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From: General Secretariat of the Council
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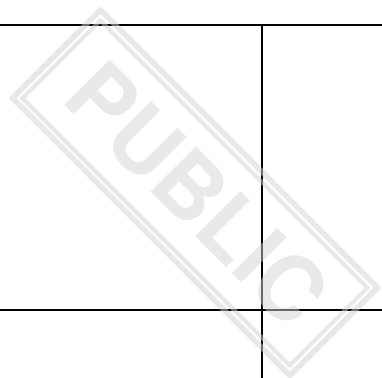
Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the production and marketing of plant reproductive material in the Union, amending Regulations (EU) 2016/2031, 2017/625 and 2018/848 of the European Parliament and of the Council, and repealing Council Directives 66/401/EEC, 66/402/EEC, 68/193/EEC, 2002/53/EC, 2002/54/EC, 2002/55/EC, 2002/56/EC, 2002/57/EC, 2008/72/EC and 2008/90/EC (Regulation on plant reproductive material) - Comments from Hungary

Delegations will find in Annex comments from Hungary on the above proposal. The comments pertain to Articles 1 – 3 (27).

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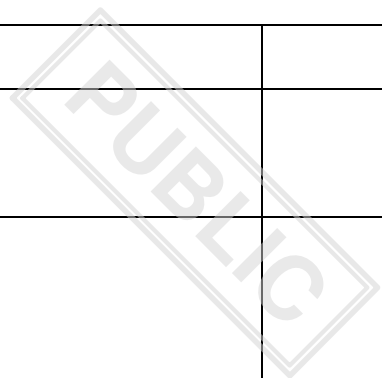
Member State:	Hungary
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Commission proposal (PRM)	MS Drafting Suggestions	MS Comments
CHAPTER I GENERAL PROVISIONS		
<i>Article 1</i> <i>Subject matter</i>		
<p>This Regulation lays down rules for the production and marketing in the Union of plant reproductive material ('PRM'), and in particular requirements for the production of PRM in the field and other sites, categories of material, identity and quality requirements, certification, labelling, packaging, imports, professional operators and the registration of varieties.</p> <p>This Regulation also lays down rules concerning</p>		

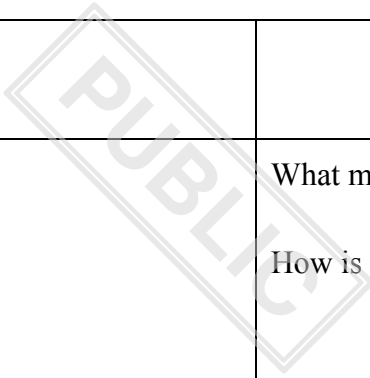


<p>the conditions of cultivation of certain varieties that could have undesirable agronomic effects, including the cultivation for purposes beyond the production and marketing of PRM, for the production of food, feed and other products.</p>		
<p>Article 2 Scope</p>		
<p>1. This Regulation applies to the genera and species listed for the respective uses referred to in Parts A to E of Annex I.</p>	<p>Proposal to expand the variety list:</p> <p>ANNEX I. A)</p> <ul style="list-style-type: none">- <i>Cicer arietinum</i> (chickpeas)- <i>Fagopyrum esculentum</i> (buckwheat)- <i>Lens culinaris</i> (lentil) <p>ANNEX I. C)</p> <ul style="list-style-type: none">- <i>Actinidia arguta</i> (mini kiwi)- <i>Actinidia deliciosa</i> (kiwi)- <i>Aronia melanocarpa</i> (black chokeberry)- <i>Cornus mas</i> (cornel)- <i>Diospyros khaki</i> (khaki plum)- <i>Hippophaë rhamnoides</i> (sea thorn)- <i>Lonicera kamtschatica</i> (blue honeysuckle berry)- <i>Mespilus germanica</i> (medlar)- <i>Punica granatum</i> (pomegranata)- <i>Sambucus nigra</i> (black elder)	<p>Annex I. C.): These species are already economically important (<i>Sambucus nigra</i>, <i>Hippophae rhamnoides</i>, <i>Aronia melanocarpa</i>, <i>Mespilus germanica</i>), or (the other ones named in our list) are starting to be important, starting to be represented in the fruit tree nursery industry in Hungary.</p>

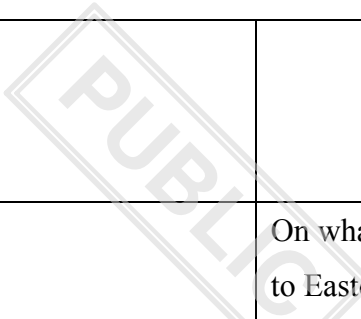
<p>Its requirements concern, respectively, all types of PRM, only seeds, or only material other than seeds.</p> <p>The requirements concerning production of PRM shall apply only to production with a view to its marketing.</p>	<p>Its requirements concern, respectively, all types of PRM, <u>generative and vegetative propagating material.</u></p> <p>The requirements concerning production of PRM shall apply only to production with a view to its marketing, <u>except poppy and hemp.</u></p>	<p>The proposal defines PRM more precisely.</p> <p>Due to the alcaloid and THC content, we do not recommend extending the PRM regulation to the propagating materials of poppy and hemp.</p>
<p>2. The objectives of this Regulation are the following:</p>		
<p>(a) to ensure quality and diversity of choice for PRM, and its availability for professional operators and final users;</p>		
<p>(b) to ensure a equal conditions for the competition of the professional operators across the Union and the functioning of the internal</p>		



market in PRM;		
(c) to support innovation and competitiveness of the PRM sector in the Union;		
(d) to contribute to conservation and sustainable use of plant genetic resources and agro-biodiversity;		
(e) to contribute to sustainable agricultural production, adapted to current and future projected climatic conditions;		
(f) to contribute to food security		
<p>3. The Commission is empowered in accordance with Article 75 to adopt delegated acts, amend Annex I, in order to adapt it to the developments of technical and scientific knowledge, and the economic data concerning production and marketing of genera and species, by adding genera and species to or removing them from the list that Annex.</p> <p>The delegated act referred to in the first subparagraph shall add genera or species to the</p>		<p>The delegated legal acts are a sensitive area for Hungary so it is a high priority to follow the process.</p>



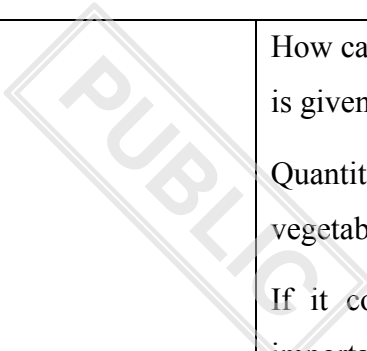
list in Annex I if they fulfil at least two of the following elements:		
(a) represent a significant area of production of PRM and a significant value of marketed PRM in the Union		What makes it significant? How is it determined that it is significant?
(b) are of substantial importance for security of food and feed production in the Union, compared to other genera and species not listed in that Annex; and		
(c) are marketed in at least two Member States.		
The delegated act referred to in the first subparagraph shall remove genera or species from the list in Annex I if they no longer fulfil at least two of the elements set out in the second subparagraph.		
4. This Regulation does not apply to:		
(a) propagating material of ornamental plants as defined in Article 2 of Directive 98/56/EC;		



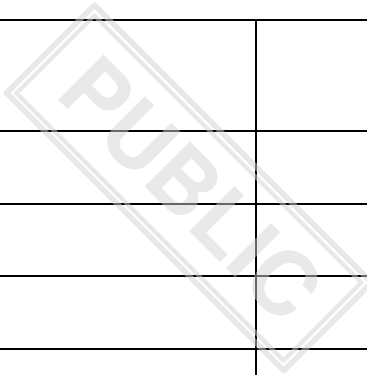
<p>(b) forest reproductive material as defined in Article 3 of Regulation (EU) .../... of the European Parliament and of the Council ¹⁺;</p>		
<p>(c) PRM produced for export to third countries;</p>		<p>On what basis do we manage seed exports e.g. to Eastern-Europe and Pakistan?</p> <p>If this regulation does not apply to the concept of production for export to third countries, then Hungary cannot provide field control of these kind of seed productions and also cannot issue variety certificates to professional operators wishes to export to third countries.</p> <p>Allow the creation of specific rules for export target cultivation at Member state level.</p>
<p>(d) PRM sold or transferred in any way, whether free of charge or not, between final users for their own private use and outside their commercial activities;</p>	<p>(d) PRM sold or transferred in any way, between final users for their own private use and outside their commercial activities;</p>	<p>Article 2. 4 (d) and Article 3 (3) aren't contradictory to each other? It is necessary to clarify. If we remove “<i>whether free of charge or not</i>”, then it can be solved.</p>

¹ Regulation (EU) .../... of the European Parliament and of the Council (OJ..., p....).

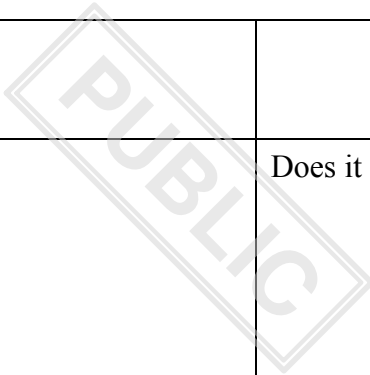
+ OJ: Please insert in the text the number of the Regulation contained in document (... (COD)) and insert the number, date, title and OJ reference of that Regulation in the footnote.



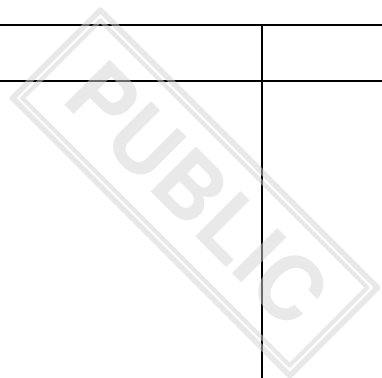
		<p>How can the breeder enforce the license fee if it is given free of charge?</p> <p>Quantitative clarification is necessary for vegetables.</p> <p>If it concerns agricultural crop as well it is important to give quantity limits.</p>
<p>(e) PRM used solely for official testing, breeding, inspections, exhibitions or scientific purposes.</p>		<p>We propose to give quantity limits for these activities.</p>
<p>Article 3</p> <p>Definitions</p>		
<p>For the purposes of this Regulation, the following definitions apply:</p>		
<p>(1) ‘plant reproductive material’ (‘PRM’) means plants as defined in Article 2(1) of Regulation (EU) 2016/2031, capable of, and intended for, producing entire plants;</p>		
<p>(2) ‘professional operator’ means any natural or legal person, involved professionally in one</p>		



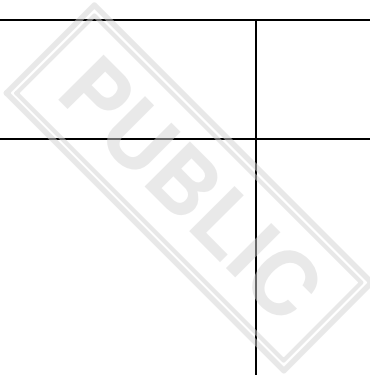
or more of the following activities in the Union concerning PRM:		
(a) production;		
(b) marketing;		
(c) maintenance of varieties;		
(d) provision of services for identity and quality;		
(e) preservation, storage, drying, processing, treating, packaging, sealing, labelling, sampling or testing;		
(3) ‘marketing’ means the following actions conducted by a professional operator : sale, holding, transfer for free, or offering for sale or any other way of transferring or distribution within, or import into, the Union	‘marketing’ means the following actions: sale, holding, transfer for free, or offering for sale or any other way of transferring or distribution within, or import into, the Union, <u>including online sales</u>	The rules should also apply to non-professional actors. The goal: prevent and sanction any illegal activity.
(4) ‘variety’ means a variety as defined in Article 5(2) of Regulation (EC) No 2100/94;		
(5) ‘clone’ means an individual plant progeny, originally derived from another single		



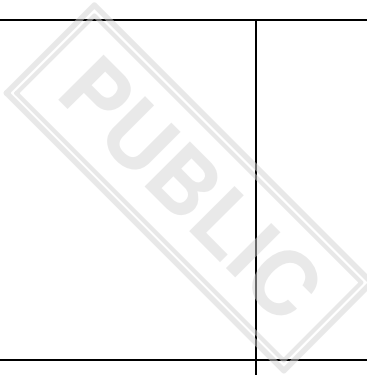
plant by vegetative reproduction, remaining genetically identical to that plant;		
(6) ‘selected clone’ means a clone that has been selected and chosen for some special intravarietal phenotypic traits and its phytosanitary status that give the selected clone a better performance, is true to the description of the variety to which it belongs and, in the case of selected clones not belonging to a variety, it is true to the description of the species to which it belongs;		Does it apply only to grapes?
(7) ‘polyclonal plant reproductive material’ means a group of several distinct individual plant progenies derived from different genotypes, each of which is true to the description of the variety to which it belongs;		Does it apply only to grapes? We need a more detailed, exact, and understandable about the differences between “poyclonal PRM” and “multiclonal mixture”
(8) ‘multiclonal mixture’ means a mixture of selected clones, all belonging to the same variety or species, as appropriate, whereby each of them has been obtained through independent		We need a more detailed, exact, understandable about the differences between “poyclonal PRM” and “multiclonal mixture”



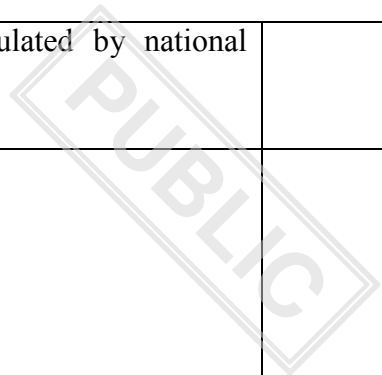
selection;		
(9) ‘competent authority’ means the central or regional authority of a Member State, or, where applicable, the corresponding authority of a third country, responsible for the organisation of official controls, registration, certification and other official activities concerning the production and marketing of PRM, or any other authority to which that responsibility has been conferred in accordance with Union law;		
(10) ‘official description’ means a description that has been established by a competent authority, includes the relevant characteristics of the variety and makes the variety identifiable as a result of the examination on its distinctness, uniformity and stability;		
(11) ‘officially recognised description’ means a written description of a <u>conservation variety</u> , which has been recognised by a competent authority, includes the specific characteristics of the variety, and has been obtained by other		



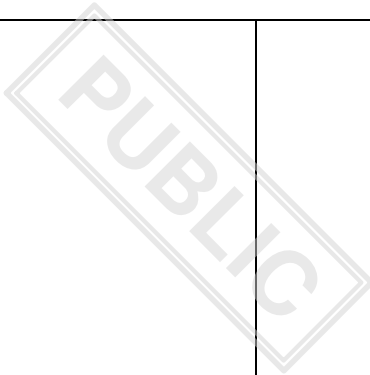
means than the examination of its distinctness, uniformity and stability;		
(12) ‘variety maintenance’ means the actions taken for controlling varietal purity and identity with the aim to ensure that a variety remains in accordance with its description over subsequent cycles of reproduction;		
(13) ‘seeds’ means seeds in the botanical sense;		
(14) ‘pre-basic seed’ means seed that belongs to a generation preceding the generation of the basic seed, is intended for the production and certification of basic or certified seed, and has been found by means of official certification, or certification under official supervision , to satisfy the respective conditions laid down in Part A of Annex II;	(14) ‘pre-basic seed’ means seed that belongs to a generation preceding the generation of the basic seed, is intended for the production and certification of basic or certified seed, and has been found by means of official certification, or certification <u>by breeder/ variety maintainer</u> , to satisfy the respective conditions laid down in Part A of Annex II;	Only the breeder or the NCA (National Competent Authority) can do the pre-basic seed inspection. This is the highest level of the propagation therefore any offtypes can be easily detected. It is important that it is done by a person employed by an authority who is impartial.
(15) ‘basic seed’ means seed that has been produced from pre-basic seed or preceding generations of basic seed, is intended for the		



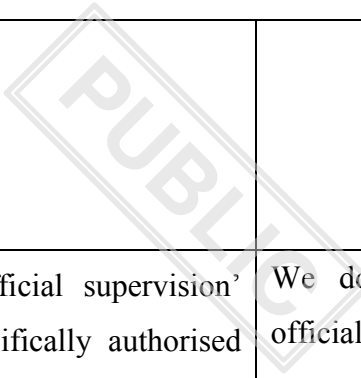
<p>production of further generations of basic seed or certified seed, and which has been found by means of official certification, or certification under official supervision, to satisfy the respective conditions laid down in Part A of Annex II;</p>		
<p>(16) ‘certified seed’ means seed that has been produced from pre-basic, basic or preceding generations of certified seed, and which has been found by means of official certification, or certification under official supervision, to satisfy the respective conditions laid down in Part A of Annex II;</p>		
<p>(17) ‘standard seed’ means seed, other than pre-basic, basic or certified seed, that is not intended for further multiplication, and satisfies the respective conditions laid down in Part A of Annex III;</p>	<p>Proposal for 2 new definitions:</p> <p><i>‘commercial seed’</i> means seed which are not controlled by the multiplication level and the species do not have a variety.</p> <p><i>‘variety designation label’</i> means the extension of point 17.a.) for seeds that can not be certified by the current legislation. These are the species</p>	<p>We suggest to add this two definitions. It is necessary to comply with the Agri Environment Scheme.</p>



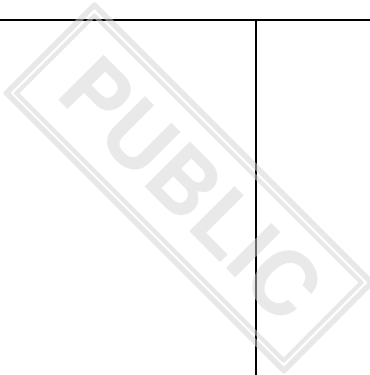
	which until now were regulated by national competence.	
(18) ‘pre-basic material’ means PRM, other than seeds, that belongs to a generation preceding the generation of basic material, is intended for the production and certification of basic or certified material, and has been found by means of official certification or certification under official supervision to satisfy the respective conditions laid down in Part B of Annex II;		
(19) ‘basic material’ means PRM, other than seed, that has been produced from pre-basic material or preceding generations of basic material, is intended for the production and certification of further generations of basic material or certified material, and has been found by means of official certification or certification under official supervision to satisfy the respective conditions laid down in Part B of Annex II;		



<p>(20) ‘certified material’ means PRM, other than seed, that has been produced from pre-basic, basic or preceding generations of certified material, and has been found by means of official certification or certification under official supervision to satisfy the respective conditions laid down in Part B of Annex II;</p>		
<p>(21) ‘standard material’ means PRM other than seed, and other than pre-basic, basic or certified material, that is not intended for further multiplication, and satisfies the respective conditions laid down in Part B of Annex III;</p>	<p>(21) ‘standard material’ means PRM other than seed, and other than pre-basic, basic or certified material, that is satisfies the respective conditions laid down in Part B of Annex III;</p>	<p>It is necessary to delete the „not intended for further multiplication” because this category is important in Hungary. The reproductive material can be collected from designated (identified and inspected) trees or stocks in standard material.</p>
<p>(22) ‘official certification’ means official attestation by the competent authority of the compliance of pre-basic, basic or certified seed or material with the respective requirements of this Regulation, where all relevant inspections on site, sampling and testing including where</p>		

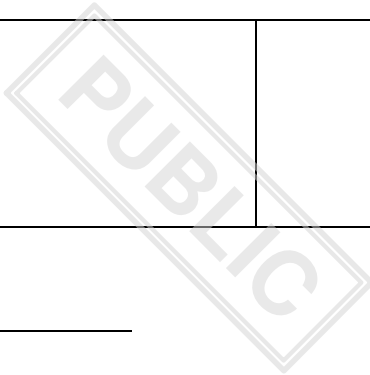


<p>appropriate control plot testing have been carried out by that authority, and if it has concluded that the seed or material concerned meets those requirements;</p>		
<p>(23) ‘certification under official supervision’ means attestation by a specifically authorised professional operator that pre-basic, basic or certified seed or <u>pre-basic, basic or certified</u> material complies with the applicable requirements, and where at least one or more of the relevant inspections, sampling, testing or label printing have been carried out by that professional operator, under the official supervision of the competent authority, and if it has concluded that the seed or material concerned meets those requirements;</p>	<p>(23) ‘certification under official supervision’ means attestation by a specifically authorised professional operator that basic or certified seed or pre-basic, basic or certified material complies with the applicable requirements, and where at least one or more of the relevant inspections, sampling, testing or label printing have been carried out by that professional operator, under the official supervision of the competent authority, and if it has concluded that the seed or material concerned meets those requirements;</p>	<p>We do not support the certification under official supervision in the case of pre-basic seed.</p>
<p>(24) ‘category’ of PRM means a group or an individual unit of PRM that qualifies as pre-basic, basic, certified or standard seed or material and is identifiable by complying with specific identity and quality requirements;</p>		



<p>(25) ‘genetically modified organism’ means a genetically modified organism as defined in Article 2(2) of Directive 2001/18/EC of the European Parliament and of the Council ⁽²⁾, excluding organisms obtained through the techniques of genetic modification listed in Annex I B to Directive 2001/18/EC;</p>		
<p>(26) ‘lot’ means a unit of PRM, identifiable by its homogeneity of composition and origin;</p>		
<p>(27) ‘heterogeneous material’ means a plant grouping within a single botanical taxon of the lowest known rank which:</p> <p>(a) presents common phenotypic characteristics;</p> <p>(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</p>		<p>What exactly does it refer to: only to seed, or also to other propagating materials?</p>

² Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC (OJ L 106, 17.4.2011, p. 1).



by a small number of units; (c) is not a variety; and (d) is not a mixture of varieties;		
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