

Position paper on the Proposal
for a Regulation of the European
Parliament and of the Council on
the production and making available
on the market of plant reproductive
material (COM(2013)262 final)





POSITION PAPER

- Copa-Cogeca welcomes the Commission's proposal (COM(2013) 262 final) aiming to simplify, harmonise and modernise the legislative framework for the production and making available on the market of plant reproductive material, which will be used in the decades to come. This proposal heads in the right direction. 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 making available on the market of varieties which are better adapted to these challenges as well as guaranteeing the production and availability in the EU of plant reproductive material (seeds, seedlings, bulbs, etc.) which is of a high physical and phytosanitary quality. The aim of this proposal for a regulation must also be to reduce costs; yet this aim has not been sufficiently taken into account.
- A large number of details must be fleshed out at a later date through «delegated acts». In such a case, Member States would have to appeal to the Council within a short deadline. Here, the risk is that national interests may only be considered to a certain, very limited extent. What's more, delegated acts could lead to more complicated legislation, which runs counter to the aim of simplification. Copa-Cogeca requests that all stakeholders be involved in the preparation of delegated acts.
- Copa-Cogeca represents conventional farmers who use plant reproductive material, as well as organic farmers, multiplying farmers and seed cooperatives. Copa-Cogeca is in favour of balanced legislation, which allows the minority segment to work without prejudicing the majority segment.
- The scope of derogations for the standard material category, including heterogeneous material, niche market material and conservation varieties, remains unclear. Heterogeneous material is difficult to



describe and comprehend. In this respect it is important to ensure that the minimum standards which are otherwise used for verification purposes in the register and to determine value also apply to the exceptions laid down here.

- Certain definitions regarding the professional operator still need to be clarified, especially the definitions of production, the provision of services and making available on the market.
- Copa-Cogeca wishes to emphasise the specific nature of forest reproductive material, compared to agricultural plant reproductive material. Hence, Copa-Cogeca notes the Commission's proposal, which reserves a separate section (Part IV) for forest reproductive material. The current legal provisions applicable to this material are recent and practicable. It is therefore unnecessary to revise them.
- Copa-Cogeca is satisfied that the pillars of the current legislation, that is registration, certification, official controls and variety registers, have been maintained.



However, Copa-Cogeca calls for the following:

- ◇ To maintain one Value for Cultivation and/ or Use (VCU) threshold with the possibility for Member States to introduce sustainability criteria.
- ◇ To determine rules for the registration of varieties adapted to organic farming (Articles 58 and 59).
- ◇ To guarantee the physical and phytosanitary quality¹, as well as the traceability of plants from all lots of plant reproductive material placed on the market. To respect the IPPC's principle of a tolerance level.
- ◇ To update the EU variety register in an appropriate manner.
- ◇ To place the level of assessment criteria for genera or species under the aegis of Member States in determining reproductive material that is listed in Annex 1 (Article 11.3) and to maintain a positive list of species in the next Regulation, which includes currently certified significant agricultural species.
- ◇ To systematise and clearly explain registration and control rules for standard material.
- ◇ To establish precise criteria to define heterogeneous material and to ensure that this material meets the requirements of farmers to provide quality food and feed.
- ◇ To exclude forage species (grass and clover) from provisions on heterogeneous material.
- ◇ To clearly communicate the characteristics of heterogeneous material that is suited to low-input agricultural production methods, climate change or measurable quality characteristics, within the framework of labelling rules for this material.
- ◇ To reintroduce the provisions on quantitative restraints for agricultural conservation varieties (Directive 2008/62/EC) and for vegetable conservation varieties and vegetable varieties with no intrinsic value (Directive 2009/145/EC) for niche market material, heterogeneous material and ORD varieties.
- ◇ To not increase the administrative burden for material where registration is pending and for material which is not finally certified.
- ◇ To not cause additional costs for professional operators and farmers, horticulturists and foresters. In no case should operators' exemptions from registration, production control and certification fees be passed on to multiplying farmers or users of certified seeds. In general terms, Copa-Cogeca believes that official controls are a public good and should be financed by public funds (see AHW(13)5210).
- ◇ To maintain the current system of derogations from registration requirements for reproductive material where registration is pending.
- ◇ To allow greater flexibility to supply the market at times of temporary difficulty in supply.

¹ Sanitary aspects are henceforth included in the draft regulation on plant health.



COMMENTS

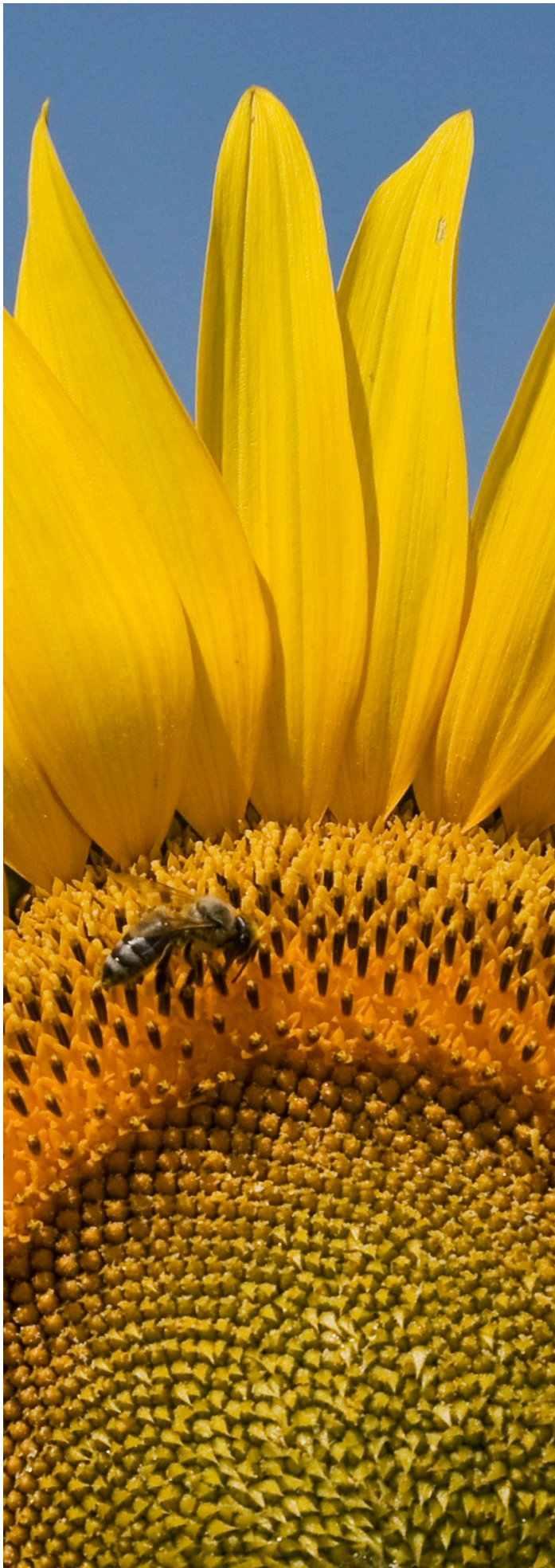
■ *Maintaining the pillars of the current legislation*

Copa-Cogeca is satisfied that the pillars of the current legislation have been maintained.

- Registering varieties in a national register or in the Union register remains a precondition to placing goods on the market in the EU. A reliable, official registration system to guarantee that the varieties on the market fulfil DUS and, where appropriate, 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 (DUS). New varieties must offer additional benefits compared to existing varieties. Knowing that these varieties have been tested and evaluated according to established criteria is a form of assurance for farmers. Yield is still included in the list of VCU criteria, which is of the utmost importance for farmers, to give them the possibility of choosing the best agricultural varieties. VCU criteria must make it possible to meet ever higher quality, yield, nutritional and final transformation demands. The EC proposes distinguishing satisfactory (Article 58) and sustainable (Article 59) VCU criteria. Therefore, one species could have registered varieties with a sustainable VCU or with a satisfactory VCU.

This differentiation would cause greater complexity, which runs counter to the EC's original aim of simplification. The distinction between two types of VCU could increase the cost of placing a new variety on the market and limit the possibility to grow these varieties throughout the EU. Copa-Cogeca believes that it would be clearer to maintain one single VCU with the possibility for Member States to introduce sustainability criteria. Official VCU testing is conducted at national level as well as on a smaller scale, to allow suitable varieties to be developed at regional level. However, Member States within the same agri-climatic area should cooperate more in the future.

Regulation No 834/2007/EC on organic production stipulates that only organically produced seed and propagating material shall be used for organic plant production (Article 12.1.i). However, in many cases it is not feasible to produce plant propagating material organically, in particular without phytosanitary treatment. For this reason, a frequently-used system of derogations exists for when organic seed is not available. Considering that organic farmers find it difficult to access a sufficient supply of organically produced seed, EU rules should be established that are tailored to registering varieties for organic farming. These rules should take the production conditions of organic farming and low-input farming into account.



- Controls and certification to guarantee the quality (purity, germination rate) of marketed seeds and seedlings, according to the categories pre-basic, basic, certified and standard. Public controls and certification must be maintained and cover all agricultural species used for food, industrial or recreational purposes². Certification must be a sufficiently financed, reliable and clear instrument, providing information which is easy to understand for operators in the sector. The EC proposes transferring the quality pests currently included in certification controls into the Plant Health Regulation (COM(2013)267 final) and to include the plant passport on the official label (Article 21.4). Copa-Cogeca welcomes this simplification, which aims to reduce bureaucracy and costs. However, Copa-Cogeca calls for the principle of tolerance thresholds for quality pests to be respected, in line with the International Plant Protection Convention (IPPC) definition for Regulated Non-Quarantine Pests and the thresholds defined in the current seed marketing directives.

- The national and Union variety registers. According to the proposal, the European Agency on Plant Varieties should play a role in registering varieties, especially in managing the Union variety register and registering plant varieties by means of a direct application procedure.

Copa-Cogeca wants this proposal to make a contribution that ensures the Union variety register is updated in an appropriate manner. However, the enhanced role of the EAPV should not lead to a loss of historical, varietal, cultural or food heritage in different EU territories.

² For example, turf varieties.



■ *Species listed in Annex I*

The list of criteria (Article 11.1) could lead to genera or species listed in Annex I being removed in the future, for example small vegetable species, which Copa-Cogeca would be against. Furthermore, the criterion described under Article 11.1 (d) is not clear. The assessment criteria are to be defined in the basic Regulation, however it would be better to set the level of these criteria within the Member States, as opposed to at EU level, because one species may be extremely significant for one country and very marginal for others (for example, rice). Also, the PRM of Annex 1 crops used for ornamental purposes should be exempted from the requirements of Annex 1 crops and regulated according to Title III of the proposal. To do this, Paragraph 1 of Article 11 could be altered to state “the evaluation of one or more criteria in one or several Member States.”

■ *Species subject to mandatory certification*

Copa-Cogeca is against weakening the current provision, which makes certification mandatory for certain listed species. According to the EC’s proposal, in the future certification would also concern significant species, where the costs are proportionate to the objectives of ensuring food security and achieving a high level of identity, quality and health of plant reproductive material (Article 11). These cumulative criteria exclude forage species destined for the grasses market in particular, as well as industrial fibre plants, which are currently subject to certification. This is unacceptable in Copa-Cogeca’s opinion. For this reason, Copa-Cogeca advocates maintaining a positive list of species in the next Regulation, which includes currently certified significant agricultural species.

■ *Standard material*

The scope of derogations for the «standard material³» category, including heterogeneous material, niche market material and conservation varieties (Article 12.4), remains unclear. It is indeed necessary to search for the rules in different articles. Copa-Cogeca calls for this to be systematised, so that it becomes clear to which registration and certification requirements the material must adhere. Copa-Cogeca advocates 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-Cogeca does not consider acceptable.

■ *Niche market material*

Copa-Cogeca is concerned by the Commission’s proposals to introduce new routes to market. For at least one of these, niche market material⁴ (Article 36), prior registration of varieties would not be necessary. The seeds of this niche market material could be made available on the market as standard material, with the possibility for a derogation from the general requirements on recombining lots and packaging. In Copa-Cogeca’s opinion, combining «niche markets» and «small operators» is mere idle fancy. Many large seed companies are present on the niche market, where small packets of seeds are sold to non-professionals. Therefore the size of the company (measured for instance, by annual turnover) marketing the material is not important.

Copa-Cogeca requests that a maximum quantity be defined with a reference to surface area per Member State and that marketing niche market material to non-entrepreneurs, public utility organisations, non-professionals and voluntary organisations/networks be structured.

³ Currently standard material includes non-certified varieties such as vegetable planting material.

⁴ Niche market material is defined as materials that are made available on the market in small quantities by persons other than professional operators or by micro-enterprises without registering the corresponding variety.



■ *Heterogeneous material*

Heterogeneous material (Article 14.3) is difficult to describe and comprehend. Copa-Cogeca is troubled by:

- the difficulty to qualify this material using precise criteria, which could provide minimum guarantees on agronomic performance for the end user and on maintenance and registration methods for operators.
- the risk of conflicts between those placing heterogeneous material on the market and breeders, because heterogeneous material is unstable and can therefore develop into registered material.

For these reasons, Copa-Cogeca calls for precise criteria to define heterogeneous material to be established. Furthermore, delegated acts should stipulate all points of Article 14.3 (a) to (d) for heterogeneous material, as well as the labelling of the region of origin, year of harvest, germination rate and date of measurement of the germination rate.

These provisions could be misused, for example with mixtures being marketed that contain seed varieties that are registered or protected elsewhere. Copa-Cogeca proposes that the characteristics of heterogeneous material be clearly stated. These characteristics should be formulated and listed accordingly, taking into consideration the opinion of Member State experts.

Copa-Cogeca requests that grass and clover varieties be excluded from heterogeneous material. Grass and clover varieties are populations. Both grasses and clovers are outcrossing species. This means that, in contrast to cereals, 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 very heterogeneous. In line with this, the criteria for DUS approval of grass and clover varieties allow a certain level of phenotypical variation within the variety.

For the same reason it is not trivial 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. 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. On 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. Thus, there is no need for more heterogeneous varieties, and neither breeders nor end users express demands for increased genetic diversity in grasses or clovers. As it is impossible to distinguish between the varieties listed, heterogeneous material for forage species (grass and clover) and other species due to technical reasons, these must be excluded from the proposed provisions on heterogeneous material.



■ *Varieties with an ORD*

National registers and Community catalogues of agricultural and horticultural plants have been using a multitude of ORD varieties for several years now, for species such as vines, olive trees and certain fruit or horticultural species. These are perfectly identified and some even provide the basis of PDOs and PGIs.

However, Copa-Cogeca is concerned by the provisions on registering varieties provided with an officially recognised description (ORD)⁵ without DUS or VCU testing and marketing these varieties as standard material (Article 57). Copa-Cogeca calls 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.

■ *Fees*

Copa-Cogeca is also concerned by the EC's proposals to reduce the registration fees for varieties with an officially recognised description (Article 88.2) and to exempt micro-enterprises (those employing fewer than 10 persons and whose turnover does not exceed €2 million) from the payment of fees to both register varieties and clones at national level (Article 89.2) and to control production and certification (COM(2013)265 final, Article 77.1.a.iv). This proposal creates distortions between operators and will pose financial problems for the public services concerned. Considering that the Regulation on official controls (COM(2013)265 final) established the principle of full cost recovery, professional operators and farmers will be the ones who have to pay for the exempted operators. Furthermore, larger businesses may be tempted to section off some of their activities to benefit from these exemptions. For this reason, Copa-Cogeca is against increasing the cost of official controls for

professional operators and farmers, horticulturists and foresters. As for registration and certification fees for forest reproductive material (Article 135), the Commission's proposal will push up costs for operators, which is unacceptable in Copa-Cogeca's eyes.

■ *Non-professional operators*

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. Yet the EC's proposal introduces two openings (Articles 2 and 36). The proposed Regulation on plant health also includes a derogation for the registration of micro-enterprises. Copa-Cogeca believes that this derogation could increase the risks to plant health.

■ *Non obligation for rootstocks to belong to a registered variety*

Article 14.2 states that rootstocks may be made available on the market even if they do not belong to a registered variety. The Commission may adopt delegated acts to list the species where registering clones is mandatory and may also impose sanitary selection for particular species. If a rootstock qualifies as a variety, it should be registered. In the case of rootstocks, where the material does not belong to a variety, reference shall be made to the specific or interspecific hybrid concerned (see Article 7.1 of Directive 2008/90/EC).



⁵ Conservation varieties.



■ ***Derogations from registration requirements for reproductive material where registration is pending***

The proposal (Article 34) 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-Cogeca recommends maintaining the principles of the current system, which is widely accepted in the EU.

■ ***Reduced germination requirements in case of temporary difficulties in supply***

Copa-Cogeca requests that the reduced germination requirements be defined clearly. Reducing the germination rate by less than 5% compared to the germination rate required, as proposed in Article 37.1 is too low when there are temporary difficulties in supply. Greater flexibility should be enabled by establishing a minimum germination capacity. The decision should be made during the season concerned and should not cause excessive administrative fees.

■ ***Plant reproductive material which is not finally certified***

In the current seed marketing Directive, there is already a well-functioning system in place for marketing material that has not yet been finally certified (field inspection certificates). This allows seeds to be moved quicker to the Member State of destination and provides the certificate to the final certifying authorities in the Member State of destination. In practice, significant quantities of cereals, for instance, are marketed between operators as «grown at the field approved level» and so are not finally certified. In addition, this article only allows for one transfer from one operator to another, whereas in practice – if the seed grower is registered as an operator – then at least 3 operators are likely to be involved in the commercial transaction (the grower,

contracting merchant and customer). Requiring authorities to inform each other would cause additional delays and costs before operators could move seed to the Member State of destination. Copa-Cogeca considers it to be important to maintain the current system of field inspection certificates and to not add any additional administrative burdens.

■ ***Adopting more stringent quality requirements***

More stringent quality requirements (Article 40) are necessary for:

- vine stocks, by making tests on fungal diseases mandatory.
- potato seeds.
- wheat bunt. Indeed, different tolerance levels between Member States cause distortions. The threshold level must be harmonised at EU level. Copa-Cogeca suggests a level of 5 to 10 spores/grain.

■ ***Registration requirements for varieties***

The requirements laid down in Article 56.4(d) should also apply to registering varieties in the national register and not just the Union variety register.



■ *Ornamental material*

The European Commission has stated that it has no intention of introducing more stringent rules for ornamental plants. However, Copa-Cogeca has identified that the worst-case interpretation of the current proposed regulation (article 12.4.a) would prove devastating for ornamentals growers. This is because of a new requirement for any plant marketed as a named variety to have an ‘officially recognised description’. The concern is that the industry would not be able to meet the cost of developing, maintaining and monitoring these officially recognised descriptions for the estimated 75,000 ornamental plant varieties currently on sale in the EU. The result would be a massive reduction in the number of varieties grown for sale in the EU.

■ *Forest material*

Article 117.4 stipulates that «forest reproductive material belonging to the species and artificial hybrids listed in Annex IX may only be made available on the market under ‘selected’ category if it has been mass propagated from seeds.» Yet it is also possible to mass propagate from shoots and through somatic embryogenesis (where embryos are used as opposed to seeds). Seed quality therefore varies depending on whether they have been mass propagated from seeds, shoots or through somatic embryogenesis. If it is not possible to explain the difference to forest owners, Copa-Cogeca is concerned that they will be unable to select the best material.





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THE VOICE OF EUROPEAN FARMERS AND EUROPEAN AGRI-COOPERATIVES

Copa-Cogeca is the united voice of farmers and agri-cooperatives in the EU. Together, they ensure that EU agriculture is sustainable, innovative and competitive, guaranteeing food security to half a billion people throughout Europe. Copa represents over 13 million farmers and their families whilst Cogeca represents the interests of 38,000 agricultural cooperatives. They have 70 member organisations from the EU member states.

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