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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

Drafting of the Delegated and Implementing Acts on seeds progresses

Adopted in 2018, and entering into force in January 2021, the [Organic Regulation](#) offers considerable advances for the marketing of organic seeds, either from “organic heterogeneous material”, or from “organic varieties”, while changing the derogations for the use of conventional seeds in organic agriculture. The European Commission has received sizeable delegated and implementing powers in the Regulation, which will result in the adoption of Commission Regulations. These texts are negotiated 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 20th January 2020, and discussed two important draft texts with regards to seeds: a draft Regulation setting out rules governing the production and marketing of plant reproductive material of organic heterogeneous material, and a draft Regulation on the use of in-conversion and non-organic plant reproductive material. Both texts are [available online](#), and national experts are invited to send

their comments before the next meeting, which will be held on 2nd March 2020.

Interested stakeholders should contact their national authorities to submit their comments on the drafts.

With regards to organic heterogeneous material, the latest draft applies to all crop species, and includes a multi-layered description of the material, considering both so-called historical material and more innovative populations. While the quality standards of the seeds marketing Directive remain applicable, Member States have insisted to have considerable post-marketing controls in place, and favour broad field inspection powers, an aspect which was not present in the first Commission drafts.



Preparatory talks on the temporary experiment on organic varieties

The European Commission has also started background work for the temporary experiment that will be launched at the latest in July 2021 to determine alternatives for the registration of “organic varieties”. The main idea is to assess the issues that exist with existing DUS and VCU protocols used for variety registration, and propose alternatives, whether as a stand-alone system, or as an amendment to the general protocols.

Seed Marketing Directives

European Commission kicks off background work for the Study

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 through [Council decision \(EU\) 2019/1905](#). The decision indicates that the Commission can also issue a proposal, if appropriate in view of the outcomes of the study, which should be published by 31st December 2020.

It is today clear that the major portion of the study will rely and build upon the results of the [impact assessment](#) that was carried out before the submission of the European Commission Proposal in 2013, and that it will be limited to submit options, without necessarily coming up with a proposal.

Nonetheless, the European Commission (DG SANTE - Plant Health Unit) has outsourced a stakeholder consultation to an **external consultancy**, which will contact key stakeholders to respond to a limited number of questions regarding the implementation of the seeds marketing Directives. We have been ensured that the crop biodiversity movement would be included in the consultation, and that a portion of the questions relate to the problems encountered by these initiatives on account of the national implementation of these Directives, or their rationale. The stakeholder consultation should start in March 2020, and interested stakeholders are invited to signal such interest to the European Commission,

which would forward the request to the contracted consultancy.



Farm to Fork Strategy

New cross-boundary EU food policy effort coordinated by DG SANTE

Within its European Green Deal, the new European Commission's major ambition that has a direct impact on crop biodiversity is the cross-cutting "Farm to Fork Strategy". The Strategy, which is coordinated by DG SANTE (special cross-cutting unit), but with ample contribution from different Directorate Generals (including ENVI, AGRI, and MARE), pursues several specific objectives : making food production more sustainable, stimulate sustainable food processing, promote sustainable food consumption, reduce food loss and waste, combat food fraud, seed commitments to ensure transition to sustainable food systems globally.

Within the first goal that relates to sustainable food production, "seeds contributing to agricultural biodiversity and climate resilience" are directly cited in the latest [leaked action plan](#). The plan directly refers to a revision of the seeds marketing legal framework to "facilitate variety registration and light market access of traditional and local adapted varieties" between 2020 and 2024.

The Farm to Fork strategy will likely be adopted in Spring 2020, together with the new European Biodiversity Strategy

post-2020. In the meantime, the European Commission has published its Roadmap for the Farm to Fork Strategy, which is open for consultation until the 16th March on the [Have your Say website](#).

New Genetic Engineering Techniques

European Commission study on "new genomic techniques"

At the end of 2019, [Member States requested](#) the Commission's DG SANTE (Unit Biotechnology) to conduct a study to clarify the legal status of "new genomic techniques" under European law, following the European Court of Justice ruling (which actually clarified such legal status), and mostly following the sizeable lobbying effort from the biotechnology and seed industries.

The study kicks off with a survey and [consultation](#). Questionnaires will be sent by the European Commission early February to Member States and to a limited number of stakeholders, which do include some non-governmental organisations. The first meeting that kicks off the stakeholder consultation, shaping the questionnaire that will be circulated, will be held in Brussels on 10th February, and final stakeholder feedback will be collected by April 2020.

The results of the Commission study, which will also integrate opinions from the European Food Safety Authority, the Scientific Advice Mechanism, and the European Group on Ethics, needs to be published on 31st April 2021.

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).