

EU Commission
DG Sante

6 May 2021

Evaluation of Article 79 (Plant Passport) of the Plant Health Regulation 2016/2031 / EU

Dear Madam, dear Sir,

The umbrella organization for cultivated plants and livestock diversity is an association of organizations in German-speaking countries with the aim of improving the framework conditions for their cultured plant biodiversity conservation work.

We welcome the evaluation of Plant Health Regulation on Article 79 (plant passport). Most of us have not yet used the plant passport. Many of the seed savers fear that they will have to register as “Operators” as defined by the Plant Health Regulation and fulfill many obligations a required by this legislation, such as issuing plant passports if plantlets or seeds are sold within the EU.

This applies above all to regulations regarding distance sale (via Internet) as well as traceability and eradication, which we are very concerned about. We would therefore like to comment on the evaluation of the Plant Health Regulation 2016/2031 / EU on Article 79 (plant passport).

The various evaluation questionnaires on this subject address a number of important points. We particularly welcome the efforts made with regard to impacts of the distance sale regulations. With the given formulations, however, the necessary information cannot always be properly conveyed. Example: Querying the effectiveness of sanctions in the event of violations of distance sale provisions can, in our opinion, only lead to incorrect results, as little is known about the form and scope of these sanctions. Nor can it be expected that most of those affected will be able to fill out the extensive questionnaires (with more than 40 questions) that may concern them, in a foreign language.

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.

Hobby gardeners harvest seeds and sell seeds to others: this is a necessary prerequisite for the living dynamic conservation of diversity *in situ/on farm*. Registering them is not possible, not desired and also not required. Only from a certain size and possibly with a commercial perspective they register a company for certain administrative purposes, e.g. tax payment or staff employment. They are then also more likely to fulfill the large list of obligations defined in many articles of the Plant Health Regulation, which come along with registration as Plant Health “Operator”.

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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 (UNDROP) oblige their signatory states to support framework conditions for *in situ/on farm* conservation in gardens and fields.

The requirements of plant health law would - if they were applied to the seed savers - make *in situ / on farm* conservation extremely difficult. They are even considerably more extensive than the administrative tasks involved in the seed marketing legislation (so-called “conservation” and “amateur variety” directives 2008/63 / EC and 2009/145 / EC). The fact that phytosanitary law is applied to species, not varieties, does not change the disruptive effect of the high administrative burden.

It is well known that few varieties are listed under these two directives. Another considerable additional administrative burden would be placed on seed savers, if the official listing as a conservation or amateur variety would serve to restrict exemptions from the plant passport requirements. We would therefore reject such an approach.

The use of the Internet for the necessary distribution of seeds and planting material for the purpose of *in situ / on farm* conservation must not be made a disadvantage: Distance selling for the purpose of *in situ / on farm* conservation and the sustainable use of these varieties must not be subject to Operator registration, plant passports, traceability or eradication.

A possible reimbursement scheme for seed savers would only add to the administrative burden. In this case, the extensive requirements for registered Operators in the first place would be topped by additional administrative work for cost reimbursement.

At this point, we would like to reiterate that the Plant Health Regulation is based on special scientific approaches in which harmful organisms are to be removed from the EU through tracing and eradication if necessary. These approaches are by no means a scientific consensus in the field of plant health, so they must not form the sole basis of legislation. In addition, to maintain plant health, modern breeding also relies on mono- or oligogenic resistance in some varieties. However, these resistances are broken too often and too quickly to be able to present a sustainable solution strategy.

Other scientific approaches in the field of plant health show that vital plants can also be carriers of harmful organisms without being or becoming sick. It would be wrong to destroy healthy plants because they carry harmful organisms. It is precisely the non-monogenic properties on which plant health is based in these cases that are important for sustainable cultivation systems today and in the future.

The vitality and health of the plants is strengthened through ecosystem interactions and the evolutionary seed reproduction. Cultivating diversity in organic farming systems also reduces the spread of pests. The new "Organic Regulation" (EU) 2018/848, which is planned to come into force on 01.01.2022, as well as other important internationally agreed documents correctly take up this knowledge and its context (see attachment). A development of plant varieties based on these approaches must also be taken into account in any EU phytosanitary legislation.

Therefore, it is required, presently and for the future:

- **No operator registration requirement for seed savers who work without employees.**
- **In result: No plant passport requirement and no obligation to track and eradicate harmful organisms.**

This is the only way for these actors to develop and maintain cultured plant diversity without being burdened with additional administrative tasks from the Plant Health Regulation and without having to fear the destruction of cultured plant diversity in the event of tracing and elimination of pests which the plants may carry in spite of being healthy.

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

Sincerely

Board, Dachverband Kulturpflanzen- und Nutztiervielfalt e.V.:

Hans-Joachim Bannier (Pomologen-Verein e. V.)
Susanne Gura (Verein zur Erhaltung der Nutzpflanzenvielfalt e. V.)
Svenja Holst (Arbeitsgemeinschaft bäuerliche Landwirtschaft e.V.)
Andreas Riekeberg
Frank Schmitt (Freie Saaten e.V.)
Annette Fehrholz (Obst- und Gartenbauverein Bengel e.V.)

Attachment (1 page)

Members of the Dachverband Kulturpflanzen- und Nutztiervielfalt e.V.

Agrar Koordination - Aktion Agrar - Arbeitsgemeinschaft bäuerliche Landwirtschaft (AbL e.V.)
- Arbeitsgemeinschaft Streuobst - Arche Noah - Baumschule Walsetal u. Regionalgarten -
Freie-Saaten.org - LWL Freilichtmuseum Detmold - Genbänkle - Hortus Officinarum -
Kraizschouschteschgaart - Kulturpflanzen Alb e.V. - LebensGut-Cobstädt e. V. - NABU
Bundesfachausschuss Streuobst - Obst- und Gartenbauverein Bengel e.V. - Pomologen-
Verein e. V. - ProSpecieRara Deutschland - Region der Vielfalt (Thüringen) - Samenbau
Nordost Kooperative GbR - Som fir d'Erhalen an d' Entwécklung vun der Diversitéit (SEED) -
Slow Food Deutschland - Stiftung Kaiserstühler Garten - Streuobst Arche e.V. -
Umweltbildungshaus Johannishöhe - Verein zur Erhaltung der Nutzpflanzenvielfalt e. V. -
Verein zur Förderung der Saatgutforschung im biologisch-dynamischen Landbau e. V.

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Attachment to Dachverband letter to EU re Evaluation of Art.79 of the Plant Health Regulation of 6 May 2021

Regulation (EU) 2018/848 of the EU Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products

(from the preamble)

(18) Having regard to the particularities of the organic production systems, the choice of plant varieties should focus on agronomic performance, genetic diversity, disease resistance, longevity, and adaptation to diverse local soil and climate conditions, and should respect the natural crossing barriers.

(32) While non-organic agriculture has more external means to adapt to the environment to achieve optimal crop growth, organic plant production systems need plant reproductive material which is able to adapt to disease resistance, diverse local soil and climate conditions and to the specific cultivation practices of organic agriculture contributing to the development of the organic sector. Therefore, it is important to develop organic plant reproductive material suitable for organic agriculture.

(36) Research in the Union on plant reproductive material that does not fulfil the variety definition as regards uniformity shows that there could be benefits of using such diverse material, in particular with regard to organic production, for example to reduce the spread of diseases, to improve resilience and to increase biodiversity.

Source: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018R0848&from=EN>

EU Biodiversity Strategy for 2030 - Bringing nature back into our lives

2.2.2. Bringing nature back to agricultural land, last para:

The decline of genetic diversity must also be reversed, including by facilitating the use of traditional varieties of crops and breeds. This would also bring health benefits through more varied and nutritious diets. The Commission is considering the revision of marketing rules for traditional crop varieties in order to contribute to their conservation and sustainable use. The Commission will also take measures to facilitate the registration of seed varieties, including for organic farming, and to ensure easier market access for traditional and locally adapted varieties.

Source : <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52020DC0380&from=EN>

United Nations Agenda 2030, SDG Goal 2.5

2.5 By 2020, maintain the genetic diversity of seeds, cultivated plants and farmed and domesticated animals and their related wild species, including through soundly managed and diversified seed and plant banks at the national, regional and international levels, and promote access to and fair and equitable sharing of benefits arising from the utilization of genetic resources and associated traditional knowledge, as internationally agreed

Source : <https://sdgs.un.org/2030agenda>

United Nations Declaration on the Rights of Peasants

Article 19

(2) Peasants and other people working in rural areas have the right to maintain, control, protect and develop their own seeds and traditional knowledge.

(5) States shall recognize the rights of peasants to rely either on their own seeds or on other locally available seeds of their choice, and to decide on the crops and species that they wish to grow.

(6) States shall take appropriate measures to support peasant seed systems, and promote the use of peasant seeds and agrobiodiversity

Source : <https://digitallibrary.un.org/record/1650694>

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