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#### NOTE

From:	Presidency
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a Regulation of the 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) <i>- Progress report</i>

#### I. INTRODUCTION

1. On 5 July 2023, the European Commission adopted two legislative proposals to revise and update the rules on the production and marketing of plant reproductive material (PRM) and forest reproductive material (FRM) in the EU. The proposals were submitted to the Council on 6 July 2023.

2. Currently, the applicable legislation in this area consists of a Directive on the common catalogue of varieties of agricultural plant species and 11 marketing directives covering seeds and other plant reproductive material, propagating material of ornamental plants and forest reproductive material. Some of the directives date back to the 1960s. According to the European Commission, this fragmentation in the rules results in differing implementation in Member States and a high administrative burden for the competent authorities and operators. Moreover, the current legislation is not consistent with other legislation on plant health and official controls, is outdated from a scientific and technical point of view and needs to be modified to promote new improved varieties and to adapt to the climate challenges.
3. The PRM proposal<sup>1</sup> introduces a new legislative approach, replacing the 10 PRM marketing directives with a single regulation. In particular, it aims to:
  - simplify the legal framework through clarified and harmonised rules,
  - facilitate technical progress in order to foster digital and novel technologies, such as the use of bio-molecular techniques,
  - reduce the administrative burden,
  - ensure the availability of high-quality PRM adapted to the changing agricultural and environmental conditions,
  - ensure food security, the conservation of plant genetic resources and the protection of biodiversity, and
  - improve consistency with the official controls and plant health legislation.

The proposal covers seed, as well as all other forms of material intended for the vegetative propagation of entire plants. It does not cover forest reproductive material, ornamental plants, PRM exported to third countries or PRM intended for non-commercial purposes.

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<sup>1</sup> 11502/23 + ADD 1

4. The proposal is based on Article 43(2) of the Treaty on the Functioning of the European Union (TFEU) (ordinary legislative procedure).
5. In the European Parliament, the Committee on Agriculture and Rural Development has lead responsibility and Mr Herbert Dorfmann (EPP, Italy) has been appointed as rapporteur. The Parliament adopted its position at first reading on 24 April 2024<sup>2</sup>.
6. Both the European Economic and Social Committee (EESC) and the European Committee of the Regions (COR) were consulted. The EESC adopted its opinion on 13 December 2023<sup>3</sup>. The COR adopted its opinion on 17 April 2024<sup>4</sup>.

## **II. STATE OF PLAY OF WORK WITHIN THE COUNCIL AND ITS PREPARATORY BODIES**

7. The European Commission presented the proposal and its impact assessment<sup>5</sup> at an informal videoconference of the members of the Working Party on Genetic Resources and Innovation in Agriculture (hereinafter ‘the Working Party’) on 6 July 2023, which was followed by a presentation to the Agriculture and Fisheries Council on 25 July 2023.
8. The examination of the proposal began under the Spanish Presidency, which drafted a Presidency revised text on Articles 1 to 22<sup>6</sup>, and presented a progress report to the Council in December 2023<sup>7</sup>.

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<sup>2</sup> [Texts adopted - Production and marketing of plant reproductive material - 24 April 2024](#)

<sup>3</sup> 5402/24

<sup>4</sup> 9226/24

<sup>5</sup> 11694/23 (the examination of the impact assessment was carried out on the basis of the checklist)

<sup>6</sup> 16295/1/23 REV 1

<sup>7</sup> 16040/23

9. The Belgian Presidency continued the examination of the proposal and drafted a Presidency revised text on Articles 1 to 43 and 81, as well as on Annexes I to VI<sup>8</sup>. It informed the Council of the state of play of the discussions in June 2024<sup>9</sup>.
10. The Hungarian Presidency focused at technical level on the provisions concerning variety registration and drafted a Presidency revised text on Articles 44 to 74 and 83, as well as on Annex VII, and has also amended Article 3 of the proposal<sup>10</sup>. It presented a progress report to the Council in December 2024<sup>11</sup>.
11. Between January and June 2025, under the Polish Presidency, the Working Party held three in-person meetings on 12-13 February, 26-27 March and 27-28 May. The Presidency also organised two informal consultations on 11 April and 20 May.

### **III. MAIN ISSUES AND PROGRESS ACHIEVED**

Under the Polish Presidency, discussions focused on Articles 1 to 40 (Chapters I and II) and Annexes I, II, III, IIIa, V and VI of the proposal. The Presidency continued working on the text prepared by previous Presidencies and revised it in line with delegations' latest comments. The in-depth discussions led to significant changes to the content, while always keeping an eye on maintaining a balance between clarity and practicability. The willingness to compromise demonstrates the high degree of flexibility shown by Member States during the discussions. Nevertheless, it also became clear that further discussions will be needed on specific issues.

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<sup>8</sup> 11303/24  
<sup>9</sup> 11142/24  
<sup>10</sup> 15979/1/24 REV 1  
<sup>11</sup> 16180/24 + COR 1

Given that the Commission's proposal encompassed ten marketing directives relating to the various types of PRM, the discussions highlighted the need to organise two informal consultations to facilitate an in-depth exchange of views at technical level. One of these consultations focused on Annex I (the list of species under the scope of the proposal), while the other brought together experts specialised in vine propagating material.

Based on the outcome of the informal consultation on Annex I, the Presidency prepared a revised version of this Annex, which was presented to the Working Party at its meeting in May. In addition to significantly changing the structure of the Annex for the sake of simplification, the Presidency also proposed amending the list of species.

During the discussion, delegations stressed the importance of maintaining existing provisions that allow for derogations for species that are not cultivated in a given country due to agro-climatic conditions or that are of marginal economic importance there. In response, the Presidency proposed a new article (36a) to address this request, but due to the diverging opinions expressed during the debate, this issue was left open for further consideration.

Due to time constraints, the Polish Presidency could not address the outcome of the informal consultation on vine propagating material, which will hence be left for the incoming Presidency to deal with.

Overall, under the Polish Presidency, detailed discussions took place during the Working Party meetings and, to a lesser extent, by written consultation on specific topics. As a result, the Presidency's proposals to amend several articles and annexes, as well as to change the order of certain articles to improve the coherence and readability of the text, were accepted by delegations.

However, the discussions also revealed the need for further discussion in the following areas:

– **Definition of ‘conservation variety’ (Article 3 (29))**

A debate on conservation varieties has been held under all previous Presidencies. The definition proposed by the Belgian Presidency was further developed by the Hungarian Presidency based on contributions from delegations and was expanded to include both ‘conservation variety’ and ‘new local variety’.

Under the Polish Presidency, however, it became clear that it would also be necessary to include ‘commonly known fruit variety’ within this definition. The proposed changes did not, however, receive majority support, and the debate revealed a division between countries favouring a simple definition limited to ‘conservation variety’ and those advocating a broader definition also including ‘commonly known fruit variety’ and ‘new local variety’.

As this definition forms the basis of the provisions of Article 44 regarding the registration of varieties, the discussion will need to be continued.

– **PRM produced for and marketed to non-professional users (Article 28)**

Discussions on Article 28 began under the Belgian Presidency. Although the Polish Presidency sought to take into account the comments received from delegations on the Belgian Presidency’s revised text, it did not receive majority support, with most delegations expressing concerns that this derogation could potentially lead to the introduction of poor quality PRM onto the market, facilitate illegal trade, reduce monitoring and controls, and pose risks to plant health. Delegations stressed the need for further discussion and in-depth analysis of this issue.

- **PRM marketed by organisations and networks for the conservation of plant genetic resources (Article 29)**

Discussions on Article 29 began under the Belgian Presidency. The Polish Presidency proposed deleting this article and instead excluding such activities from the scope of the Regulation under Article 2, in line with the position of delegations, but it was agreed that due to diverging practices and approaches within Member States regarding the concept of ‘gene bank’, the topic would require further discussion.

- **Seed exchanged in kind between farmers (Article 30)**

Discussions on Article 30 began under the Belgian Presidency. The Polish Presidency proposed deleting this article to address the concerns of many Member States who fear the emergence of an illegal market and the lack of control over such PRM, as well as potential plant health risks. However, during the discussions it became clear that further discussion would be necessary until a final decision was reached on this article.

- **Commercial seed (Article 32a)**

This new article was initially proposed by the Belgian Presidency and was further amended by the Polish Presidency. Due to the diverging positions of delegations, including on the basic concept of commercial seed, it was decided to continue the discussions on this article.

- **Equivalence of PRM imported from third countries (Article 39)**

Discussions on Article 39 began under the Belgian Presidency. The Polish Presidency continued the discussions based on its revised text. The exchanges so far among Member States indicated the need for further discussions with regard to the equivalence of PRM of varieties under registration. Therefore, the discussions on this article will need to continue.

– **Official controls (Article 80)**

A new element of the Commission proposal is the inclusion of PRM under the scope of the Official Controls Regulation (OCR). To clarify the implications of this change for the PRM sector, the Commission services delivered a detailed presentation at the Working Party meeting in May, outlining the key principles and benefits of the OCR. The presentation focused on three key areas: variety registration and certification, PRM evaluation (including field inspection, sampling and laboratory analysis), and market controls including border controls.

Discussions on this topic will need to continue, as no detailed discussion took place at the Working Party meetings so far.

#### **IV. CONCLUSION**

12. The Polish Presidency has prepared a revised text of Articles 1 to 40, and Annexes I, II, III, IIIa, V and VI. It also proposed new articles, notably Articles 30a, 36a and 40a. In addition, the Presidency has proposed some changes concerning the structure of the proposal by revising the order of certain articles<sup>12</sup>.
13. The Presidency considers that discussions on Articles 1 to 40 and Annexes I, II, III, IIIa, V and VI (with the above outlined exceptions) have been concluded, and the progress made under its Presidency represents a solid basis for continuing the examination of the proposal.
14. In light of the above, the Council is invited to take note of the progress made on examining the proposal.

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<sup>12</sup> 9647/25