

Commission Directive 2008/62/EC of 20 June 2008 providing for certain derogations for acceptance of agricultural landraces and varieties which are naturally adapted to the local and regional conditions and threatened by genetic erosion and for marketing of seed and seed potatoes of those landraces and varieties (Text with EEA relevance)

COMMISSION DIRECTIVE 2008/62/EC

of 20 June 2008

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(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 66/401/EEC of 14 June 1966 on the marketing of fodder plant seed⁽¹⁾, and in particular Article 22a(1)(b) thereof,

Having regard to Council Directive 66/402/EEC of 14 June 1966 on the marketing of cereal seed⁽²⁾, and in particular Article 22a(1)(b) thereof,

Having regard to Council Directive 2002/53/EC of 13 June 2002 on the common catalogue of varieties of agricultural plant species⁽³⁾, and in particular Article 4(6), Article 20(2) and Article 21 thereof,

Having regard to Council Directive 2002/54/EC of 13 June 2002 on the marketing of beet seed⁽⁴⁾, and in particular Article 30(1)(b) thereof,

Having regard to Council Directive 2002/56/EC of 13 June 2002 on the marketing of seed potatoes⁽⁵⁾, and in particular Article 10(1) and Article 27(1)(b) thereof,

Having regard to Council Directive 2002/57/EC of 13 June 2002 on the marketing of seed of oil and fibre plants⁽⁶⁾, and in particular Article 27(1)(b) thereof,

Whereas:

- (1) The questions of biodiversity and the conservation of plant genetic resources have grown in importance in recent years, as shown by different developments at international and Community level. Examples include Council Decision 93/626/EEC of 25 October 1993 concerning the conclusion of the Convention on Biological Diversity⁽⁷⁾, Council Decision 2004/869/EC of 24 February 2004 concerning the conclusion, on behalf of the European Community, of the International Treaty on Plant Genetic Resources for Food and Agriculture⁽⁸⁾, Council Regulation (EC) No 870/2004 of 24 April 2004 establishing a Community programme on the conservation, characterisation, collection and utilisation of genetic resources in agriculture and

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repealing Regulation (EC) No 1467/94⁽⁹⁾ and Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)⁽¹⁰⁾. Specific conditions should be established under the Community legislation governing the marketing of seed of agricultural plants, namely Directives 66/401/EEC, 66/402/EEC, 2002/53/EC, 2002/54/EC, 2002/56/EC and 2002/57/EC, in order to take account of these issues.

- (2) In order to ensure in situ conservation and the sustainable use of plant genetic resources, landraces and varieties which are naturally adapted to local and regional conditions and threatened by genetic erosion (conservation varieties) should be grown and marketed even where they do not comply with the general requirements as regards the acceptance of varieties and the marketing of seed and seed potatoes. In order to achieve that objective it is necessary to provide for derogations as regards the acceptance of conservation varieties, for inclusion in the national catalogues of varieties of agricultural plant species as well as for the production and marketing of seed and seed potatoes of those varieties.
- (3) Those derogations should concern the substantive requirements for the acceptance of a variety and the procedural requirements provided for in Commission Directive 2003/90/EC of 6 October 2003 setting out implementing measures for the purposes of Article 7 of Council Directive 2002/53/EC as regards the characteristics to be covered as a minimum by the examination and the minimum conditions for examining certain varieties of agricultural plant species⁽¹¹⁾.
- (4) Member States should, in particular, be authorised to adopt their own provisions as regards distinctness, stability and uniformity. These provisions should, as regards distinctness and stability, at least be based on the characteristics listed in the technical questionnaire to be completed by the applicant in connection with the application for the variety acceptance as referred to in Annexes I and II to Directive 2003/90/EC. Where uniformity is established on the basis of off-types, the provisions should be based on defined standards.
- (5) The procedural requirements should be provided for under which a variety may be accepted without official examination. Furthermore, as regards the denomination, it is necessary to provide for certain derogations from the requirements laid down in Directive 2002/53/EC and Commission Regulation (EC) No 930/2000 of 4 May 2000 establishing implementing rules as to the suitability of the denominations of varieties of agricultural plant species and vegetable species⁽¹²⁾.
- (6) As regards the production and marketing of seed and seed potatoes of conservation varieties, a derogation from official certification should be provided for.
- (7) To ensure that the marketing of seed and seed potatoes of conservation varieties takes place in the context of the conservation of plant genetic resources, restrictions should be provided for, in particular regarding the region of origin. In order to contribute to the conservation in situ and to the sustainable use of those varieties, Member States should have the possibility to approve additional regions where seed exceeding the quantities necessary to ensure the conservation of the variety concerned in its region of origin may be marketed provided that those additional regions are comparable as

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regards natural and semi-natural habitats. To ensure that the link with the region of origin is preserved, this should not apply where a Member State has approved additional regions of production.

- (8) Maximum quantities should be fixed for the marketing of each conservation variety within one species and a total quantity for all conservation varieties within one species together. To make sure that these quantities are respected, Member States should require producers to notify the quantities of conservation varieties they intend to produce and should allocate the quantities to producers.
- (9) The traceability of seed and seed potatoes should be ensured through appropriate sealing and labelling requirements.
- (10) To ensure that the rules provided for in this Directive are correctly applied, seed crops should be monitored, seed should be tested and official post control carried out. Amounts of seed of conservation varieties placed on the market should be reported by the suppliers to the Member States and by the Member States to the Commission.
- (11) After three years the Commission should assess whether the measures provided for in this Directive, in particular the provisions concerning quantitative restrictions, are effective.
- (12) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry,

HAS ADOPTED THIS DIRECTIVE:

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- (1) [OJ L 125, 11.7.1966, p. 2298/66](#). Directive as last amended by Commission Directive 2007/72/EC ([OJ L 329, 14.12.2007, p. 37](#)).
- (2) [OJ L 125, 11.7.1966, p. 2309/66](#). Directive as last amended by Commission Directive 2006/55/EC ([OJ L 159, 13.6.2006, p. 13](#)).
- (3) [OJ L 193, 20.7.2002, p. 1](#). Directive as last amended by Regulation (EC) No 1829/2003 of the European Parliament and of the Council ([OJ L 268, 18.10.2003, p. 1](#)).
- (4) [OJ L 193, 20.7.2002, p. 12](#). Directive as last amended by Directive 2004/117/EC ([OJ L 14, 18.1.2005, p. 18](#)).
- (5) [OJ L 193, 20.7.2002, p. 60](#). Directive as last amended by Commission Decision 2005/908/EC ([OJ L 329, 16.12.2005, p. 37](#)).
- (6) [OJ L 193, 20.7.2002, p. 74](#). Directive as last amended by Directive 2004/117/EC.
- (7) [OJ L 309, 13.12.1993, p. 1](#).
- (8) [OJ L 378, 23.12.2004, p. 1](#).
- (9) [OJ L 162, 30.4.2004, p. 18](#).
- (10) [OJ L 277, 21.10.2005, p. 1](#). Regulation as last amended by Regulation (EC) No 146/2008 ([OJ L 46, 21.2.2008, p. 1](#)).
- (11) [OJ L 254, 8.10.2003, p. 7](#). Directive as last amended by Directive 2007/48/EC ([OJ L 195, 27.7.2007, p. 29](#)).
- (12) [OJ L 108, 5.5.2000, p. 3](#). Regulation as last amended by Regulation (EC) No 920/2007 ([OJ L 201, 2.8.2007, p. 3](#)).