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This newsletter is produced by Fulya BATUR (Kybele) for the European Coordination Let's Liberate Diversity in the Pro Specie Rara project on seed policy

### INSIDE THIS ISSUE

1 Organic Regulation

2 Seed Marketing Directives

3 Farm to Fork & Biodiversity Strategies

4 New Genetic Engineering Techniques

# SPROUTS FROM BRUSSELS

## Seeds & Crop Biodiversity in European Policy

Welcome to Sprouts from Brussels! This monthly newsletter wishes to inform the seeds and crop biodiversity movement across Europe on the policy developments which may have an impact on their activities. If you wish to be part of the conversation, and receive this briefing every month, subscribe [here!](#)

### Organic Regulation

*The Delegated Act on Organic Heterogeneous Material is close to completion and the first Commission Implementing Regulations have been published.*

The new notification regime for the marketing of organic heterogeneous material (“OHM”) envisaged by the [Organic Regulation](#) is still currently being shaped by the European Commission and the Group of Experts on Organic Production, which is comprised of Member States experts, with no direct involvement from stakeholders. While the lead is with the Directorate General for Agriculture (DG AGRI, Unit Organic), which negotiates with the national experts, the technical work is done by Directorate General for Health and Food Safety (DG SANTE, Unit Plant Health).

The Expert Group on Organics last met on 2<sup>nd</sup> March 2020, and the minutes of the meeting are [available online](#), showing that most of the changes made to the draft text on organic heterogeneous material (“OHM”) comes from pressure from Member States’ experts to restrict the scope of the opportunities offered by the Organic Regulation to enable wider access of seed diversity to the market. The description of OHM has been considerably restricted compared to the first working paper published by the European Commission in 2019, which was close to the [common letter](#) sent by 41 organisations active in crop

biodiversity in May 2019. The latest draft Delegated Act requires that historical OHM material has been managed on farm for at least six generations to several decades, or that OHM is the result of natural and/or human selection for at least three years for annual crops and five years for biennial/perennial crop. This last approach has notably been advocated by IFOAM-EU in their [2019 position paper](#) but differs from the common denominator letter that had been found with crop diversity actors. In the latest official draft, provisions have been added with regards to denomination of OHM, while there are disagreements within the Expert Group regarding the final approach to be taken on potential post-marketing field inspections and the competent control authorities.



Furthermore, within the general framework of powers delegated to the European Commission by the Organic Regulation, the first Delegated Act that has an impact on seeds has been published on 26<sup>th</sup> March 2020. [Commission Implementing Regulation 2020/464](#) addresses the information to be provided by Member States for the databases on the availability of organic seeds; data on the basis of which derogations to use (non-treated) conventional seeds can be granted to operators by authorities.

## Seed Marketing Directives

*European Commission Study kick off delayed to Summer 2020*

In November 2019, Member States of the European Union have requested the European Commission to conduct a study on the Union's options to update the existing legislation on the production and marketing of plant reproductive material" ([Council decision \(EU\) 2019/1905](#)). The European Commission (DG SANTE, Plant Health Unit) has started the **tender procedure** for the preparation of the background report that will feed the study. Due to the exceptional circumstances under which European authorities (as well as organisations and citizens) need to work under right now due to the COVID-19 pandemic, the study timeframe has recently been pushed back. The data gathering and stakeholder consultation will likely only kick off at the **beginning of June 2020**, for a duration of six to eight months.

As mentioned in the last newsletter, interested stakeholders are invited to **signal their interest** to be included in the consultation to the relevant European Commission services. However, to be proactive given the limited timeframe, organisations should also prepare **informative background documents** that highlight the problems encountered vis-à-vis currently applicable seed marketing rules, supported by facts and figures. Such data could then be more easily aggregated into the report of the consultancy.



## Farm to Fork & Biodiversity Strategies

*Overarching European Strategies delayed due to COVID-19 pandemic*

Within its European Green Deal, the European Commission will adopt two overarching strategies that have an impact on crop biodiversity, namely the "EU Post-2020 Biodiversity Strategy" and the cross-cutting "Farm to Fork Strategy". Both strategies were expected by the end of March but have been **pushed back to at least the 29<sup>th</sup> April 2020** due to the COVID-19 pandemic.

The **Biodiversity Strategy**, led by DG Environment (ENVI) has turned into an epic battle within the European Commission, as a draft version called for a 2030 target to slash the use of pesticide and fertilizers by 30 percent, with an emphasis on agro-ecological approaches, a target and approach that are being contested by DG AGRI.

The **Farm to Fork Strategy** is coordinated by DG SANTE (special cross-cutting unit). The first goal that relates to sustainable food production refers to "seeds contributing to agricultural biodiversity and climate resilience" in the [leaked action plan](#) and hints to EU action to "facilitate variety registration and light market access of traditional and local adapted varieties" between 2020 and 2024. However, a newer draft also worryingly seems to suggest new genetic engineering as a way forward in achieving sustainability in the food chain and address the new plant health threats that come with climate change.



## New Genetic Engineering Techniques

*Stakeholder consultation on "new genomic techniques" open to registered stakeholders*

The **targeted stakeholder consultation**, which kicks off the European Commission work on the study asked by [Member States](#) on "new genomic techniques", is now **open until the 15<sup>th</sup> May 2020**. As the consultation is a targeted one, many national associations have been denied participation (you may find a full list of participating associations [here](#)). However, the "Umbrella Organisation for Crop and Livestock Biodiversity" (i.e. Dachverband Kulturpflanzen und Nutztiervielfalt), the [European Coordination Via Campesina](#), [IFOAM EU](#), [Testbiotech](#), and [Slow Food](#), who, amongst others like Greenpeace, Friends of the Earth and Corporate Europe Observatory, [all oppose](#) the attempts to de-regulate new genomic techniques under Directive 2001/18 and advocate for independent risk assessment of the 'new genomic techniques' under study, are part of the organisations that have been given a say in the consultation.

Interested stakeholders should get in touch with one of the aforementioned organisations as there are efforts to coordinate reaction to the Commission questionnaire within like-minded organisations.

## SPROUTS FROM BRUSSELS Glossary

This Glossary is intended to provide some guidance to better understand the institutional structure of European policymaking. Please get in touch if you wish to see additional terms defined here.

### European Institutions

The **EUROPEAN COMMISSION** is the executive branch of the European Union. Different Commissioners, supported by 30'000 bureaucrats, have the power to submit legislative proposals, and are tasked with following the implementation of European law. The Commission is divided into different **DIRECTORATE GENERALS (“DG”)**, which are akin to national Ministries. Due to the multi-disciplinary nature of crop diversity, a few DG’s are responsible for policy portfolios that impact seeds. DG SANTE is responsible for plant health, seeds marketing, the authorisation of phytosanitary products and the regulatory framework for genetically modified organisms. DG AGRI is responsible for agricultural policy and rural development, while DG ENV is responsible for the Union’s environmental policy, including biodiversity and soil quality frameworks.

The **EUROPEAN PARLIAMENT** is one of the two institutions making up the legislative branch of the European Union, with its directly elected 705 Members of Parliament (“MEP”) from all EU Member States. Its powers have been quite reinforced since the Treaty of Lisbon, and now the Parliament has a say in all policy files linked to crop diversity. It works in different **COMMITTEES** (ENVI and AGRI are both competent for matters related to crop diversity), but all texts need to be adopted in so-called **PLENARY**, which regroups all MEP’s. Even though European elections are carried out on the basis of national lists, MEP’s then congregate into European-level political groups : the European People’s Party (EPP), Socialists & Democrats (S&D), liberals Renew Europe (RE), Identity & Democracy (ID), Greens/EFA, Conservatives (ECR), leftists GUE, and the non-affiliated few.

The **EUROPEAN COUNCIL** is the last institution of the legislative branch of the European Union, composed of heads of States and governments, in different configurations according to the topic at hand. For matters related to crop diversity, the main interlocutor is the AGRIFISH Council, but also the ENVI Council to a certain extent.

### Instruments of European Law

There are two instruments in European law: a **REGULATION** (of the COUNCIL and the PARLIAMENT) is directly applicable in all Member States, without the need for a specific national law, which means that the rights and obligations of the Regulation can be indisputably invoked by citizens, and be applied by national judges. With regards to crop diversity, the new Organic production regime, as well as rules concerning plant health are both enshrined in Regulations.

A **DIRECTIVE** on the other hand, is not directly applicable in Member States, which need to transpose the European rules in national laws and/or decrees. This tool gives much more margin of manoeuvre to national authorities, which explains the wide differences that exist between national seed marketing regimes, the principles of which are set in 12 different European Directives.

In a **REGULATION** or a **DIRECTIVE**, the European Parliament and the European Council can decide to give the Commission the power to further specify certain aspects of the general rules, which will lead to a **COMMISSION REGULATION**. There are two types of Commission legislative action in this framework: **IMPLEMENTING ACTS** are adopted to ensure uniform conditions for the implementation of European law, while **DELEGATED ACTS** are adopted on the basis of a specific delegation of power in a **BASIC ACT** (i.e. either a **REGULATION** or **DIRECTIVE** of the European Council and Parliament), that defines the objectives, content and scope of the delegation of power. Both Implementing and Delegated Acts are prepared by the Commission with heavy involvement of national authorities, regrouped either in a Committee or an Expert Group. The European Parliament is involved only at the approval stage for Delegated Act, while stakeholders are consulted through the “Have Your Say” website of the European Commission once the drafts (of both Implementing and Delegated) Acts have been finalised, four weeks before their adoption by the competent structure(s).