred to in Article 59.***

(k) where applicable, a summary of the results of the examinations for value for cultivation and/or use as referred to in Article 58.

Or. en

Amendment 47

Proposal for a regulation Article 56 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) in case they belong to genera or species with particular importance for the ***satisfactory*** development of agriculture in the Union, as referred to in paragraph 5, they have a ***satisfactory*** value for cultivation and/or use pursuant to Article 58;

(b) in case they belong to genera or species with particular importance for the ***sustainable*** development of agriculture in the Union, as referred to in paragraph 5, they have a value for cultivation and/or use pursuant to Article 58;

Or. en

Amendment 48

Proposal for a regulation

Article 56 – paragraph 2 – point c

Text proposed by the Commission

c) in case they belong to genera or species with particular importance for the sustainable development of agriculture in the Union, as referred to in paragraph 6, they have a sustainable value for cultivation and/or use pursuant to Article 59.

Amendment

deleted

Or. en

Amendment 49

Proposal for a regulation

Article 56 – paragraph 3 – introductory part

Text proposed by the Commission

3. The requirements set out in paragraph 2(b) *and (c)* shall not apply to the following varieties:

Amendment

3. The requirements set out in paragraph 2(b) shall not apply to the following varieties:

Or. en

Amendment 50

Proposal for a regulation

Article 56 – paragraph 4 – point b

Text proposed by the Commission

(b) they do not belong to genera or species with particular importance for the *satisfactory* development of agriculture in the Union, as referred to in paragraph 5;

Amendment

(b) they do not belong to genera or species with particular importance for the *sustainable* development of agriculture in the Union, as referred to in paragraph 5;

Amendment 51

Proposal for a regulation

Article 56 – paragraph 4 – point c

Text proposed by the Commission

(c) in case they belong to genera or species with particular importance for the sustainable development of agriculture in the Union, as referred to in paragraph 6, they have a sustainable value for cultivation and/or use pursuant to Article 59;

Amendment

deleted

Amendment 52

Proposal for a regulation

Article 56 – paragraph 5

Text proposed by the Commission

5. The Commission shall be empowered to adopt delegated acts, in accordance with Article 140, listing the genera or species with particular importance for the **satisfactory** development of agriculture in the Union. Those genera or species shall be listed in accordance with the criteria set out in **Part A** of Annex IV.

Amendment

5. The Commission shall be empowered to adopt delegated acts, in accordance with Article 140, listing the genera or species with particular importance for the **sustainable** development of agriculture in the Union. Those genera or species shall be listed in accordance with the criteria set out in Annex IV.

Amendment 53

Proposal for a regulation Article 56 – paragraph 6

Text proposed by the Commission

Amendment

6. The Commission shall be empowered to adopt delegated acts, in accordance with Article 140, listing the genera or species with particular importance for the sustainable development of agriculture in the Union. Those genera or species shall be listed in accordance with the criteria set out in Part B of Annex IV.

deleted

Or. en

Amendment 54

Proposal for a regulation Article 57 – title

Text proposed by the Commission

Amendment

Registration of varieties provided with an officially recognised description

Registration of varieties **and heterogeneous material** provided with an officially recognised description

Or. en

Amendment 55

Proposal for a regulation Article 57 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. **A variety** may be registered in a national variety register on the basis of an officially recognised description if one of the

1. **Plant reproductive material** may be registered in a national variety register on the basis of an officially recognised description if one of the following

following conditions are complied with:

conditions are complied with:

Or. en

Amendment 56

Proposal for a regulation

Article 57 – paragraph 1 – point a

Text proposed by the Commission

(a) in case the variety had not been previously registered in a national variety register or in the Union variety register and plant reproductive material belonging to that variety has been made available on the market before the entry into force of this Regulation;

Amendment

(a) in case ***it is a*** variety ***that*** had not been previously registered in a national variety register or in the Union variety register and plant reproductive material belonging to that variety has been made available on the market before the entry into force of this Regulation;

Or. en

Amendment 57

Proposal for a regulation

Article 57 – paragraph 1 – point b

Text proposed by the Commission

(b) in case ***the*** variety had been previously registered in any national variety register or in the Union variety register on the basis of a technical examination pursuant to Article 71, but has been deleted from those registers more than five years before the submission of the current application and would not fulfil the requirements laid down in Articles 60, 61 and 62 and, where applicable, Article 58(1) and Article 59(1).

Amendment

(b) in case ***it is a*** variety ***that*** had been previously registered in any national variety register or in the Union variety register on the basis of a technical examination pursuant to Article 71, but has been deleted from those registers more than five years before the submission of the current application and would not fulfil the requirements laid down in Articles 60, 61 and 62 and, where applicable, Article 58(1) and Article 59(1);

Or. en

Amendment 58

Proposal for a regulation

Article 57 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) in case it is a niche market variety as referred to in Article 15a;

Or. en

Amendment 59

Proposal for a regulation

Article 57 – paragraph 1 – point b b (new)

Text proposed by the Commission

Amendment

(bb) in case it is heterogeneous material as referred to in Article 15b.

Or. en

Amendment 60

Proposal for a regulation

Article 57 – paragraph 2 – introductory part

Text proposed by the Commission

Amendment

2. In order to be registered on the basis of an officially recognised description, a variety shall comply, ***in addition to*** paragraph 1, with the following conditions:

2. In order to be registered on the basis of an officially recognised description, a variety ***in the meaning of*** paragraph 1 ***(a) and (b)*** shall comply with the following conditions:

Or. en

Amendment 61

Proposal for a regulation Article 57 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. In order to be registered on the basis of an officially recognised description, heterogeneous material shall comply with the following conditions:

(a) the material is identifiable and described, including the breeding methods and parental material used;

(b) the production scheme and the maintenance of the heterogeneous material is described and a reference sample is made available.

Or. en

Amendment 62

Proposal for a regulation Article 58 – title

Text proposed by the Commission

Amendment

Satisfactory value for cultivation and/or use

Value for cultivation and/or use

Or. en

Amendment 63

Proposal for a regulation Article 58 – paragraph 1

Text proposed by the Commission

1. For the purpose of paragraph 2(b) of Article 56, varieties shall be deemed to have a **satisfactory** value for cultivation and/or use if, compared to other varieties examined under similar agro-climatic conditions and similar production systems, their characteristics, taken as a whole, offer, **at least as far as** production in any region **is concerned**, a clear improvement either for cultivation in general or for the specific uses which can be made of the crops or the products derived therefrom.

Amendment

1. For the purpose of paragraph 2(b) of Article 56, varieties shall be deemed to have a value for cultivation and/or use if, compared to other varieties examined under similar agro-climatic conditions and similar production systems, their characteristics, taken as a whole, offer, **with regard to** production in any region, **susceptibility to pests, input of resources, susceptibility to undesirable substances or adaptation to divergent agro-climatic conditions**, a clear improvement either for cultivation in general or for the specific uses which can be made of the crops or the products derived therefrom.

Or. en

Justification

Articles 58 and 59 should be merged in a single article on value for cultivation and/or use.

Amendment 64

Proposal for a regulation

Article 58 – paragraph 2 – subparagraph 1 – introductory part

Text proposed by the Commission

2. Member States shall adopt rules concerning the examinations to determine the **satisfactory** value for cultivation and/or use of the varieties to be registered in their national variety register. Those rules shall concern the characteristics of the varieties in one or more of the following areas:

Amendment

2. Member States shall adopt rules concerning the examinations to determine the value for cultivation and/or use of the varieties to be registered in their national variety register. Those rules shall concern the characteristics of the varieties in one or more of the following areas:

Or. en

Amendment 65

Proposal for a regulation

Article 58 – paragraph 2 – subparagraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) resistance to pests;

Or. en

Amendment 66

Proposal for a regulation

Article 58 – paragraph 2 – subparagraph 1 – point b b (new)

Text proposed by the Commission

Amendment

(bb) reduced need for input of specific resources;

Or. en

Amendment 67

Proposal for a regulation

Article 58 – paragraph 2 – subparagraph 1 – point b c (new)

Text proposed by the Commission

Amendment

(bc) decreased content of undesirable substances; or

Or. en

Amendment 68

Proposal for a regulation

Article 58 – paragraph 2 – subparagraph 1 – point b d (new)

Text proposed by the Commission

Amendment

(bd) increased adaptation to divergent agro-climatic environment.

Or. en

Amendment 69

Proposal for a regulation

Article 58 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

Each Member State shall publish those rules and notify them to the Agency, the Commission and the other Member States.

Each Member State shall publish those rules and notify them to the Agency, the Commission and the other Member States.
Those rules shall take into account, where applicable, the available technical protocols.

Or. en

Justification

Articles 58 and 59 should be merged in a single article on value for cultivation and/or use.

Amendment 70

Proposal for a regulation

Article 59

Text proposed by the Commission

Amendment

1. For the purpose of paragraph 2(c) and paragraph 3(c) of Article 56, varieties shall be deemed to have a sustainable value for cultivation and/or use if, compared to other varieties examined under similar agro-climatic conditions and similar production systems, their characteristics, taken as a whole, offer, at

deleted

least as far as susceptibility to pests, input of resources, susceptibility to undesirable substances or adaptation to divergent agro-climatic conditions are concerned, a clear improvement either for cultivation in general or for the specific uses which can be made of the crops or the products derived there from.

2. The Commission shall be empowered to adopt delegated acts, in accordance with Article 140, setting out rules concerning the examinations to determine the sustainable value for cultivation and/or use of the varieties. Those rules shall concern the characteristics of the varieties in one or more of the following areas:

(a) resistance to pests;

(b) reduced need for input of specific resources;

(c) decreased content of undesirable substances; or

(d) increased adaptation to divergent agro-climatic environment.

Those rules shall take into account, where applicable, the available technical protocols.

Or. en

Justification

Articles 58 and 59 should be merged in a single article on value for cultivation and/or use.

Amendment 71

Proposal for a regulation

Article 64 – paragraph 4 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

*Those delegated acts shall be adopted
by... * .*

** OJ: please insert date of application of this Regulation*

Or. en

Justification

Specific rules on the suitability of variety denominations are absolutely necessary for the market and should be adopted as soon as possible.

Amendment 72

Proposal for a regulation
Article 67 – paragraph 1 – point m

Text proposed by the Commission

(m) where applicable, a declaration that the variety has ***satisfactory*** value for cultivation and/or a use as referred to in Article 58(1) ***and/or sustainable value for cultivation and/or use as referred to in Article 59(1).***

Amendment

(m) where applicable, a declaration that the variety has value for cultivation and/or a use as referred to in Article 58(1).

Or. en

Amendment 73

Proposal for a regulation
Article 71 – paragraph 2 – point b

Text proposed by the Commission

(b) where applicable, that the variety has a ***satisfactory*** value for cultivation and/or use, according to Article 58(1) ***and a sustainable value for cultivation and/or use according to Article 59(1).***

Amendment

(b) where applicable, that the variety has a value for cultivation and/or use, according to Article 58(1).

Or. en

Amendment 74

Proposal for a regulation

Article 72 – paragraph 1 – point b

Text proposed by the Commission

(b) compliance with the requirements of a **sustainable** value for cultivation and/or use referred to in Article 59(1).

Amendment

(b) compliance with the requirements of a value for cultivation and/or use referred to in Article 58(1).

Or. en

Amendment 75

Proposal for a regulation

Article 73 – paragraph 2 – point b

Text proposed by the Commission

(b) compliance with the requirements of a **satisfactory** value for cultivation and/or use referred to in Article 58(1).

Amendment

(b) compliance with the requirements of a value for cultivation and/or use referred to in Article 58(1).

Or. en

Amendment 76

Proposal for a regulation

Article 73 – paragraph 2 – point c

Text proposed by the Commission

(c) **compliance with the requirements of a sustainable value for cultivation and/or use referred to in Article 59(1).**

Amendment

deleted

Or. en

Amendment 77

Proposal for a regulation Article 86 – paragraph 8 a (new)

Text proposed by the Commission

Amendment

8a. Where the applicant has no interest in maintaining a variety in the national variety register and the variety is not protected by a plant variety right, the competent authority may authorise a third person, on its request, to maintain the variety. Paragraph 5 shall apply.

Or. en

Justification

Where an applicant has no interest in maintaining an unprotected variety which is considered appropriate for cultivation or because of its resistance to pests, thus having market value, and given that this variety is not protected by a plant variety right, a third person can maintain the variety and make it available on the market without damaging the applicant's interests.

Amendment 78

Proposal for a regulation Article 89 – paragraph 2

Text proposed by the Commission

Amendment

2. Applicants employing fewer than 10 persons and whose annual turnover or annual balance sheet total does not exceed EUR 2 million shall be exempted from the payment of the fees provided for in Article 87 and Article 88.

deleted

Or. en

Justification

The elimination of fees being charged to small and medium operators entails a big mass of exemptions which does not correspond to the market value of the new varieties to be registered. It may provoke a mass of fraud cases and it is not compatible with the obligation to cover the costs for the examination of varieties laid down in Article 87.

Amendment 79

Proposal for a regulation

Article 90 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) the provisions referring to varieties with ***sustainable or satisfactory*** value for cultivation and/or use.

(c) the provisions referring to varieties with value for cultivation and/or use.

Or. en

Justification

Amendment 80

Proposal for a regulation

Article 96 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. Where the applicant has no interest in maintaining a variety in the national variety register and the variety is not protected by a plant variety right, the competent authority may authorise a third person, on its request, to maintain the variety. Paragraph 4 shall apply.

Or. en

Justification

Where an applicant has no interest in maintaining an unprotected variety which is considered appropriate for cultivation or because of its resistance to pests, thus having market value,

and given that this variety is not protected by a plant variety right, a third person can maintain the variety and make it available on the market without damaging the applicant's interests.

Amendment 81

Proposal for a regulation Article 127

Text proposed by the Commission

The Commission shall be empowered to adopt delegated acts, in accordance with Article 140, amending Annexes V to XII. Those amendments shall take into account the development of scientific or technical knowledge and economic data.

Amendment

The Commission shall be empowered to adopt delegated acts, in accordance with Article 140, amending Annexes V **to VIII and X** to XII. Those amendments shall take into account the development of scientific or technical knowledge and economic data.

Or. en

Justification

Annex IX should not be amended through delegated acts. This is to be consistent with the similar amendment to Article 11 (3) concerning Annex I (list of species).

Amendment 82

Proposal for a regulation Article 132 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Measures adopted under this article shall remain in force for a period not exceeding twelve months. If after this period the specific problems that have led to the adoption of those measures persist, the Commission may, in order to establish a permanent solution, adopt delegated acts in accordance with Article 140 or present appropriate legislative proposals.

Or. en

Justification

Emergency measures, by definition, should be limited in time.

Amendment 83

**Proposal for a regulation
Article 139 – paragraph 3**

Text proposed by the Commission

3. Where the export of forest reproductive material to a third country is neither governed by an agreement with a third country nor by the rules of the third country into which that forest reproductive material is to be exported, *the requirements for production and making available on the market of forest reproductive within the Union territory, as set out in Articles 105 to 134, shall apply.*

Amendment

3. Where the export of forest reproductive material to a third country is neither governed by an agreement with a third country nor by the rules of the third country into which that forest reproductive material is to be exported, *it shall be governed by agreements between the operators concerned.*

Or. en

Amendment 84

**Proposal for a regulation
Annex IV – Part A – title**

Text proposed by the Commission

PART A

CRITERIA FOR GENERA OR SPECIES WITH ***SATISFACTORY*** VALUE FOR CULTIVATION AND/OR USE

Amendment

CRITERIA FOR GENERA OR SPECIES WITH VALUE FOR CULTIVATION AND/OR USE

Or. en

Justification

Compare with the amendments to merge Articles 58 and 59 in a single article on value for cultivation and/or use.

Amendment 85

Proposal for a regulation Annex IV – Part A – introductory part

Text proposed by the Commission

The requirements set out in Article **58(2)** on **satisfactory** value for cultivation and/or use shall apply to genera and species which comply with one or more of the following criteria:

Amendment

The requirements set out in Article **58(1)** on value for cultivation and/or use shall apply to genera and species which comply with one or more of the following criteria:

Or. en

Justification

Amendment 86

Proposal for a regulation Annex IV – Part A – point c a (new)

Text proposed by the Commission

Amendment

(ca) they are substantially susceptible to pests;

Or. en

Amendment 87

Proposal for a regulation Annex IV – Part A – point c b (new)

Text proposed by the Commission

Amendment

(cb) they are subject to particular requirements concerning efficiency of

resources;

Or. en

Amendment 88

Proposal for a regulation
Annex IV – Part A – point c c (new)

Text proposed by the Commission

Amendment

(cc) they are susceptible to the presence of undesirable substances;

Or. en

Amendment 89

Proposal for a regulation
Annex IV – Part A – point c d (new)

Text proposed by the Commission

Amendment

(cd) they are susceptible to adaptation to diverse agro-climatic conditions.

Or. en

Justification

Compare with the amendments to merge Articles 58 and 59 in a single article on value for cultivation and/or use.

Amendment 90

Proposal for a regulation
Annex IV – Part B

Text proposed by the Commission

Amendment

PART B

deleted

**CRITERIA FOR GENERA OR SPECIES
WITH SUSTAINABLE VALUE FOR
CULTIVATION AND/OR USE**

The requirements set out Article 59(1) on sustainable value for cultivation and/or use shall apply to genera and species which comply with one or more of the following criteria:

- (a) they are substantially susceptible to pests;*
- (b) they are subject to particular requirements concerning efficiency of resources;*
- (c) they are susceptible to the presence of undesirable substances;*
- (d) they are susceptible to adaptation to diverse agro-climatic conditions.*

Or. en

Justification

Compare with the amendments to merge Articles 58 and 59 in a single article on value for cultivation and/or use.

EXPLANATORY STATEMENT

The majority of Council Directives for making available on the market of plant reproductive material have first been adopted between 1966 and 1971 and some Directives are more recent. The complexity and fragmentation of the existing legislation is likely to perpetuate existing uncertainties and discrepancies in its implementation between the Member States. This creates an uneven playing field for professional operators on the single market.

Developments in the areas of agriculture, horticulture, forestry, plant breeding and making available on the market of plant reproductive material have shown that the legislation needs to be simplified and further adapted to the developments of the sector by replacing the existing Directives by a single Regulation.

This proposal is part of a comprehensive package that also includes three other proposals to modernise the plant health, animal health, and official controls acquis.

CONTENT OF THE COMMISSION PROPOSAL

The proposal consolidates and updates legislation on the placing on the market of plant reproductive material by repealing and replacing the 12 existing directives. Its main features may be summarised as follows:

Objectives: the proposal seeks to: (i) ensure a level playing field across the EU through simplified, clarified and harmonised rules; (ii) reduce unnecessary costs and administrative burden and to increase flexibility; (iii) align PRM legislation with other recent Union strategies; and (iv) foster innovation in plant breeding. The scope of the proposed Regulation covers all forms of PRM.

Professional operators: the proposal introduces basic obligations for professional operators concerning the identification of the plant reproductive material they are producing or making available on the market, keeping of records, facilitation of controls and maintenance of the material. The traceability of any plant reproductive material is ensured by the obligation for the professional operators to have information one step before and one step after their commercial activities.

PRM other than forest reproductive material: the proposal maintains the basic approach on registration of varieties/material and certification/inspection of lots before making available on the market. However, more flexibility will be given to professional operators. In addition, secondary acts will be adopted setting out the specific requirements for the production and making available on the market of particular species and their categories (pre-basic, basic, certified and standard material).

The proposal sets down the requirements for making available on the market of PRM. It retains certain derogations and introduces a derogation on niche market plant reproductive material. It also brings exports within the scope of the Regulation.

Production and making available on the market of PRM belonging to non-listed genera or species: PRM not belonging to the listed genera and species shall also be subject to a few basic requirements with regard to its health status, fitness for purpose, appropriate reference to varieties, where applicable, and identification of the respective material and imports.

Registration of varieties in national and Union registers: the varieties, in order to be made available on the market throughout the Union, shall be included in a national register or in the Union register via direct application procedure to the CVPO. CPVO will keep the updated

information on all plant varieties that can be made available on the market in the Union, including the varieties registered in national registers (Union plant variety database).

The proposal establishes the detailed requirements for the variety registration Procedure. A new obligation for each national variety examination centre to be audited by the CPVO will be introduced with the aim to ensure the quality and harmonisation of the variety registration process in the Union. Concerning old varieties, less stringent requirements should continue to be laid down.

Production and making available on the market of forest reproductive material: the EU legislation sets a specific approach on forest reproductive material. The proposal establishes the requirements applicable to forest reproductive material. Derogations are envisaged in regard to: (i) authorisation of more stringent national requirements; (ii) prohibition to make available to end-user specified forest reproductive material; and (iii) rules concerning temporary difficulties in supply and rules concerning temporary experiments.

THE RAPPORTEUR'S POSITION

The rapporteur has decided to focus in his report on the more controversial aspects of the Commission proposal.

The Commission creates in the Regulation a distinction between the satisfactory value for cultivation and/or use, for instance the evaluation of the agronomic yield, the appropriateness for the purposes of cultivation, and sustainable value for cultivation and/or use, for example resistance to harmful organisms, the reduced use of water for irrigation, the best environmental adaptation. The Commission also lays down that the satisfactory VCU is to be assessed at Member State level, the sustainable VCU at European level through the European Agency on Plant Varieties. The Rapporteur is against this split because it would lead to an increase in bureaucracy and costs. As at present there is no distinction between satisfactory and sustainable value, the rapporteur proposes to bring together the two concepts into a single VCU, but the Member State has to integrate the aspects linked to sustainability. Furthermore, he proposes that the European Agency retains a supervisory role to ensure that the competent authorities operate to similar quality standards.

In its proposal, the Commission has created a new category of plant reproductive material, the so-called 'heterogeneous material', which can be placed on the market, so as to respond to requests of organic farmers, the rules of which are left to delegated acts. The Rapporteur considers that the relevant article is insufficiently clear and that new plant material cannot be included and thus sold on the European market. The Rapporteur has therefore set out a definition of heterogeneous material in the basic act and requests that the Commission specifies the rules of production and quality by delegated acts by the time the Regulation enters into force. The system applied should be the same as for traditional varieties, i.e. registration followed by a description, simplified labelling and light tariffs.

Regarding the niche materials, the Rapporteur has also proposed some important changes, by providing for a simple registration on the basis of the description of the material, once again in line with the rules on traditional varieties. He defines niche material as locally produced and placed on the market in small quantities adapted to the kind of plant material sold, removing the criterion of the Commission which associated niche market materials to micro enterprises, an approach which raised serious problems for the Member States.

The 12 European directives do not cover at present exports of plant material of our European industries to third countries. In this Regulation, as in the other three of the legislative package on the health of plants and animals, the matter is regulated for the first time. In particular where there is no bilateral agreement between the EU and the third country, or, when there are no national rules on seeds and plants reproductive material in that country, the Commission requires that European exporters apply EU rules. The Rapporteur does not agree, because European standards are very high compared to those of many third countries, thus creating serious problems for competition to the detriment of European companies. The rapporteur proposes in the report that in such cases the sale takes place by mutual agreement between the operators concerned.

The rapporteur also proposed some amendments on the powers of the Commission:

- the Rapporteur considers that the list of genera and species of the plant reproductive material other than forest reproductive material (see Annex I) should be amended by way of ordinary legislation instead of through delegated acts by the Commission;
- the Rapporteur considers that the Commission should not decide by means of implementing acts on the requirements of equivalence for the plant reproductive material produced in third countries, therefore he proposes delegated acts;
- the Rapporteur proposes to the Commission to adopt the rules by delegated acts fixing the suitability of variety denominations of plant reproductive material not belonging to genera or species listed in Annex I, in particular those concerning the relation to denominations and trademarks, the relation to variety denominations and geographical indications and the specific criteria to determine whether a denomination is misleading or causing confusion at the latest by the date of entry into force of this Regulation.