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SPROUTS FROM BRUSSELS

Seeds & Crop Biodiversity in European Policy

Welcome to *Sprouts from Brussels*! This 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](#)! If you wish to read previous issues, click [here](#)!

Updates on the Organic Regulation

Delegated Act on Organic Heterogeneous material almost finalised, and publication of new rules on controls, including groups of operators.

The draft Delegated Act (DA) on Organic Heterogeneous Material (OHM), regulates the rules to be followed for the production and marketing of diverse seed populations. DG SANTE officials presented the results of the “Inter-Service Consultation”, and explained the changes made to the text to the **Expert Group on Organics** during its virtual meeting on the [27th January 2021](#).

The main change made to the draft concerns the exemption of exchanges of OHM seeds intended for research and breeding purposes from the notification rules. Although some quantitative restrictions may be put on this exemption whereby material can be exchanged without prior notification and listing, no restrictions have been added to the marketing of duly notified OHM seeds. The [minutes](#) of the meeting also show that some clarifications may be added to the documents needed to be kept by operators not producing but only marketing seeds, in terms of traceability. The Commission also clarified that conservation varieties cannot be listed as OHM, since they are varieties in the sense of the law, and

would need to undergo some selection and/or breeding processes before they qualify as OHM. After minor corrections, the Act will be adopted by the Commission and sent to the EU Council and the EU Parliament.

Another Implementing Act potentially impacting crop diversity actors has been adopted by the EU Commission in February 2021. Concerned with controls, [Commission Regulation 2021/279](#) also addresses the issue of group certification, which is a new opportunity for EU operators. Setting out the requirements for the system of internal controls (ICS) that needs to be established in any group, the Act provides for a maximum size of a group of operators, of maximum 2000 members. Qualities required to form a group of operators had been set in the Basic Act of the EU Organic Regulation (Article 36), referencing the ratio of certification costs compared to an operator's turnover, its holding size, and the group's geographical proximity (a criteria that will be assessed at national level). The Implementing Act now additionally lists the documentation to be kept (which includes the list of members, the membership agreements, internal inspection reports, training records of the ICS inspector and of members, traceability records, and contracts with subcontractors). Considering the administrative tasks that such a control system represents, only practice will show how much this new opportunity will translate into practice.

Seed Marketing Reform

Publication of the study on options to reform EU seed marketing laws foreseen in April 2021, while topic is on the agenda of the next DG AGRI CDG on arable crops.

The consultancy (ICF Consulting) chosen by the European Commission (DG SANTE, Plant Health Unit) to undertake the background work for the [study requested by Member States](#) on the options to reform European seeds marketing rules should have submitted its work to the European Commission in February 2021. The study is expected to be officially published in April 2021, whether accompanied by formal reform options or a full impact assessment and revision proposals.

The topic of the reform is on the agenda of the next Civil Dialogue Group of the EU Commission DG Agriculture focusing on arable crops on [5th March 2021](#). The agenda item reads “Presentation and exchange of views on amendments to the seed laws”. Very little crop diversity actors have seats on the CDG, whose [composition](#) nonetheless include IFOAM Organics EU, the European Coordination Via Campesina, along with other civil society groups such as Pesticide Action Network, Beelife, Birdlife and the European Environmental Bureau.



EU Commission Consultation on Plant Passports

As required by the EU Plant Health Regulation, the EU Commission has started upstream work to feed into the study to be presented to the EP and Council by December 2021.

EU Regulation 2016/2031 requires the EU Commission to submit two studies to the EP and the Council by 14th December 2021, on the impacts of the extension of the plant passport system to all plants, and on the new regime of imports. Crop diversity actors are mainly concerned with the first study, since the Regulation has considerably expanded its reach into the activities of farmers, seed savers and breeders.

By regulating all “movement” of seeds, rather than their formal trade, and by requiring almost all seed actors, whether large or small, to be registered as professional operators, the Plant Health Regulation encroaches on the daily activities of crop diversity actors, compared to the previous regime, where seed health was mainly dealt with in the seed marketing laws. Plant passports now need to be provided for all movement of seeds if these seeds are subject to quarantine pests, or if seeds are vectors for the transmission of regulated non-quarantine pests as listed in the lengthy Implementing Regulation 2019/2072. Few exceptions are provided for movement destined to final users, but these exclude distance sales, a concept which has been interpreted quite loosely in some Member States. Additional traceability and internal risk

management practices also need to be put in place by operators.

The Commission’s reports will analyse the impact of this whole new world and be accompanied by a legislative proposal if deemed necessary by the cost-benefit analysis. The process is therefore a good chance to show the potential detrimental effects of the new regime on the conservation of biodiversity, but also peasants’ rights to seeds. DG SANTE, which holds the file, has prepared a [dedicated website](#), where the different questionnaires can be found, according to your status (private citizen, operator or national association). The questionnaires will be open until 9th May 2021.



EP Report on the Farm to Fork Strategy

A record number of amendments received for INI Report of the European Parliament on the Farm to Fork Strategy

Presented by the European Commission in May 2020, the [Farm to Fork Strategy](#) is an overarching policy framework which is part of the European Green Deal, addressing changes needed throughout the entire food value chain, from production to transformation to consumption.

The European Parliament has been working on its Initiative Report on the Strategy, where the competence is shared between the Agriculture and Environment Committees. The main rapporteur on the file for the AGRI Committee is the Italian Herbert DORFMANN, (European People's Party, largest group, of the European Parliament) while Anja HAZEKAMP, from the Dutch Animal Party (European United Left group), drafts the report for the ENVI Committee.

The draft report (which was analysed in more details in the last Sprouts, but contains positive aspects with regards to traditional and locally adapted varieties, as well as market concentration, but falls short on ambition, and contains a surprising reference to “innovative plant breeding”) was open to amendments by other MEP's until the 2nd February. The rapporteur teams received a staggering number of 2297 amendments.

Within that lot, 187 amendments deal with seeds; 46 of them proposing to redraft the paragraph on seed security and diversity envisaged by the Rapporteurs. Two different directions are taken in the amendments, some reinforcing the language towards agroecology, crop rotation, requiring the implementation of the ECJ ruling (Case C-528/16) on new GMO's, while others “stress the potential of new breeding techniques for plants in sustainable agriculture”. There seems to be consensus on the rejection of the patent system and worries over concentration of the seed industry across the political spectrum. The Rapporteur are now tasked to either draft compromise amendments that would satisfy different viewpoints or build majorities behind their own

proposals for them to make it into the final report.

The joint AGRI & ENVI vote is expected in April 2021, before being carried to the European Parliament Plenary, provisionally in May 2021. Some view the draft European Parliament report as an unofficial testing of the waters in the institution to get a sense of its willingness to deregulate new genetic engineering techniques or new breeding techniques in different advocacy jargons.



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).