

Central Demands of the German Plant Breeders' Association (BDP, Bundesverband Deutscher Pflanzenzüchter e. V.) on the Draft Regulation presented by the EU Commission on the "Production and Marketing of Plant Reproductive Material" (REG PRM), 2023/0227 (COD)

I. Fundamental Assessment

Approving Comments

- The **testing system** of the extant seed marketing legislation, **which has stood the test of time**, will be preserved. BDP welcomes the fact that the fundamental pillars of the seed marketing legislation, namely variety registration and seed certification, are to remain in place.
- BDP welcomes that the draft regulation ensures that plant variety registration and granting of plant variety protection will continue to be based on the same criteria and tests (according to the principle of "one key, several doors").

Disapproving Comments

- Compared to the current legislation, the draft regulation provides for additional and extended exemptions for the registration and the marketing of plant varieties and/or PRM (plant reproductive material). The backdrop for these exemptions is the intention to contribute to increased agro-biodiversity. We do support this aim, since active plant breeding is a prerequisite for biodiversity in crops. In creating new plant varieties and in doing breeding research on new crop species, plant breeders in Germany have always been enhancing biological diversity in crops. But we also point out that the extant rules have the additional function of consumer protection and hence play a role in our food security. With respect to these objectives, we warn against weakening in an unacceptable manner the fundamental pillars of the seed marketing legislation. Therefore, BDP opposes the planned extension of the exemptions.
- A comprehensive technical assessment of the draft regulation is not possible at this stage because numerous details will be laid down in delegated acts and implementing acts which are not yet available, but may have serious implications for plant variety registration and the certification of seeds and plants for planting.
- There are inconsistencies between the definitions for "marketing" (in German "Inverkehrbringen" - place onto the market - or "Abgabe" - dispense to), "final user" (in German "Endnutzer") and "professional operator" (in German "Unternehmer"), this group needs to be revised. The revision needs to take into account the following points:
 - The scope of the seed legislation must extend throughout the entire marketing chain for PRM, down to the final user.
 - Final users can be both farmers or private persons, depending on the type of PRM.
 - Exemptions shall only be made for the distribution of seeds to another person for non-commercial, i. e. for non-profit purposes.
 - The exchange of seeds between farmers (whether with a consideration or not) are always of commercial nature and need to be subject to the seed marketing legislation without any exception.

The current definitions do not achieve this aim and therefore need to be revised. At the same time, it must be ensured that national plant variety protection will not be undermined.

I. Specific remarks

Article 7 (3) (Requirements for the production and marketing of pre-basic, basic and certified seed and material) and Article 52 (3) (Value for sustainable use and cultivation)

These articles provide for **amendments of Annex II** via delegated acts. BDP opposes this idea and requests that due to the importance of the provisions in question and due to the fact that they fall into the competence of the Member States, these issues be **regulated in Implementing Acts**.

Article 21 (Seed mixtures)

The **restriction to Annex I species would mean that many existing mixtures could no longer be produced**, e. g. mixtures for interim crops, mixtures in relation to CAP, agri-environmental and climate-

protection measures, turfgrass mixtures and other mixtures, because these mixtures contain Annex I and non-Annex I components. BDP demands that admixtures of species not listed in Annex I are possible in principle. The exception provided for in Article 22 cannot close the resulting gap.

With respect to seed mixtures, it is important that the category "commercial seeds" remains in place and that admixture of commercial seeds as well as of seeds outside the scope of the EU PRM Regulation is possible.

Article 22 (Preservation mixtures)

In conjunction with Article 21, the PRM Regulation makes it mandatory that for many mixtures for revegetation purposes or for AUM/GAP measures, indigenous (autochthonous) seeds be used on agricultural land. This is because species/genera from Annex I may only be mixed with non-Annex I species/genera if the mixture meets the requirements for a conservation mixture. **This is inappropriate and is rejected by BDP.** Furthermore, it should be **clarified in Article 22 (1)** that "different varieties" in the context of preservation mixtures refers exclusively to wild forms.

Article 26 (PRM belonging to conservation varieties)

BDP clearly advocates a limit by quantity/volume for the sale of seeds of conservation varieties. We are also opposed to the possibility of marketing newly bred varieties of certain regional importance as conservation varieties (definition 29 in Article 3). We see an inherent danger of parallel markets for newly bred plant varieties and that the possibility of easier placing onto the market will lead to abuse.

Article 43 (Annual notification of the intended production and certification of pre-basic, basic and certified seed and material)

The requirement that data on the planned production of PRM be transmitted at least one month in advance is inappropriate, yields no added value and is simply impossible to comply with. More often than not, the areas allocated to the production of certain PRM will only be known at very short notice, or else a PRM production needs to be abandoned early, due to bad weather or infestation with diseases. The extant requirement to notify PRM production at least one month prior to field inspection needs to remain in place.

Article 47 (Requirements for registration in national variety registers)

We are opposed to VCSU testing of vegetable varieties and turf grasses.

Article 47 (1) (Requirements for registration in national variety registers)

Ad lit. (f) and (g): These provisions create considerable legal uncertainties and bear the risk of resulting in arbitrary market barriers and additional costs. Therefore, we oppose these regulations unless the following is ensured: 1) Decisions on additional cultivation conditions will be based on risk-based scientific criteria; 2) both the "characteristics" and the "undesirable agronomic effects" will be **clearly defined as specific, measurable and reproducible** criteria; and 3) long-standing stewardship programmes of plant breeders developing best-practice for avoiding the evolution of herbicide-resistant weeds will be taken into account.

Article 47 (2) (b) (Requirements for registration in national variety registers)

Exemptions for plant varieties for ecological cultivation should be minimized.

Article 52 (4) (Value for sustainable cultivation and use)

In case an organic VCSU testing cannot be carried out under organic cultivation conditions, these plant varieties must be tested in the VCSU testing for conventional cultivation.

Article 80 (Amendments of Regulation (EU) 2017/625)

We reject the inclusion of seed marketing legislation into the Official Controls Regulation, except if the following is ensured: 1) the extent and quality of the implementation of variety registration and seed certification will remain at comparable levels to the extant legislation (seamless control of PRM); 2) national authorities will not be burdened with additional bureaucracy, in particular not with additional administrative tasks; and 3) costs will not increase.

Annex II (Control plot-testing of pre-basic, basic and certified seeds)

Part A (1) (C) (d) provides for control plot-testing under official supervision of each seed lot by the professional operator. This is not feasible in practice, nor are the authorities able to supervise this. The seed lots are used for further seed production and their respective seed certification processes anyway. Therefore, we oppose this provision.