

EU Commission  
DG Sante

19 May 2021

## **Study on the Unions options to update existing legislation on the production and marketing of plant reproductive material**

Dear Madam, dear Sir,

Please take note of our preliminary comment in the following, on the suggested options to update existing legislation on the production and marketing of plant reproductive material, as well as on the related ICF data analysis report. Both were published on 29 April 2021.

40 years ago, the FAO informed that in industrialised countries, 90 percent of cultivated plant varieties were lost. Soon after, seed saving organisations were founded in several EU Member States and saved the remaining diversity *in situ/on farm*. They also saved the vast knowledge about seed gardening and small scale or artisanal seed production. This knowledge was nearly lost in the public: When a book on how to do it was published in 1982, it was the first one after World War II.

Although the traditional landraces and varieties were not officially registered, they were saved by gardeners and farmers, both amateurs and professionals. This is a success recipe not in focus of the data analysis report.

We aim at continuing our unregulated but successful seed saving work *in situ/ on farm* together with the next generations.

Our most important issue therefore is the scope of the planned legislation update. It should be limited to operators who produce and sell Plant Reproductive Material (PRM) for commercial production. The updated legislation should not cover part-time farmers, and individual seed savers who sell seeds for hobby gardening. Also, the scope of the legislation should respect the peasant rights, since 2019 guaranteed under the UN Declaration on the Rights of Peasants, UNDROP.

This would maintain the necessary legal space for *in situ/ on farm* conservation of cultivated plant diversity.

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One of the four presented options limits the scope to the “professional sector”. This is good but not clear enough, if individual actors who produce and sell seeds of a large diversity only to hobby gardeners, even as a profession, would be considered “professional”. They should not fall within the scope.

These actors, having activities exclusively outside of the legislation scope as defined above, should NOT be obliged to register as “professional operators”.

Such an operator register was foreseen already by the former PRM reform proposal (COM/2013) dated 6.5.2013 under Article 5 Registers of Professional Operators, referring to the then planned Plant Health Regulation which is now in force (Regulation 2016/2031/EU, Article 65 Official register of professional operators).

In our letter to DG Sante dated 6 May 2021 on the Evaluation of Article 79 (Plant Passport) of the Plant Health Regulation 2016/2031/EU, we have already pointed out the reasons for our demand:

“In the vast majority of EU member states there are few or no diversity conservation organizations that are equipped with staff and infrastructure and that could provide the necessary services demanded by the plant health legislation. Rather, the *in situ/on farm* conservation and related educational work is carried out by numerous individuals. It is a social movement whose actors are not institutionalized and for which registration as “Operator” would not be appropriate. ..

The promotion of *in situ/on farm* conservation has been internationally recognized since 1995 in the first FAO Global Plan of Action as a necessary basis for the conservation of cultivated plant diversity. The FAO Seed Treaty and the UN Declaration on the Rights of Peasants (UNDRIP) oblige their signatory states to support framework conditions for *in situ/on farm* conservation in gardens and fields.“

The scope of the legislation should furthermore be limited to the around 250 species with some commercial importance, that are listed by the existing directives. It would be detrimental to diversity, to make not only 250 but all species subject to administrative acts before their seeds or plants can be sold or produced.

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To most of us, having not even registered varieties of 250 species, even a “lighter” regulation in the sense of both data analysis report and options documents, would mean additional work and cost. Eventual cost recovery schemes would only increase the administrative workload. Such new administrative obligations would be not proportionate.

The bulk of conservation work in *situ/on farm* is done by individual gardeners and farmers without supporting staff. They separately grow, harvest, clean, store, pack, label and sell tiny amounts of hundreds of varieties. Many of them as well as conservation organisations describe them in their catalogues and maintain online shops. Additional administrative work is simply not feasible.

Thus, information on traditional varieties is already publicly available, a prerequisite for preventing intellectual property infringements on existing varieties (prior art, common knowledge).

In order to conserve cultivated plant diversity *in situ/on farm*, an official registration of varieties is thus not helpful for biodiversity conservation, but a hurdle to it.

The importance of the sale of unregistered PRM for *in situ/on farm* conservation is not addressed by the data analysis report. This sale is essential to allow a growing number of people who do not have anything to exchange, to acquire PRM of traditional, open-pollinated varieties.

The data analysis report rightly describes public marketing activities of conservation networks of major importance but does not emphasize that traditional varieties sold there, are rarely registered. Also, since 2013, the number of seed festivals has increased by around factor ten. The related knowledge also is essential for *in situ/on farm* conservation. This includes the public understanding and support that agricultural biodiversity needs in order to thrive.

Hobby gardeners who buy seeds of traditional varieties are not interested in an official catalogue registration to ensure quality, but in the facts that they are not hybrids but open pollinated (a fact largely overlooked by the analysis report), well growing without chemicals, with properties attractive to gardening and eating. They are also interested in the gardener who produced the seed. Contact is made either directly at seed festivals or via Internet. Variety information and seed gardening knowledge and education play an important role.

Any potential problems with variety identity, purity and germination are a risk of small importance, where the expenditure for 10 to 20 grains is around 3 Euro and the gains for gardening, environment, society and future generations are priceless.

Any seed gardener/artisanal seed producer who often offers low quality will soon be known for it, and will not succeed. Seed gardeners who offer good quality seed of open-pollinating varieties, possibly topped with useful communication, are cherished by the public and selling well. Skeptics are invited to visit a Seedy Sunday.

Reports on the harm we are doing while conserving agricultural biodiversity leave us unconvinced, because evidence seems to be small.

It should be not surprising that attempts to oblige diversity and its gardeners and farmers to officially register were met with resistance in the past.

We kindly ask for your comments on our letter and are happy to answer any further questions you may have.

Sincerely



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