



Position paper on the Commission's proposals for regulations on plant reproductive materials (PRM) and forest reproductive materials (FRM)

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Plant Reproductive Materials Regulation (PRM)

I. General remarks

1) Innovation in the plant breeding sector is among the levers which will enable European agriculture to successfully make the transition to a more resilient and sustainable form of farming. This legal proposal is thus key in contributing to the Farm to Fork and Biodiversity Strategy objectives, such as improved pest-resilience, tolerance of climate change and environmental stress, and enhanced nutrient and water-use efficiency. It should support European farmers across all sectors and regions in responsible production on a more sustainable basis while mitigating climate change and ensuring food affordability and security in the Union and beyond EU borders.

2) The general objective of the Commission's proposal is to ensure, for all types of users, the availability of PRM of high quality and diversity of choice which is adapted to current and future projected climatic conditions. Furthermore, it aims to improve the single market on PRM and align the PRM legislation on the EGD objectives.

3) Copa and Cogeca consider that the objective of increasing agricultural productivity has not changed. However, additional challenges have emerged, such as changes in climate and production. For this reason, the new legislative framework must make it possible to stimulate the development and make available on the European market varieties which are better adapted to these challenges. It also has to guarantee the production and availability in the EU of plant reproductive material (seeds, seedlings, bulbs, etc.) which is of a high market quality and phytosanitary quality. The aim of this proposal for regulation must also be to reduce costs. This aim is taken into account by allowing the Member States to cooperate within the same agro-climatic conditions. However, this aim has not been sufficiently taken into account.

4) Copa and Cogeca are satisfied that the pillars of the current legislation, namely registration, certification, official controls and variety registers, have been maintained. A large number of details (definition of lot, rules for labelling, classification standards, etc.) must be fleshed out at a later date through secondary legislation, which gives room for flexibility. Copa and Cogeca request that all stakeholders be involved in the preparation of delegated acts.

5) Copa and Cogeca support the Commission's proposals for a regulation on plant reproductive materials (PRM). The PRM and the NGT-plants legislation are closely interlinked. The proposed

regulation on NGT plants alone is not sufficient to allow European farmers to have access to improved plant reproductive materials (PRM). PRM must be tested, certified and registered according to the PRM regulation to be placed on the EU market as plant varieties. The PRM is a very important piece of legislation as it will regulate the seed varieties placed on the market for the next 15 years.

II. Specific remarks

Scope

1) The Commission's proposal aims to harmonise implementation, increase efficiency, reduce administrative burdens and support innovation. Bio-molecular techniques and digital solutions will be included. It aims to modernise the legislative framework for production and make available on the market plant reproductive materials (PRM), which will be used in the decades to come. Copa and Cogeca welcome the Commission's proposal for a regulation on plant reproductive materials (PRM), which replaces 10 existing directives and adapts the rules for organic varieties with the provisions of the Organic Farming Regulation (EU) 2018/848. However, the proposed derogations must not undermine trust in the EU PRM marketing system.

2) Furthermore, Copa and Cogeca are satisfied that Directive 98/56/EC of 20 July 1998 on the marketing of propagating material of ornamental plants is retained and will not become part of the new PRM regulation. Indeed, the cost of developing, maintaining and monitoring the officially recognised descriptions for the estimated 75,000 ornamental plant varieties currently on sale in the EU would result in a massive reduction in the number of ornamental plant varieties grown for sale in the EU.

Genera and species listed in Annex I

3) This Regulation applies to the genera and species listed in Annex I. Copa and Cogeca strongly support the current provision which makes certification mandatory for certain listed species. According to the EC's proposal, the Commission is empowered to remove genera or species from the list in Annex I (article 2§3). In particular, forage species intended for the grasses market and industrial fibre plants are currently subject to certification.

Copa and Cogeca advocate maintaining a positive list of species in the proposed regulation which includes currently certified significant agricultural species and **does not support the option of removing genera or species. Copa and Cogeca ask for the list to be adapted to market developments from the existing directives. For example, chickpeas and lentils must be added to annex 1.**

Requirements for production and marketing of PRM

4) Copa and Cogeca are satisfied that the pillars of the current PRM legislation have been maintained. New varieties have to be registered on a national variety list in order to be placed on the EU market with PRM to be certified after testing and controls.

a. Registering varieties in a national variety list or in the Union register remains a precondition for placing PRM on the market in the EU. A reliable, official registration system is required to guarantee that the varieties on the market fulfil Distinctness, Uniformity and Stability (DUS) and, where appropriate, Value for Cultivation and Use (VCU) requirements for agricultural crops has been maintained. Community provisions for DUS testing have proven to be effective in ensuring that no new variety is marketed unless it is distinct, uniform and stable. **Copa and Cogeca suggest that an electronic portal is sufficient to update the EU variety register in an appropriate manner.**

i. In order to develop access to plant biodiversity, Copa and Cogeca propose to facilitate the registration of conservation varieties and varieties intended for particular growing conditions in a single list.

ii. On the matter of vine varieties, a simpler and standardised format with mandatory harmonised information should be inserted within a single European Register for vine varieties (envisaged by the law but not implemented yet) including both varieties and clones. In particular, a variety of vine (standard or conservation) can be grown if it is classified in a given territory. Classification implies presence of a variety in a register. If a variety is deleted from a register, classification cannot be maintained and consequently the vineyard has to be uprooted. So when a variety is withdrawn from the register, it should be written in the register that the production of propagating material is terminated and that the variety is to be removed from the register after 10 or 15 years.

b. **Controls and certification** guarantee the quality (identity, purity, germination rate) of marketed PRM, according to the categories pre-basic, basic, certified and standard. **Copa and Cogeca support adaptation to technological progress and the use of biomolecular tests, provided that is in the interests of farmers. The identification of varieties via biomarkers must be taken into account as an additional tool to accelerate breeding. However, it cannot replace phenotypic observations since these can in principle be directly observed in fields by farmers.**

5) Given this, Copa and Cogeca oppose the inclusion of the PRM certification scheme under

the Official Controls Regulation (EU)2017/625. **PRMs should remain excluded from the Official Controls Regulation and control provisions must remain in the PRM.** Modifying existing official control rules for specific sectors is the preferred option and should be done on the basis of the endorsement of the principle of risk-based controls and the need to reduce the administrative burden for farmers and cooperatives caused by legislation and controls. The private sector must be involved in defining all aspects related to the implementation of official controls in specific sectors. A bureaucratic burden and additional costs for official controls will not be accepted, as this is a public service. **A clear definition of the responsibilities for the controls between the public and private actors, including independent third parties, will help in reducing costs and time for the procedures.** It is important to maintain the quality assurance that European standards offer to farmers, cooperatives and agri-food chains. It also remains important to provide the relevant national authorities with the necessary incentives to carry out official controls in a cost-effective manner. **Public controls and certification must be maintained and cover all agricultural species used for food, industrial or recreational purposes¹. Copa and Cogeca are against increasing the cost of official controls for professional operators and farmers.**

6) Copa and Cogeca support the continuation of the classification of PRM by means of a category consisting of a group or an individual unit of PRM which qualifies as pre-basic, basic, certified or standard seed or material. However, Copa and Cogeca would like to see the option continued to subdivide said category into grades.

Derogations from the basic system of variety registration and PRM certification (certified seeds and standard material)

7) The proposed scope of derogations includes heterogeneous material, conservation varieties, PRM sold to amateur gardeners, seeds exchange in kind between farmers and PRM marketed between gene banks, organisations and networks. Derogations mean that such PRM is not subject to controls and/or certification.

8) Copa and Cogeca advocate one single standard for the “standard material” category, where the rules to be respected are clearly explained. Otherwise, a class of “sub-standard” standard material would be created, which Copa and Cogeca do not consider to be acceptable.

9) **Copa and Cogeca call for the provisions on quantitative restrictions from Directive 2008/62/EC on agricultural conservation varieties and Directive 2009/145/EC on vegetable varieties to be reintroduced.**

¹ For example, turf varieties.



The main arguments against derogations are the concerns about plant health that will be difficult to control in practice, respect for plant variety rights and the avoidance of unequal competition, in addition to the need to guarantee minimum quality and traceability of PRM.

Exchange in kind between farmers

10) The exchange in kind must be specified and framed so that it does not lead to a professional activity that would be exempt from the requirements relating to seed actors with regard to compliance with the Plant Health Regulation. **Preferably, the exchange of farm-saved seeds among farmers must be absolutely prohibited or it should be regulated as proposed in article 30 and limited to small quantities and to local markets.**

Imports

11) Copa and Cogeca support the ban on imports of PRM from third countries unless equivalence agreements guarantee the same level of requirements.

Professional and non-professional operators

12) Professional operators are registered and take care to produce and place on the market materials that comply with the regulation, as well as guaranteeing their traceability. It is not possible to ensure effective segmentation of production and distribution channels between the amateur and professional markets. These markets are supplied by the same operators, with segmentation taking place at the distribution stage.

13) Considering the larger scope of proposed derogations and the increasing risks to plant health as well as the growth of e-commerce, Copa and Cogeca want e-commerce players and operators benefiting from derogations to be fully identified and integrated into the various marketing oversight plans and procedures.

Sustainability requirements: Value for Sustainable Cultivation and Use (VSCU)

14) One of the main objectives of the revision is to extend the assessment of characteristics of PRM contributing to sustainable production. This means varieties subject to DUS testing (official description) will further undergo testing for their Value for Sustainable Cultivation and Use (VSCU). The PRM proposal extends these to fruit plants and vegetables, though not in the form of the current VCU for agricultural plant species as the uses for vegetable PRM, especially, are very diverse. The Commission's proposal addresses the need for flexibility because of the different conditions across the EU as well as collaboration between the Member States with similar agro-ecological conditions. The

PRM proposal provides an additional transition period of two years for the application of the new requirements for VSCU for fruit and vegetables.

15) Copa and Cogeca welcome the Commission's proposal regarding the testing of sustainability, which is seen as a tool to satisfy the requirements of the sustainable food system. New varieties must offer additional benefits compared to existing varieties. Knowing that these varieties have been tested and evaluated according to established criteria is an extra guarantee for farmers. Yield is one of the basic properties included in the list of VSCU (Value for sustainable and cultivation and use) criteria, which is of the utmost importance for farmers, to give them the possibility of choosing the best agricultural and horticultural varieties. VSCU criteria must make it possible to meet ever higher quality, yield, nutritional and final processing demands and reduce the need for external inputs such as plant protection products and fertilisers. However, testing sustainability would generate costs that must be transferred from breeders to farmers and to the supply chain.

16) The introduction of VSCU for fruit and vegetable species, which did not exist in the previous rules, is a very important change for the sector concerned. It is not possible to define and assess the criteria of sustainable use value in the same way as for arable crop species, due to the multiplicity of species and the diversity of forms of production as well as the actors involved. **It would require specific infrastructure and procedures to be set up which differ from arable crop species that cost to the breeders and the Member States. Collaboration between the Member States with the same agro-climatic conditions is necessary to minimize the burdens. The need for a longer transition period for implanting VSCU testing for fruit and vegetables must be recognized.**

17) Concerning vine variety, PRM must be tested for the taste of wine. Therefore, Copa and Cogeca ask to add "preserving traditional and cultural heritage" to the list of the characteristics referred to by the VSCU.

18) Copa and Cogeca suggest that VSCU is adapted to regional growing conditions and that it is carried out by private operators under official supervision to maintain trustworthiness, keep efficiency high and costs low.

Herbicide-Tolerant Varieties (VTH) and varieties that may lead to undesirable agronomic effects (resistance of pests or undesirable effects on pollinators)

19) The use of VTH in sugar beet and oilseeds is linked to the specific flora of these crops, which is present throughout the growing area.



20) **Herbicide-Tolerant Varieties** are part of the toolbox for integrated pest management and allow the reduction of the use of plant protection products. Copa and Cogeca encourage the Commission to develop a method which takes into account what has been already done in terms of on-farm innovation and application of Integrated Pest Management (IPM).

21) Copa and Cogeca question how the Member States would implement the possibility to attach conditions regarding the use of herbicide tolerant varieties and varieties which may lead to undesirable agronomic effects in order to avoid undesirable effects on the environment (article 47.1.f & g). They ask to remove the notion of “characteristics that might lead to undesirable agronomic effects”, seeing that these “undesirable agronomic effects” are not all - and indeed probably cannot be - defined in the PRM regulation. The potential impacts of the non-approval of active substances or withdrawal of plant protection products are not monitored in the same way.

22) **Resistant populations of weeds or insects** are selected independently of the relevant control tool and occur much faster without appropriate management practices and without appropriate diversification of control tools. Promoting good management practices is crucial for maintaining the effectiveness of tolerant herbicide/pest varieties; this is consistent and part of the IPM. It should be independent of the breeding method applied. Copa and Cogeca ask breeders, technical institutes, national authorities and farmers to agree on best management practices and recommendations. Copa and Cogeca reject the restrictions on additional tools for European agriculture.

23) Copa and Cogeca consider the rules regarding crop rotation to already exist in the Common Agricultural Policy. PRM regulation is not the right place to set up the framework of new additional horizontal rules on crop rotation that would generate additional red tape.

24) **Member States shall not be authorized to opt out of herbicide tolerant varieties and varieties that may lead to undesirable agronomic effects.**

25) See also position paper on the NGT regulation.

Derogations from registration requirements for reproductive material where registration is pending

26) The proposal (Article 32) still considers all varieties under a single system, with maximum quantities and burdensome requests for information. These are even more onerous than the current system.

Copa and Cogeca recommend maintaining the principles of the current system which is widely accepted in the EU.

Definitions: heterogeneous material (article 3 § 27)

27) Copa and Cogeca consider that non-organic and organic heterogeneous material must be marketed locally and prohibited to cross Member State borders.

28) Open pollinators species such as grass, clover and alfalfa species are populations. They are out-crossing species. This means that, in contrast to crossing cereal, meaning species like wheat, a grass variety is not one single genetically identical line, but a mixture of many different genotypes. Biologically speaking, a grass variety is a population, and thus genetically heterogeneous. In line with this, the criteria for DUS approval of grass and clover varieties allow for a certain level of phenotypical variation within the variety.

29) For the same reason, it is not a trivial matter to use genetic markers for variety identification as each plant in the variety will have its own specific DNA profile. Grass and clover varieties are grown in variety mixtures based on certified parties. In Europe, grasses and clovers are used in mixtures composed of different species and varieties. Both in agriculture and for lawn use, close to 100% of Europe's grass and clover-grass areas are comprised of mixtures of several species and/or varieties of one species, with typically between 3-8 components (species/varieties) in a mixture. The components have been selected on the basis of their complementary differences in important characteristics, e.g. seasonal growth habit, stress tolerance, disease resistance, persistence, utilisation of available resources and quality traits. This strategy ensures a high level of robustness and production security. For production areas, there is therefore already considerable genetic variation, both due to the considerable natural genetic heterogeneity within each variety and the dominating practice of using species and variety mixtures, which further increases heterogeneity. As such, there is no need for more heterogeneous varieties and neither breeders nor end users are expressing demands for increased genetic diversity in grasses or clovers. **Given how impossible it is to distinguish between the varieties listed, heterogeneous material for forage species (grass, clover and alfalfa) and other species due to technical reasons, these must be excluded from the proposed provisions for heterogeneous material.**

Plant health

30) The Commission's proposal improves the coherence of PRM legislation with the plant health legislation. Professional operators must be registered in the registers to be kept and updated under Regulation (EU) 2016/2031 for reasons of simplification as, to a very large extent, they are already covered by the scope referred to in that Regulation. The proposed PRM regulation includes an amendment of Regulation (EU) 2016/2031 of the European Parliament and of the Council which clarifies that regulated non-quarantine pests (RNQPs) are exclusively regulated under that Regulation. It further introduces the possibility that the OECD label for imported PRM be combined with the plant passport in a single format. Article 4 specified that "any PRM lot produced and marketed in accordance with this Regulation, shall also comply with the rules set out in, or pursuant to, Articles 36, 37, 40, 41, 42, 49, 53 and 54 of Regulation (EU) 2016/2031 concerning Union quarantine pests, protected zone quarantine pests and RNQPs, and with the measures adopted pursuant to Article 30(1) of that Regulation. **Copa and Cogeca give full support to the Commission's proposal while they ask to maintain the control of all phytosanitary criteria by public authorities. Moreover, Copa and Cogeca support a single label format for the plant passport and the certification.**

Reporting

31) **Copa and Cogeca support reporting of the elements that would allow the Commission to establish a balance sheet per year for the main agricultural species:** notified service areas for harvest, seed production on these areas (quantity), stocks at the end of the Marketing Year (June 30th), quantities of certified seed and standard PRM per year and genera/species imported.

32) **The Commission's proposal includes a national contingency plans for forest reproductive materials (FRM) (COM(2023)415),** which will help ensure sufficient supply of forest reproductive material to reforest areas affected by extreme weather events, fires, pest outbreaks and other disasters. **A similar proposal has not been made for agricultural species. Therefore, data on stocks of certified seeds and standard PRM would be justified.**



Forest Reproductive Materials Regulation (FRM)

Tree species and artificial hybrids listed in Annex I

1) Copa and Cogeca wish to adapt the list of tree species and artificial hybrids which the FRM applies to. They are asking for the following tree species to be added to annex I of the FRM:

- a. Eucalyptus,
- b. Sapin bornmuller,
- c. Sapin de Nordmann,
- d. Thuja plicata,
- e. Sequoia sempervirens,
- f. Cryptomeria japonica







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