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# **All you need to know on the Seed Production and Marketing regulation**

## **A Greens/EFA briefing note**

### **All you need to know on the Seed Production and Marketing regulation (Regulation on Plant Reproductive Material)**

#### **What is the proposal on the Regulation on Plant Reproductive Material about?**

The newly proposed "European [regulation](#) on production, breeding and making available on the market of plant varieties" (commonly called 'seed production and marketing regulation'), was drafted by the DG SANCO[1] and then published by the European Commission on May 6th 2013 for negotiations with Council and Parliament. It intends to replace 12 existing directives, each with different levels of restrictions, by putting them into a single regulation. The proposal concerns the marketing of plant reproductive material (seeds and cuttings for vegetative propagation) and its production, not only for commercial use but also the exchange of material between farmers and other so called "professional operators" engaged in production or breeding.

#### **Main threats of the proposal**

The proposed European legislation on production and marketing of seeds is a serious threat to biodiversity and long term food production. The proposed regulation as it stands now is not favourable to genetic diversity, farmers' rights, and the interests of small and organic breeders. Rather it was created to serve the needs of the multinational seed industry, which is intricately linked with use of pesticides and artificial fertilisers, and will further push farmers into industrial-scale, input dependent agricultural systems. The proposal is now under discussion in the European Parliament. At this stage there have already been many responses to this controversial text. The three major lines are:

1. Firstly to reject the whole proposal, on the grounds that it exceeds the competence of the Commission, is against subsidiarity and goes beyond what legislation was there before. In rejecting the whole proposal, it sends it back to the Commission to re-draft it and come back with a better draft. This approach does however dodge the difficult question of content and makes it easier for politicians who usually favour the agro-industrial, intensive approach to score easy political points

before the European elections of May 2014.

2. Secondly, the option is to keep the laws as a directive rather than a regulation because it gives more flexibility for Member States to implement (see below).
3. Thirdly, the content of the proposal needs to be seriously revised, to see where the Commission is making a sovereignty grab or simply going too far, and to make space in the law for diversity and sustainable agricultural systems. Indeed that is the goal behind our interventions - we need genetically diverse seeds to fuel the growth of a dominant agro-ecological production system. What is more, by engaging critically on the content, if the whole proposal is rejected it gives the Commission a blueprint for how it should redraft its proposal.

### **Main controversial issues dealt with in Greens/EFA amendments to the proposal:**

- **Scope:**

Currently the proposal covers farmers exchanging and saving their own seed, as well as hobby gardeners. We want to narrow the scope of the legislation so that it covers only those individuals or companies who supply plant reproductive material to the market for commercial use. This means no farmers or hobby gardeners.

- **Switch from a proposed regulation to directive:**

EU legislation on seed marketing did exist before now, but it was in the form of 12 directives, not a single regulation as proposed. The directives offered subsidiarity in their application and EU Member States could be flexible, offering derogations for farmers and gardeners in small scale or non-commercialised operations. A regulation, which has to be directly applied by Member States, word for word in the whole EU rather than interpreted (transposed) into national laws, will wipe away many of those exemptions won at the national level.

Also consider the new regulation would replace 12 existing directives, where some e.g. for cereals, were much more restrictive than others. As the regulation proposes to bring everything up to the level of cereals, this means that some currently more lightly regulated sectors would see a big restriction in operators' freedom to work.

We propose to make the new law a directive instead of a regulation, which would allow Member States to be more sensitive to biodiversity and farmers' rights, in the spirit of subsidiarity.

- **Voluntary registration and certification in the official catalogue:**

Two core aspects of this proposed regulation are registration of seed varieties in the EU's Common Catalogue of Seeds and certification of breeders. These two aspects would determine whether a farmer or breeder can legally sell their seeds or not and which seeds can be purchased and used by European and non-European farmers (the EU is the world's biggest exporter of seeds). To be registered in this EU catalogue is an expensive and bureaucratic procedure, which for many small breeders or farmers is technically and financially impossible.

Some heterogeneous plant strains like landraces have been used by farmers for hundreds of years already. We consider that such existing strains which have never been registered should not have to be added into the catalogue, but breeders should be able to use them as breeding stock. In addition, old varieties, i.e. the products of centuries of participatory breeding, may never have been registered or marketed: there should be no barriers for farmers and breeders to using these.

Therefore we want registration to be voluntary, no obligatory registration for varieties with a small

market share. Our proposal is to take about 100 species out of the scope of this regulation.

- **Limiting Distinctness, Uniformity and Stability criteria:**

To be in the EU's common catalogue, seeds need to be in conformity with the so called DUS-criteria (of Distinctness from other existing varieties, Uniformity and Stability). But uniformity and stability are simply not natural characteristics of living things, indeed it is the lack of stability and uniformity thanks to small mutations creating genetic diversity which is needed for us to breed plants, and in that way they are adapted to the challenges of their environment like climate changes, pests and diseases. This DUS criteria and the extreme regulation of the system pretend to protect farmers from poor seed quality, but are mainly designed to replace more genetically diverse, non-homogeneous varieties e.g. locally adapted seeds and open pollinated varieties with high yielding varieties adapted to and dependent upon the chemical inputs found in industrial farming.

This approach is not compatible with organic breeding, as organic plants are bred to be hardier and do not cope well with high nutrient availability: it is also not compatible with locally-adapted seeds (e.g. landraces, open pollinated varieties, with a higher level of heterogeneity): therefore the DUS-criteria should not apply to open pollinated varieties, landraces and other heterogeneous strains.

- **Enlarging the scope of the proposed 'Niche market':**

This new concept introduced by the EC proposal provides exemption from registration for seeds and other PRM. But this provision is much too restrictive, as it is only foreseen for small enterprises with less than 10 employees and a maximum turnover of less than 2 million euros/year: Yet most of the very small companies that work on maintaining or increasing diversity cannot benefit from this exception because they do not fit inside it (many employees are needed).

Even the multinational seed industry lobby has attacked the Commission's proposal for niche markets, warning that enterprises would split in order to evade registration obligations and so create a "black market". However this argument would be the same however the niche is defined, so the industry effectively has been attacking the whole concept of a niche market and so opposes narrowing the scope of the regulation.

Even if we certainly do not share the Commission's approach of limiting diverse and heterogeneous seed into a niche, we offer an alternative solution to defining the niche: by taking the EU 'small farmer' definition into consideration, which means any breeder using the same area of land as a small producer (but nothing smaller than 5ha) would be exempt from the requirement to register and certify and Member States' characteristics are taken into account, rather than using the annual turnover and number of employees.

- **Exemption for historical varieties:**

Currently there is an exemption open to varieties available on the market before the entry into force of the regulation. But we want historical varieties which were NOT available on the market to be able to qualify for the registration exemption as well.

- **Exemption on the basis of geographical origin:**

A derogation proposed by the Commission states that some heterogeneous historical varieties can be used without registration in their place of origin, so limiting their use to a geographical area. We completely oppose and deleted this idea: potatoes and tomatoes and wheat for example are all used outside of their areas of origin.

- **Indication of non-traditional breeding methods:**

Through the amendments we introduced a requirement that non-traditional breeding methods have to be indicated, so that breeders and farmers will be able to know if they are using hybrid plants or if biotechnological techniques (e.g. CMS[\[2\]](#)) were used on the strains they are working on or using.

## **Greens/EFA demands in a nutshell:**

1. **Narrow the scope of the legislation** so that only those individuals who supply plant reproductive material to the market for commercial use should be covered. This means no farmers or hobby gardeners.
2. **Keep the legislation in the form of a directive** rather than turning it into a regulation, so as to maintain some flexibility and subsidiarity in Member States' implementation.
3. **Voluntary registration** and no obligation to register varieties with a small market share.
4. **DUS criteria should be appropriate** for heterogeneous strains: Uniformity and stability are simply not natural characteristics of living things - the result of insisting on these criteria in the legislation has replaced more genetically diverse, non-homogeneous varieties with high yielding varieties adapted to and dependent upon the chemical inputs found in industrial farming. Therefore we amended the Commission proposal to modify the DUS criteria so that they are also suitable e.g. for the organic breeding sector.
5. **A much broader "niche market"** that takes EU small farmers into consideration.

These demands are key to respect biodiversity, farmers' rights and food democracy.

## **What is the legislative process in the European Parliament?**

The proposal is now under discussion at the level of the European Parliament in the thematic committees responsible. The committee for Agriculture and Rural Development (COM AGRI) has the lead on this file and is responsible for drafting the legislative report amending the European Commission proposal. A total of 1371 amendments were tabled by the political groups; this included majority of political groups which rejected the proposal, for different reasons (e.g. avoiding being confronted with difficult detailed questions during elections). Competences of the COM AGRI are shared with the Committee on Environment, Health and Food Safety for the articles related to 'niche market' and 'heterogeneous material'. The MEP responsible to draft the report is Sergio Silvestris (EPP, Italy), the shadow rapporteur in the Greens/EFA Group is Martin Häusling. The MEP responsible to draft the report for ENVI is Pilar Ayuso (EPP, Spain), the shadow rapporteur in the Greens/EFA Group is Satu Hassi.

## **Provisional Calendar as of end of December 2013:**

- 11.12.2013 deadline amendments AGRI Committee
- 18.12.2013 deadline amendments ENVI Committee
- 30.01.2014 vote in ENVI Committee
- 18.02.2014 vote in AGRI Committee
- Final votes in plenary are foreseen for March or April 2014.

## **What are the Greens/EFA doing about the issue?**

1. Tabling amendments to the report which focus on our demands to counter the threats coming from the regulation
2. [Cross-party letter to European Commission](#)
3. Support the Global Citizens' [Declaration](#) for Seed Freedom and Food Democracy together with seed savers organisations worldwide

## What can I do?

- Follow-up the work of seed saver organisations in your country and answer their call to action.
- Sign the Global Citizens' [Declaration](#) for the Seed Freedom and Food Democracy and share this campaign.
- Follow the Greens/EFA [Food campaign](#): we will keep being active with initiatives and actions related to the seed regulation throughout the legislative process.

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[1] Directorate General for Health and Consumers / Santé et Consommateurs (SANCO) part of the European Commission, responsible for the "animal and plant health package": the above seed marketing regulation is one of the regulations within that package. [2] [Cytoplasmic male sterility](#) (CMS), developed in maize, is a maternally inherited trait that makes the plant produce sterile [pollen](#). This enables the production of sterile hybrids.

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### **Contact person**



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