




EU Plant Reproductive Material marketing law reform

An overview of the process so far and next
steps in the negotiations

Organized by the ECPGR with the participation of
Arche Noah (AT)
Fundación Entretantos (SP)
Rete Semi Rurali (IT)



A stylized olive branch with several leaves is positioned in the upper left corner of the slide. The background is split into two main colors: a dark grey-blue on the left and a light beige on the right. The title 'Objectives of the webinar' is written in a white, sans-serif font on the dark background.

Objectives of the webinar

Provide an overview of the EU negotiations on the reform of the Plant Reproductive Material (PRM) marketing

Present the key elements of the original draft published in July 2023 by the EU Commission and their 'evolution', culminating in the proposal voted by the Parliament in April 2024 (focusing on key elements for the PGRFA community)

Touch upon critical issues which can still be addressed in the next negotiation phase and share possible ways to influence the process at the national level through Agricultural Ministries

Panelists



ARCHE NOAH

Magdalena Prieler



María Carrascosa



Gea Galluzzi

Analysis of selected elements

Gea Galluzzi, Rete Semi Rurali
María Carrascosa, Fundación Entretantos

Scope of the legislation

Selected definitions

Main derogations

COM proposal

Exclusion from scope (Art. 2)

Regulation applies to PRM production, transfer & sale of a set of species (Annex I – **Regulated species**)

Regulation does NOT apply to sale/transfer PRM (free of charge or not) between “final users”, “for their private use and outside their commercial activities” (art.2)

Regulation does NOT apply to research & breeding (art.2.4)

Activities done by professional operators are marketing as a rule

Definitions (Art. 3)

Wide definition of “professional operator”:
“involved professionally in one or more of the following activities in the Union concerning PRM: production, marketing, maintenance, provision of services, preservation, storage... labelling, sampling, testing” (art. 3.2)

“Marketing”: Activities conducted by professional operator include “sale, holding, **transfer for free**, or offering for sale or any other way of transferring or distribution within, or import into, the Union” (art. 3.3)

“Final user”: acquires, transfers and uses PRM for purposes OUTSIDE that person’s professional activities (art. 3.28)

EP outcome

Exclusion from scope (Art. 2)

More crop species to be regulated (Annex I, ++ plant protein)

PRM transferred for **on-farm research and gene bank activities** are exempted from all marketing rules

Art. 2.4(e) *PRM sold or transferred in any way, whether free of charge or not, for official testing, breeding, inspections, exhibitions or scientific purposes, **including on-farm research and activities carried out by gene banks***

Art. 2.4(eb) PRM produced by farmers for their own use

Definitions (Art. 3)

Art. 3.2: '**professional operator**' means any natural or legal person, involved professionally in one or more of the following activities in the Union [...] concerning **the commercial exploitation of PRM**

Art. 3.3: '**marketing**' means the following **commercial** actions conducted by a professional operator [...] aimed at the **commercial exploitation** of the PRM

Art. 3.28: '**final user**' acquires, transfers and uses PRM for purposes [...] outside their **PRIMARY** professional activities

Exclusion from scope (Art.2)

Exception for dynamic conservation (art. 2.4(ea))

The production and marketing of PRM by conservation organisations and networks referred to in Article 29 *in small quantities as defined in Annex VIIa*, whether free of charge or not, for the purpose of **dynamic conservation**

ONLY FOR **CONSERVATION ORGANIZATIONS**

ANNEX VII *a specifies the **maximum quantities of PRM** allowed to be marketed **outside the scope of the seed marketing legislation** by conservation organisations or networks. These quantities are applicable per natural or legal person, per year, and for each variety/accession/ecotype/plant genetic resource.*
*Conservation organisations that sell **higher amounts** need to respect the rules laid down **in Article 29**.*

Definitions (Art 3)

Dynamic conservation

Art. 3.35a: 'dynamic conservation' means the preservation of genetic diversity within and between cultivated plant species, and includes both in situ conservation and ex situ conservation, with the aim of a sustainable use of plant genetic resources and agro-biodiversity in a way and at a rate that does not lead to the long-term decline of biological diversity, thereby maintaining the potential to meet the needs and aspirations of present and future generations

European Commission

European Parliament - Amendment 315

Annex VII a

MAXIMUM QUANTITIES FOR DYNAMIC CONSERVATION

The quantity applies per natural or legal person, year and variety/accession/ecotype/plant genetic resource.

Species	Maximum net mass (kg)
Fodder plants	20
Beet	20
Cereals	200
Oil and fibre plants	20
Potato	1000
Vegetable:	
Legumes	75
Onions, chervil, asparagus, spinach beet or chard, red beet or beetroot, turnips, water melon, gourd, marrows, carrots, radishes, scorzonera or black salsify, spinach, corn-salad or lamb's lettuce	1
All other vegetable seed	0,5
Vegetatively propagated vegetables	500 plants
Fruit and vine propagating material	150 stocks

Derogations - Conservation varieties

COM proposal

Art 2.29. Old landraces & **new cultivars** in **all** crop species, with 'high level of genetic & phenotypic diversity

'Conservation variety' means a variety that is:

- (a) traditionally grown or locally newly bred under specific local conditions in the Union, and adapted to those conditions; and*
- (b) characterised by a high level of genetic and phenotypical diversity between individual reproductive units;*

Registration (art.53): officially recognized description (region of origin); 10 years + renewal; not for varieties deleted from register in last 2 years

Production rules (Art.26): Standard material/seeds (art.8, Annex III)

EP outcome

Even **more inclusive definition**: old and new cultivars (modern landrace, on-farm selection or bred for adaptation, sustainable use), characterised by a **satisfactory** level of genetic and phenotypic diversity, **not FI, no IPR**

No prohibition of GM/NGT in conservation varieties

Registration **is free of charge** and for **30 years**

Derogations - Heterogenous Material

COM proposal

Definition of HM (art.3.27) same as OHM, only non-organic

‘Heterogeneous material’ means a plant grouping within a single botanical taxon of the lowest known rank which:

(a) presents common phenotypic characteristics;

(b) is characterised by a high level of genetic and phenotypic diversity between individual reproductive units, so that that plant grouping is represented by the material as a whole, and not by a small number of units;

(c) is not a variety in the sense of regulation 2100/94 on Community plant variety rights; and

(d) is not a mixture of varieties;

Derogations - Heterogenous Material (art. 27)

COM proposal

Amendments of Organic Regulation (**art. 81**)
remove the OHM regime

Notification system (art.27): No further info by authority; listed in dedicated “HM register”; traceability, production and trading rules (Annex VI); yearly information on species/quantities

EP outcome

No amendment on EU Organic Regulation
(**art. 81 deleted**)

Rules for non-organic heterogenous material
aligned to OHM regime (e.g. notification free of charge, 3 months authority to respond to notification)

No need to notify species and quantities annually to authorities

No prohibition GM/NGT or patents in the binding text.

No HM for **fodder species**

Non-professional operators cannot notify MH

Derogations - PRM marketed to final users (art. 28)

COM proposal

Sold by professional operators

Also non registered varieties (Art 5)

Small packages

Practically free from quality pests

EP outcome

No more delegated power COM to define rules on form, handling and sealing of packages.

- (a) 10 kg for cereals;
- (b) 5 kg for fodder plants, beet, oil and fibre plants;
- (c) 10 kg for seed potatoes;
- (d) 500 g for legumes;
- (e) 100 g for onions, chervil, asparagus, spinach beet or chard, red beet or beetroot, turnips, water melon, gourd, marrows, carrots, radishes, scorzonera or black salsify, spinach, corn salad or lamb's lettuce;
- (f) 20 g for other species of vegetables;
- (g) 10 individuals for fruit and vine cuttings.

Less information must be notified annually to authority (**no species/quantities**)

Derogations - PRM marketed to and between gene banks, organisations and networks (art. 29)

COM proposal

*It includes marketing to **final users** (not farmers)*

*For **non-profit** purposes*

*Also **non registered varieties** (Art 5)*

***Register** kept by gene banks, organisations and networks with an appropriate **PRM** description*

*Be conserved and make available **samples to authorities** upon request*

*Be **practically free from quality pests** and any defects. Satisfactory **vigour, dimensions and germination***

*~~**Communicate** the use of the derogation and species concerned~~*

Derogations - PRM marketed to and between gene banks, organisations and networks (art. 29)

EP outcome

PRM marketed to, by, between and within organisations and networks dedicated to dynamic conservation

- The **transfer** for monetary compensation or free of charge of **limited quantities** (under Annex VIIa) for dynamic conservation purposes is **outside the scope**
- Beyond such quantities and for **dynamic conservation or farming purposes (=farmers)**, activity is regulated
- **Farmers** can be members of conservation organisations and can also transfer
- No more statutory objective needed, but **activities** need to carry out for **non-profit purposes**
- **Samples** need to be given to authorities on request only when quantities allow it
- **Seed health rules still present**
- **No more** rules on vigour, dimensions and germination capacity
- Conservation organisations are **exempted** from administrative obligations and traceability requirements for professional operators (Art. 41 o 42)
- No more implementing act by EU COM that set rules for labels

Derogations - Seed exchanged in kind between farmers (art. 30)

COM proposal

CONDITIONS

- (1) are produced in the **respective farmer's own premises**;*
- (2) are derived from the respective farmer's own harvest;*
- (3) are **not subject to a service contract** with a professional operator*
- (4) is used for the purpose of **contributing to agro-diversity**.*

REQUIREMENTS

Not protected varieties

Small quantities defined by MS


*Practically free from **quality pests** and defects and satisfactory germination capacity.*

*Open to **unregistered varieties***

EP outcome

PRM exchanged between farmers

- Regulates the right of farmers to exchange **their own PRM** (also seed potatoes, fruit tree cuttings, etc) in small quantities, **in kind or in exchange for financial compensation**.
- **Free exchanges are possible** as long as they are not intended for commercial exploitation of the seed.
- **Quantity limits to be set by European Commission (not at national level)**, but taking into account the needs of smallholder production
- **Seed health rules apply**
- **No prohibition GM/NGT or patents**
- Exempted from the administrative obligations and traceability requirements for professional operators (Art. 41 o 42)

The background features a light grey base with large, flowing organic shapes in muted olive green and dusty rose. In the upper left, there is a faint, stylized pattern of fern fronds. A thin, white, wavy line meanders across the lower right portion of the image.

How to contribute to
the process at
european, national
and regional levels

How to secure a good result

Further awareness raising on the importance of the conservation and sustainable use of PGR & why marketing rules and administrative burden are a threat – only if decision makers know what is needed they can take it into account!

Possible actions:

European Level

- Joint letter to European Commission
- Participation in event on PRM reform in European Parliament in winter
- Webinar or event for negotiators in Brussels

National level

- Reach out to national representative(s) in Council Working Group to inform about concerns regarding conservation
- Informing via own channels (social media, newsletter, ...)
- Media work on risk to conservation presented by draft proposal

Individual level

- Sign and share petition: www.raiseourforks.org



thank you

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