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**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

**to present the experience gained from the extension of the plant passport system to all
movement of plants for planting within the Union territory**

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ABBREVIATIONS

CA: Competent Authority

DG SANTE: Directorate General for Health and Food Safety

EU: European Union

NPPO: National Plant Protection Organisation

RNQP: Regulated Non-Quarantine Pest

QP: Union Quarantine Pest

1 INTRODUCTION

For the past almost twenty years, until 2019, the EU plant health legislative framework was governed by Council Directive 2000/29/EC¹. The Directive contained the concept of plant passports as an agreed mark developed with the aim to balance the free trade of plant material across the EU and the protection of the Union territory against the spread of regulated plant pests occurring in the EU. The plant passport started being used to accompany plant material moved between Member States, replacing the phytosanitary certificate, which is the international document foreseen under the International Plant Protection Convention. Plant passports were also to be used for movements of plants inside a Member State to attest the compliance of those plants with the respective plant health requirements of the EU legislation. Also, official controls on plant passports were now to be made where the plant material was produced (operator premises) instead of at the border or at destination, and a registration obligation was established for operators handling regulated plants and plant materials, and issuing plant passports.

Under Council Directive 2000/29/EC, and until 2019, a plant passport was required only for specified species of plants and seeds and certain types of plant material, linked to specifically identified phytosanitary risks. With the preparation of the new Plant Health Regulation (Regulation (EU) 2016/2031²) it was however considered that the plant passport system was not functioning to its full potential and it was agreed that the requirement that a plant shall be accompanied by a plant passport would be extended to a larger range of seeds and, in particular, to all plants for planting³. The extension of the plant passport system to all plants for planting has been complemented with some other provisions aimed at strengthening the plant passport system, at making it more robust and reliable and at improving its recognition namely with professional operators. The main changes introduced were the introduction of a harmonised format of a plant passport; an obligation for operators to attach a plant passport to the trade unit of the plants or plant material, or to their package, bundle or container; and obligations for operators to ensure traceability of plants or plant material and to carry out examinations for plant passport.

Under Article 79(6) of Regulation (EU) 2016/2031, the Commission is required to submit to the European Parliament and the Council a report on the experience gained from the extension of the plant passport system to all movement of plants for planting within the Union territory including a clear cost-benefit analysis for the operators, accompanied, if appropriate by a legislative proposal. This report addresses these requirements.

¹OJ L 169, 10.07.2000, p. 1.

²OJ L 317, 23.11.2016, p.4

³ This covers all species of plants and all types – e.g. pot plants, trees and shrubs, seedlings, grafts, rootstock, etc. – in which plants are traded and that allow their further planting and growth.

Methodology

In order to answer these requirements, the Commission has looked into all the available evidence. Due to the fact that the legislative change only started applying in December 2019 and that the analysis was undertaken in February 2021, publically available data could not be used. Moreover, there are no reporting obligations for the Member States for the aspects that would need to be evaluated, neither any results yet of audits of the implementation of the plant passport system in the Member States. Therefore, the only approach available to obtain evidence to respond to the reporting requirements was to directly ask involved economic operators and administrative bodies in the management and implementation of intra-EU trade on plants as they are the ones experiencing the legislative changes. For this the Commission drafted a questionnaire with 70 questions that was validated by Member States and EU associations. The questions aimed at getting results on the experience gained from the extension of the plant passport to all movements of plants for planting, as well as on costs, benefits and impacts, to carry out the cost-benefit analysis. The questionnaire⁴ was sent to 27 Member States NPPOs and Certification CAs and to 48 relevant EU-level associations. Member-State-level associations, operators, and the general public could access the questionnaire via DG SANTE website. In the latter case, the Commission and EU NPPOs helped advertise the questionnaires via social media and other channels. A total of 177 replies from 25 Member States were received. The level of participation varied amongst the different categories of stakeholders as follows: 24 NPPOs⁵, 9 Certification CAs from 7 Member States⁶, 43 operators from 10 Member States⁷, 44 national associations from 13 Member States⁸, 50 replies from citizens from 5 Member States⁹ and 7 EU-level associations.

To support this report, the Commission produced a technical report¹⁰ with information about the feedback received and an extensive analysis of that feedback that is publically available.

The Commission analysis is hampered by three factors: first, the contribution from Certification CAs, operators, associations and citizens was very limited and as such, the analysis cannot be conclusive for these stakeholder groups; second, the very short time between the entry into application of the different provisions and the feedback request; and last, the impact of COVID-19 pandemic on trade and activities related to the scope of this report.

Because of the abovementioned limitations, conclusions on the experience gained from the extension of the plant passport system to all movement of plants for planting within the Union territory could not be drawn in certain cases. The assessment of costs and benefits linked to the extension of the plant passport system to all movement of plants for planting for operators was carried out to the extent possible because of the scattered feedback on the quantitative data requested, and their unavailability from other sources. An in-depth qualitative analysis of the costs and benefits was undertaken instead. Finally, for these

⁴ <https://ec.europa.eu/eusurvey/runner/PH-art-79-PP-portal>

⁵ AT, BG, CY, CZ, DE, DK, EE, ES, FI, FR, GR, HU, IE, IT, LV, LT, LU, MT, NL, PL, PT, SI, SK, SE

⁶ DE, FI, FR, NL, PL, SI, SE

⁷ AT, CZ, DE, ES, FR, IT, NL, PT, SK, SE

⁸ AT, BE, CZ, DE, DK, ES, FI, FR, IT, LT, NL, PL, SE

⁹ BE, DE, FR, NL, PL

¹⁰ <https://publications.jrc.ec.europa.eu/repository/handle/JRC126789>

reasons, the Commission has restricted itself to identifying topics that merit further discussions.

2 EXTENSION OF THE PLANT PASSPORT SYSTEM TO ALL PLANTS FOR PLANTING

Article 79 of Regulation (EU) 2016/2031 introduced the obligation for all plants for planting, other than seeds, to be accompanied by a plant passport for their movement within the Union territory.

The extension of the plant passport system aimed at increasing the effectiveness of protection against Union quarantine pests (QPs), improving the preparedness for the identification of new plant pests of EU concern, and having a uniform application of the policy and a better understanding and awareness of relevant stakeholders. This extension was perceived as positive for the increase of traceability of the plants by half of the respondents and the effectiveness of protection against plant QPs was mostly seen as increased or the same by the majority of the stakeholders. The preparedness for the identification of new plant pests of EU concern was either rated as improved or the same and the understanding and awareness of relevant stakeholders was also either rated as improved or the same by most of the respondents.

On the other hand, the extension of the plant passport system (the transition to and the implementation of this new rule and the overall complexity of the process of issuing or replacing a plant passport) has been seen by about two thirds of the stakeholders as burdensome and difficult and only about a quarter considered the change manageable or experienced no changes. Such perception of the changes may be related, apart from certain specific aspects that are addressed in the following sections of this report, to a short period of time between the start of the application of the new rules and the evaluation exercise for this report (December 2019 – February 2021).

With the aim to identify the groups of plants that triggered the most technical difficulties, the stakeholders were asked to list up to three plants or groups of plants for which they had experienced the most technical difficulties due to the extension of the plant passport to all plants for planting. The top three groups were ornamental plants for planting, seeds and fruit plants for planting. In reply to the opposite question, i.e. which were the top three groups with the greater technical ease, the stakeholders listed the same three groups, but with a lower number of replies.

There have been changes in the staff and the workload for operators and NPPOs due to the extension of the plant passport to all plants for planting. The impact on the workload of the NPPOs had been bigger than the changes in the staff. This might be explained by the fact that some institutions have reached their maximum staff ceiling, with no possibility to increase the staff number in spite of increased workload. The change had no uniform impact on the staff for the operators, as more than half declared no changes or no opinion while others declared both, increases or decreases. However, it has increased the workload of more than half of the operators replying to the questionnaire.

3 OTHER PLANT PASSPORT SYSTEM ELEMENTS COVERED BY THE QUESTIONNAIRE

3.1 Harmonised format of plant passport

Article 83 of the Regulation (EU) 2016/2031 has introduced a common format for the plant passport for all the Member States¹¹ to ensure uniform conditions for the implementation of the Regulation. This change seems to be accepted by the stakeholders, as most of the stakeholders that replied to the questionnaire considered the transition to this new requirement has been manageable or easy. Likewise, the implementation and the complexity of this change have been rated quite positively, as there were more positive than negative replies¹² from the stakeholders that replied to the questionnaire.

There have been changes in the staff and workload for operators and NPPOs due to the harmonised format of the plant passport. The change had a similar impact on the staff and workload for operators, but a bigger impact for the workload of the NPPOs.

3.2 Attachment of a plant passport to the trade unit

Article 88 of the Regulation (EU) 2016/2031 introduced the obligation of the plant passport to be attached by the professional operators to the trade unit of the plant, plant product and other objects before they are moved within the Union territory to increase the traceability of the plants, reduce the risk of movement of plant pests, and increase the recognition of the EU plant health system amongst stakeholders. The replies received from the stakeholders in the questionnaire indicate that this has been one of the most difficult changes introduced by the Regulation, and is perhaps one of the reasons why most of the stakeholders considered the extension of the plant passport system to all plants for planting as burdensome and difficult (see section 2).

The transition to this new requirement has been rated as burdensome or very burdensome by 65% of the stakeholders, its implementation complicated or much more complicated (compared to the previous requirements) by 81% of the stakeholders and the complexity of the process to issue or replace the plant passport more difficult by half of the stakeholders.

The attachment of the plant passport to some types of plants, such as turf in rolls, logs of wood, consignments with multiple small lots, lots with multiple species or multiple species in a single pot has also proven difficult.

While NPPOs considered that the attachment of the plant passport to the trade unit was useful and that it had contributed to an increased prevention¹³, the operators had the opposite opinion (not useful and it had not contributed to an increased prevention¹⁴). For these reasons, the operators had suggested to allow the plant passport to be included in the delivery documents, such as invoices and to introduce an electronic version of the plant passport.

¹¹ OJ L 331, 14.12.2017, p. 44–52

¹² The transition to, and the implementation and the complexity of the introduction of, the common format of a plant passport was rated positively by 68%, 56% and 50%, respectively, of the stakeholders replying to the questionnaire compared with 28.9%, 39% and 43% respectively that rated these aspects negatively.

¹³ 17 and 14 NPPOs respectively, out of the total of 24 NPPOs responding to the questionnaire

¹⁴ 27 and 30 operators respectively, out of the total of 43 operators responding to the questionnaire

There have been changes in the staff and workload for operators and NPPOs due to the attachment of the plant passport to the trade unit. This change has had bigger impact on the workload of the NPPOs than the operators.

The requirement to attach the plant passport to the trade unit has implied additional costs and time for operators and the supply chain, in particular for some types of materials, or for the need of new IT systems or equipment, in addition to administrative burden. Also, all stakeholders replied that there has been a need for intensive communication to inform operators due to the transition to the new plant passport rules.

3.3 Requirements for authorised operators that issue plant passports

To ensure uniformity in the application of the plant passport system and increase the credibility of the information contained in the plant passport itself, Regulation (EU) 2016/2031 introduced new requirements to be fulfilled by the operators issuing plant passports, by setting the rules to ensure the traceability of the plants, the conditions for the examinations, the conditions for the authorisation of professional operators to issue plant passports and the obligations of these authorised operators (Articles 69, 87, 89 and 90 respectively). For the NPPOs, there have been also detailed rules for the registration of professional operators (Articles 65 and 66) and the authorisation of professional operators to issue plant passports (Article 89).

Although the plant passport should generally be issued by authorised operators, this was the case for only 12 Member States out of the 24 that replied to the questionnaire. From the other 12 that replied, in 6 the plant passports were mostly issued by the competent authorities, in 3 by both and in the other 3 depending on the commodity.

However, there was a quite general agreement (more than 70% of the respondents) that it is not necessary that the competent authority issues the plant passports for certain plants, plant products or other objects. Only in a minority of Member States, 7 out of 24, fees are charged by public authorities to operators to authorise them to issue plant passports.

Some Member States have faced some delays regarding the registration of the professional operators established in Article 65. Up to the date when the questionnaire was replied to, in 13 out of 23 Member States whose NPPOs replied to the question, all the professional operators were already registered following the provisions of Article 65. The work was still ongoing in the other Member States. In the latter group of Member States, the delays are because there are new operators that were not issuing plant passports before, the need to set a new IT system for registration or lack of information on distance sellers.

Article 89 of Regulation (EU) 2016/2031 on the authorisation of professional operators to issue plant passports has been supplemented by Commission Delegated Regulation (EU) 2019/827¹⁵. Article 2 of that Regulation introduces the obligation for the competent authorities to ensure that professional operators have access to a technical guidance on the criteria to be fulfilled in the examinations relating to the issuance of plant passports. Up to the date when the questionnaire was replied to, the half of the NPPOs replied that they have

¹⁵OJ L 137, 23.5.2019, p. 10–11

already provided that technical guidance, the other half replied that they have not yet done so. From the operators who replied, there was a higher percentage of those who has already received the technical guidance than of those who have not received yet such documentation. The quality of the guidance provided was rated insufficient only by a minority of the respondent operators, the other replies rating it mostly average or good. However, it is worth recalling that Regulation 2019/827 was applicable from 14 December 2020 and the questionnaire was launched in February 2021.

Another aspect that has improved due to the new requirements for authorised operators that issue plant passports is the possibility to identify pests since the operators are responsible for the examinations in order to issue the plant passport. Almost half of the operators who replied to the questionnaire declared that they use their own expertise to ensure the detection of QPs in their premises, while 44.2% of the operators replied that they outsourced it.

There have been changes in the staff and workload for operators and NPPOs due to the new requirements on authorised operators that issue plant passports, increasing the workload of both, operators and NPPOs.

Sixteen NPPOs provided data of the total number of registered operators and authorised operators subjected to the plant passport for the years 2018, 2019 and 2020. According to data provided, since 2019 the total number of registered operators have increased by 17%. In addition, the total number of professional operators authorised to issue the plant passport have more than doubled between 2019 and 2020.

3.4 Arrangements for distance sales – issuance of a plant passport for a final user

Article 81 of Regulation (EU) 2016/2031 introduces an exception for the obligation of the plants to be accompanied by a plant passport when they are supplied directly to a final user, but this exception cannot be applied when the plants are received by means of sales through distance contracts. Although this requirement was considered as appropriate by about half of the respondents, about 40% considered it unnecessary or burdensome. There was a significant difference between the different types of stakeholders that replied to the questionnaire: while more than half of the NPPOs considered the requirement appropriate, only one quarter of operators shared this opinion and more than half considered it unnecessary or burdensome. There were also some specific sectors, e.g. in plant varieties conservation activities, where operators considered the impact of the provisions as disproportionate to their capacities.

The opinion of the stakeholders consulted about the enforcement of the provisions of plant passport to final users receiving plants, plant products or other objects by means of sales through distance contracts was evenly distributed between appropriate and inappropriate, although about 40% had not expressed any opinion on this issue. On the other hand, half of the NPPOs consulted considered insufficient the clarity of the provisions of plant passports to final users receiving the plants by means of sales through distance contracts, and it was pointed out that different Member States have different approaches.

The opinion on the need for a more harmonised approach for the use of plant passports in relation to distance contracts to final users was evenly distributed between necessary and unnecessary, although about a quarter of the respondents had not expressed any opinion on this issue.

There have been few changes in the staff of NPPOs and operators due to the exception for direct supply to final users by means of sales through distance contracts that required to be accompanied by a plant passport, but an increase in the workload of the NPPOs.

3.5 Electronic plant passports

According to Article 88 of Regulation (EU) 2016/2031, the plant passport has to be physically attached to the trade unit; however, Article 83(8) introduces the possibility, by means of implementing acts, to set the technical arrangements for the issuance of an electronic plant passport. The introduction of an electronic plant passport was considered feasible and useful by more than half of the respondents to the questionnaire. However, the detailed analysis of the responses revealed that there were differences among the different groups of stakeholders. The electronic plant passport was considered not feasible only by 1 out of 24 NPPOs compared with 14 out of 43 operators. While no NPPO considered the electronic plant passport 'not useful', 12 out of 13 operators shared this opinion. Among the reasons provided by the operators that considered the electronic plant passport not feasible and not useful are new burdens and costs, mostly for small professionals. It was proposed that if an electronic plant passport is introduced, the paper version should be allowed to be used.

3.6 Regulated non quarantine pests (RNQPs)

Before the entry into force of Regulation (EU) 2016/2031, the plant passports guaranteed that the traded plant material was free from quarantine pests. According to Article 85 of this Regulation, the plant passport now confirms, in addition to freedom from QPs, that the requirements for and measures against RNQPs have been complied with.

A clear outcome of the questionnaire is the need for more coherence between the Plant Health Regulation and the legislation on the production and marketing of plant reproductive material, because in the case of fruit propagating material and fruit plants and vine propagating material provisions on RNQP occur both in the plant health and plant reproductive material legislation, creating confusion about what legal requirements to follow. It is difficult to draw any conclusions about the benefit of the new plant passport requirements in relation the RNQPs because the number of respondents rating the rules as either efficient or inefficient was evenly distributed, whereas about a third of the respondents rated the newly extended plant passport system as neither efficient nor inefficient. A possible reason for the divergent opinions stems from the approach to seed certification, which is composed of a multi-stage process comprising official controls during and after the certification process. Several respondents did not see the need for the plant passport to contain information on compliance with RNQP requirements as official controls during and after seed certification already guarantee that the traded seed lots are free from RNQPs.

The new rules on plant passports did not have an impact on the efficiency of official controls for RNQPs as most NPPOs and Certification Competent Authorities were already undertaking simultaneous official controls for RNQPs and QPs before the entry into force of the Regulation (EU) 2016/2031. Only two NPPOs and one Certification CA declared that they started doing the controls for RNQPs and QPs simultaneously since the entry into force of the Plant Health Regulation. A clear benefit of the simultaneous controls for RNQPs and

QPs is that they are mostly carried out by the same inspector (91%). The majority of official controls are done at the place of origin (82%).

Regulation (EU) 2016/2031 did not have a significant impact on the number of official controls for RNQPs (42% of competent authorities replied that the number of official controls related to the plant passports for RNQPs has remained the same whereas 33% of respondents declared an increase of less than 25%). The extension of the plant passport requirements did not cause an increase in the number of non-compliances with the RNQP requirements and measures. In case of non-compliance, most competent authorities informed the Member State concerned and rejected the consignment. Some competent authorities informed that the action taken depends on the specific case and others did not yet encounter non-compliant consignments.

3.7 General awareness of plant passports

To know what the citizens' knowledge about plant passport requirements was, the questionnaire included also specific questions to this group of stakeholders. Over half of the responding citizens knew that plants have to be accompanied by a plant passport at the business level; however, only about a third knew that plants bought online also need to be accompanied by a plant passport. Although most of them were not aware of the plant passport requirements for plants bought online, more than half considered this requirement as a good idea compared with only about a third who believed it is counterproductive.

4 CONCLUSIONS

Overall, the extended plant passport system has contributed towards achieving the objectives of Regulation (EU) 2016/2031, in particular towards an increased effectiveness of protection against QPs, improved preparedness for the identification of new plant pests of EU concern, improved understanding and awareness of relevant stakeholders on the plant health importance and increased possibility to identify pests.

However, the extension of the plant passport system to all plants for planting has been seen by most of the stakeholders as burdensome and difficult. Furthermore, the feedback gathered from stakeholders indicates that the transition to the new requirements was not always smooth and the new rules related to the plant passports were not always clear, making the implementation in the beginning more difficult. Stakeholders agreed that the new provisions increased the protection of the Union territory against pests and the costs they declared are not significant. However, at the same time they consider that some of the requirements pose additional administrative burden and associated costs that outweigh their perceived additional benefits. This is particularly so for the need to attach the plant passport to each single trade unit and for the provisions governing distance sales. Respondents also considered that the overall functioning of the plants for planting and seed sector had not experienced a significant change.

To enhance the effectiveness and practical implementation of the extended plant passport system and to achieve better usefulness, more discussions are needed in order to define what

targeted improvements might be necessary. These concern (1) the provisions for the attachment of plant passports to trade units and (2) the arrangements for distance sales; (3) further discussion is also needed on a possible introduction of an electronic plant passport and how this change could be implemented without unnecessarily increase of the administrative burden on small producers and without losing the traceability that the attachment of a plant passport to the trade unit provides with the new rules that are now in place. Any putative amendment of the new plant passport regime, however, should be limited in scope, as it would mainly relate to adjustments to the existing system.