

22 April 2024

**Vote (9-0149/2024) DORFMANN Regulation on plant reproductive material:  
Amendments needed for agricultural biodiversity conservation**

Dear Member of the EU Parliament,

On Tuesday 23<sup>rd</sup> and Wednesday 24<sup>th</sup>, discussions and vote on a new Plant Reproductive Material (PRM) Regulation will take place.

The Commission's proposal aims, among other things, to preserve the agricultural plant biodiversity.

To ensure that the planned regulation can at least begin to fulfil this objective, we are sending you specific proposals on how you can vote on the *amendments* on Wednesday.

In the second part of our letter, we would like to inform you about points that are extremely important for diversity, which we have already pointed out several times, which have not yet appeared in the text of the regulation and which we hope will be seriously addressed in the trilogue.

**1. Which amendments are good for biodiversity conservation?**

Please set a signal to the trilogue by voting in favour of the Committee Amendments, in particular:

- CA 25 would set the aim of *fair* (instead of *equal*) conditions for the competition of professional operators. This CA is a principle needed for biodiversity conservation.
- CA 36 would take small quantities out of scope, however by linking it to Article 29 with the condition of non-profit status, this would in turn rule out microenterprises.
- CA 38 would limit the professional operator definition to commercial exploitation of PRM
- CA 40 would set the same reasonable limit to the marketing definition.
- CA 54 would define final user to purposes outside that person's *primary* professional activities. This would not help microenterprises, but hobby gardeners who are developing some professional conservation activity
- CA 62 provides a useful definition of dynamic conservation, but Amendments 345 (Renew) and 354 (EPP) delete *on farm* and *in garden*. Amendment 354 (EPP) would not really improve the definition of dynamic conservation, taking out the limitation to Article 29. The purpose of dynamic conservation as referred to in Articles 29 and 30 would be rendered useless. Please support CA62.

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- CA 151 would delete species and quantity reports for PRM sold to final users. Among those who benefit are also specialized biodiversity microenterprises.
- CA 152 would delete obligations concerning the size, form, sealing of small packages. This will also help specialized biodiversity microenterprises.
- CA 153 limits useful derogations to non-profit entities, Amendment 338 (ECR) intends to further limit it to only “to” and “between” such organisations, instead of also the crucial “by” and “within” (CA 153). So please vote for 153, not 338.
- CA 154 limits useful derogations to non-profit entities.
- CA 155 limits useful derogations to non-profit entities.
- CA 156 limits useful derogations to non-profit entities.
- CA 160 to 170 concern Article 30 on farmers exchange of PRM and are all needed. Plant health is ensured by the Plant Health Regulation.
- Amendments 319=327 (Left, Greens) are important by adding to Article 30 the Intellectual Property Rights’ time limitation already set by Regulation EU 2100/94 on Plant Variety Rights.
- CA 201 would take off microenterprises the monitoring of critical points of the production or marketing process and their documentation.
- CA 202 would free non-profit entities from registering obligations.
- CA 203 would free non-profit entities from traceability obligations.
- Amendment 323=334 (Left/Greens/Clergeau) would also be very important for micro-enterprises, because a separation of seed and food production for standard seeds, as called for in the Commission proposal, would make hundreds of years of artisanal experience usable only in the hobby sector and prevent the crucial interaction between hobby and professional in the conservation of diversity.
- Amendment 329 (Greens/Clergeau) would ensure that any person is allowed to appeal register decisions, a very important amendment.

Please be aware that even with these improvements, the conservation of biodiversity outside gene banks could be severely limited, as prices for diversity seeds could increase significantly due to the considerable additional administrative costs, or/and a significant proportion of micro-enterprises specialising in diversity could give up.

**Please support amendments 25, 35, 36, 38, 40, 54, 62, 118, 151-159, 160 – 170, 201-203, 319=327, 329**

**Please reject amendments 338-342, 344, 345, 346, 347-351, 352**

Thank you!

## **2. Which key points for diversity have so far been included in the legislative project in insufficient form or not at all?**

### **2.1 Legal basis**

We emphasise our demand that appropriate exceptions for PRM diversity should explicitly correspond to the wording of [UNDROP](#) Article 19 Right to Seed, in particular with regard to

the right to sell farmers' seed, protection against biopiracy and the formulation of seed marketing laws (Article 19, points 1b, 1d and 8).

Furthermore, we consider concern for plant health, respect for plant variety protection, avoidance of unequal competition, minimum level of quality and traceability of PRM as reasons given for the non-implementation of UNDROP Article 19 and the rejection of a general exemption for diversity initiatives from the scope of the planned regulation to be wrong in terms of content.

UNDROP Article 19 and the corresponding points in the International Seed Treaty [ITPGRFA](#) are not limited to non-profit organisations.

Furthermore, the FAO Seed Treaty and its global action plans place conservation in gene banks (*ex situ*) and *on-farm* conservation (*in situ*) on an equal footing.

There is therefore no reason why dynamic *on-farm* conservation should not be completely excluded from the scope of the Regulation.

## **2.2 Specialised micro-enterprises should be exempted from the scope of the regulation**

The Committee's amendments still ignore a major part of the biodiversity stakeholders in the EU: micro-enterprises.

It would be a mistake to believe that diversity is only conserved by non-profit organisations.

In fact, there are not many non-profit organisations selling PRMs, and in some Member States they are absent altogether. In Germany, the oldest and largest fruit variety conservation organisation, the Pomologenverein, does not sell plant reproductive material. The oldest German vegetable variety conservation organisation, VEN, only offers information on which members of the association can provide certain varieties. The sale is carried out by members who produce the propagating material either professionally or as a hobby. The organisations are non-profit because they promote biodiversity through networking, lobbying and information, but not through the direct sale of PRM.

Many of those professionally involved in biodiversity conservation are one-person businesses that operate without staff. They are therefore nano-enterprises rather than micro-enterprises - the EU defines micro-enterprises as up to 10 employees and up to €2 million turnover and has no smaller category.

If nano-enterprises, which work for diversity and not for profit, are obliged to register as *professional operators* and are then subject to the same administrative requirements as large companies, this will severely hamper their work. Micro-enterprises, like associations, should be excluded from the scope of the regulation.

## **2.3 Enabling limited marketing of seed of informal varieties to farmers and market gardeners**

In general, the categories of conservation varieties and heterogeneous material offer good opportunities for the "legalisation" of informal varieties. However, this is not easy to implement in the practice of diversity initiatives, as these are often structures with few staff

and a high number of varieties and therefore a high workload. Transitional solutions could be helpful here. Authorising the marketing of informal seed could, for example, take the form of a period for variety trials in which varieties, before registration/notification, are tested for their suitability for a few years and their marketing via seed is geographically and quantitatively limited.

## 2.4 No separation of areas for food and seed production

At least in the fruit and vegetable sector, an obligation to separate areas for food and seed production would be technically impossible to implement. In the vegetable sector, for example, seed bearers are selected in large plant populations. The selected seed bearers are used for seed production and the remaining plants in the plant stand are marketed as food.

## 2.5 Impact on crop diversity in the EU

With half-hearted exceptions for diversity it is to be feared that the good progress made under the existing directives in various MS such as Austria, Denmark and France will be reversed.

The genetic diversity of cultivated plants should not be regarded as a tolerated niche, but should be consistently protected and promoted.

## 2.6 Global impact

Failure to comply with UNDROP Article 19 in the EU would send a bad signal to other countries of the United Nations, especially as European seed laws often serve as a model for seed laws in Asia, Africa and Latin America (see Free Trade Agreements).

The EU-wide standardisation of seed laws are likely to be an advantage for large seed companies. Further market concentration should be counteracted.

Thank you for your support to agricultural plant biodiversity.

Sincerely

*Frank Adams, Hans-Joachim Bannier, Susanne Gura, Andreas Riekeberg*  
For the Board



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**Gesendet:** Donnerstag, 11. April 2024 17:34

**Betreff:** Regulation on plant reproductive material: Amendments from AGRI needed for agricultural biodiversity conservation?

**Dear Member of the EU Parliament,**

Why we are writing to you:

The AGRI/ENVI report on "Plant Reproductive Material Regulation" has found many sensible compromises. However, in the AGRI vote, the members of some groups unfortunately abstained or voted against.

**What may be reasons for reluctance?**

We have noticed the seed industry's positive assessments of the Commission's draft and negative assessments of the AGRI report. First and foremost, the seed industry associations criticise the proposed exceptions. However, in their public statements, dangers were so far mentioned in key words. Factual arguments are needed to help the discussion.

We are ready to discuss any of these or other concerns you may have.

In the following, we would like to let you know some of our arguments regarding the mentioned keyword dangers that are feared to arise from biodiversity conservation:

### **1. Parallel markets**

From micro-enterprises specialised in biodiversity, there are no parallel markets to be feared, as the biodiversity varieties have completely different characteristics than the registered varieties for commercial cultivation. For example, varieties for home gardens are aimed at long harvest windows, while varieties for commercial cultivation are bred towards short harvest times that can be determined as precisely as possible.

Additional features: Biodiversity seeds are no F1 hybrids and are not eligible for intellectual property rights, while most registered varieties for commercial agriculture are either or both.

They are sold only in small quantities. Microenterprises specialised in biodiversity propagate the seed with artisanal methods and usually work without staff.

For all these reasons, they cannot compete with seeds for commercial agriculture.

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## 2. Plant health

The Plant Health Regulation (EU) 2016/2031 is risk-based and very comprehensive. So far, most stakeholders have spoken basically favourably about the Plant Health Regulation.

It affects everyone who moves plants or seeds prone to certain quarantine pests or regulated non-quarantine pests, including anyone involved in biodiversity conservation. Even every individual citizen has duties.

A new plant reproductive material regulation does not need to change EU Plant Health law.

## 3. Transparency

The reporting effort asked from professional seed operators is not affordable for microenterprises specialised in biodiversity. The seed amounts of rare varieties are not meant for commercial production, and are so small that the user would not incur a significant economic damage if the quality were insufficient.

The seed and planting material for biodiverse varieties is usually sold directly from the producer to gardeners. Sharing knowledge is also part of biodiversity conservation. Direct contact is common to resolve any problems that may arise.

Transparency is given without a need for reporting that requires high administrative efforts particularly where small lots of many species must be documented.

## 4. Intellectual property

Infringements of plant variety rights or patents are very unlikely in the field of biodiversity conservation. It is in the interest of each microenterprise to propagate and sell only varieties without intellectual property rights. Biodiversity varieties are not eligible to IPRs. Interested buyers attach great importance to this. They are hobby gardeners who also communicate with each other via networks and associations.

## Proposed solutions to date

(summarised because otherwise too detailed)

### A. Derogations or exceptions for gene banks (as e.g. in the EU Commission draft)

Although these are important, it is a fundamentally deficient solution. The goal of agricultural biodiversity conservation cannot only be achieved within gene banks. For cost reasons, gene banks only sow when the germination capacity of the variety declines.

The very important, so-called *on-farm conservation* of varieties takes place outside gene banks in fields and gardens. The sharing of knowledge is part of their work as well as the sale of seeds. On farm conservation is also called dynamic because traditional varieties adapt to environmental changes each time they are sown.

The actors involved in this on-farm conservation work are committed people who do this as a hobby or in specialized microenterprises, and organisations.

Both conservation inside of gene banks as well as outside of gene banks must receive a general derogation from the new regulation in order to contribute to its goal of biodiversity conservation.

## **B. Derogations or exceptions for non-profit organisations**

Some amendments want to limit fundamental derogations, or exceptions from selected articles, to non-profit organisations/networks. Although this helps some organisations and networks, namely those which sell seeds, it does not help micro-enterprises specialised in biodiversity conservation. The reason is: The non-profit status under tax law is not accessible to micro-enterprises.

Moreover, seed selling non-profit organisations are only active in some of the member states. The largest non-profit organisations in Germany (VEN, Pomologenverein) have been in existence since the 1980s and do not sell seed or planting material themselves. The VEN, for example, offers a catalogue of biodiversity varieties through which interested parties can order seeds from the respective producers.

In many member states, seeds and seedlings for conservation purposes are mainly produced and sold by specialised micro-enterprises and also by hobby gardeners. Profits can't be expected in view of the necessary artisanal methods and in view of the large number of plant species and varieties that have to be sown separately, protected from cross-fertilisation, harvested, cleaned, stored, packaged and labelled at every stage.

On the contrary: the work requires a great deal of commitment and expertise, which can hardly be adequately remunerated. Additional administrative work would be an unbearable burden.

The numerous obligations of the draft regulation are actually intended for the seed sale by professional operators to professional customers in commercial agriculture. Additional administrative obligations can mean the end for micro-enterprises specialized in biodiversity conservation.

Non-profit exemptions would therefore not solve the problem, as tax law does not provide non-profit status to individuals or microenterprises.

## **C. Exceptions from some articles for micro-enterprises specialised in biodiversity**

Although the amendments in the AGRI report do not contain any fundamental derogations for micro-enterprises specialised in diversity conservation, they do contain suitable exceptions in some of those articles where the requirements would be too high.

But: Each exception is important and must not be weakened under any circumstances!

The future regulation could not only fail to achieve its objective of contributing to biodiversity conservation, but could even severely hamper it if there is no fundamental derogation for micro-enterprises specialising in biodiversity.

Similar overburdening could occur, if the exceptions in some articles are not sufficient to avoid additional administrative work for specialized microenterprises.

## Legal basis:

The FAO International Seed Treaty [ITPGRFA](#) and its Global Plan of Action place equal emphasis on conservation inside and outside of gene banks.

They do not limit the Farmers' Rights on the cultivation, harvesting, exchange and sale of seeds laid down in the ITPGRFA to the non-profit sector. Nor are Farmers' Rights limited to developing countries, but they include industrialised countries.

The EU and all its member states are parties to the FAO treaty and support the Global Action Plans on the Conservation of Plant Genetic Resources for Food and Agriculture.

The UN Declaration on the Rights of Peasants and Other People in Rural Areas ([UNDROP](#)) applies to all UN member states because UNDROP was adopted by a majority in the UN Human Rights Council. UNDROP recognises the same Farmers' Rights as the International Seed Treaty ITPGRFA.

Dear Member of the European Parliament,

In particular, the following amendments in the AGRI Report of 22.3.24 ( [https://www.euro-parl.europa.eu/doceo/document/A-9-2024-0149\\_EN.pdf](https://www.euro-parl.europa.eu/doceo/document/A-9-2024-0149_EN.pdf)) support the cause of dynamic on farm- conservation of biodiversity: 36, 38, 40, 54, 62, 65,76, 79, 81, 85, 86-91, 154-159, 199-203, 220- 231, 258-261, 310-315

By voting in favour of these exceptions provided for in the AGRI report, please help to ensure that the commitment of micro-enterprises specialising in biodiversity can continue in the future!

You may have concerns – let's talk!

Sincerely

Susanne Gura

Mitglied des Vorstands/Board member





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