

Council Directive 2007/33/EC of 11 June 2007 on the control of potato cyst nematodes and repealing Directive 69/465/EEC

CHAPTER I

**SUBJECT-MATTER AND DEFINITIONS**

*Article 1*

This Directive establishes the measures to be taken by the Member States against *Globodera pallida* (Stone) Behrens (European populations) and *Globodera rostochiensis* (Wollenweber) Behrens (European populations), hereinafter referred to as ‘potato cyst nematodes’, in order to determine their distribution, to prevent their spread and to control them.

*Article 2*

For the purpose of this Directive, the following definitions shall apply:

- (a) ‘official’ or ‘officially’ means established, authorised or performed by the responsible official bodies of a Member State as defined in Article 2(1)(g) of Directive 2000/29/EC;
- (b) ‘resistant potato variety’ means a variety that when grown significantly inhibits the development of a particular population of potato cyst nematodes;
- (c) ‘investigation’ means a methodical procedure to determine the presence of potato cyst nematodes in a field;
- (d) ‘survey means’ a methodical procedure conducted over a defined period of time to determine the distribution of potato cyst nematodes in the territory of a Member State.

*Article 3*

1 The responsible official bodies of the Member State shall define what constitutes a field for the purposes of this Directive in order to ensure that phytosanitary conditions within a field are homogeneous as regards the risk of potato cyst nematodes. In doing so, they shall take into account sound scientific and statistical principles, the biology of the potato cyst nematode, the cultivation of the field and the particular production systems of the host plants of potato cyst nematodes in that Member State. The detailed criteria for the definition of a field shall be officially notified to the Commission and to the other Member States.

2 Further provisions related to the criteria for the definition of a field may be adopted in accordance with the procedure referred to in Article 17(2).

CHAPTER II

**DETECTION**

*Article 4*

1 Member States shall prescribe that an official investigation for the presence of potato cyst nematodes shall be carried out on the field in which the plants listed in Annex I, intended

for the production of plants for planting, or seed potatoes intended for the production of seed potatoes, are to be planted or stored.

2 The official investigation provided for in paragraph 1 shall be carried out in the period between the harvesting of the last crop in the field and the planting of the plants or seed potatoes mentioned in paragraph 1. It may be carried out earlier, in which case documentary evidence shall be available of the results of that investigation confirming that potato cyst nematodes have not been found and that potatoes and other host plants listed in point 1 of Annex I were not present at the time of the investigation and have not been grown since the investigation.

3 Results of official investigations other than those referred to in paragraph 1 and carried out before 1 July 2010 may be considered as evidence as referred to in paragraph 2.

4 If the responsible official bodies of a Member State have established that there is no risk of spreading potato cyst nematodes, the official investigation referred to in paragraph 1 shall not be required for:

- a the planting of plants listed in Annex I, intended for the production of plants for planting to be used within the same place of production situated in an officially defined area;
- b the planting of seed potatoes, intended for the production of seed potatoes to be used within the same place of production situated in an officially defined area;
- c the planting of plants listed in point 2 of Annex I, intended for the production of plants for planting where the harvested plants are to be subject to the officially approved measures referred to in Section III(A) of Annex III.

5 Member States shall ensure that the results of the investigations referred to in paragraphs 1 and 3 are officially recorded and are accessible to the Commission.

#### *Article 5*

1 In the case of fields in which seed potatoes or plants listed in point 1 of Annex I intended for the production of plants for planting, are to be planted or stored, the official investigation referred to in Article 4(1) shall involve sampling and testing for the presence of potato cyst nematodes in accordance with Annex II.

2 In the case of fields in which the plants listed in point 2 of Annex I, intended for the production of plants for planting, are to be planted or stored, the official investigation referred to in Article 4(1) shall involve sampling and testing for the presence of potato cyst nematodes in accordance with Annex II or verification as set out in Section I of Annex III.

#### *Article 6*

1 Member States shall provide that official surveys are carried out on fields used for the production of potatoes, other than those intended for the production of seed potatoes, in order to determine the distribution of potato cyst nematodes.

2 The official surveys shall involve sampling and testing for the presence of potato cyst nematodes in accordance with paragraph 2 of Annex II and shall be carried out in accordance with Section II of Annex III.

3 The results of the official surveys shall be notified in writing to the Commission in accordance with Section II of Annex III.

#### *Article 7*

If, as a result of the official investigation referred to in Article 4(1) and the other official investigations referred to in Article 4(3), no potato cyst nematodes are found,

the responsible official bodies of a Member State shall ensure that this information is officially recorded.

#### *Article 8*

1 When a field is found infested with potato cyst nematodes during the official investigation referred to in Article 4(1), the responsible official bodies of a Member State shall ensure that this information is officially recorded.

2 When a field is found infested with potato cyst nematodes during the official survey referred to in Article 6(1), the responsible official bodies of a Member State shall ensure that this information is officially recorded.

3 Potatoes or plants listed in Annex I which come from a field officially recorded as infested with potato cyst nematodes as referred to in paragraph 1 or paragraph 2 of this Article, or have been in contact with soil in which potato cyst nematodes have been found, shall be officially designated as contaminated.

### CHAPTER III

#### CONTROL MEASURES

#### *Article 9*

1 Member States shall prescribe that in a field which has been officially recorded as infested as referred to in Article 8(1) or 8(2):

- a no potatoes intended for the production of seed potatoes shall be planted; and
- b no plants listed in Annex I, intended for replanting, shall be planted or stored. However, plants listed in point 2 of Annex I may be planted in that field provided that these plants are to be subject to the officially approved measures referred to in Section III(A) of Annex III, such that there is no identifiable risk of spreading potato cyst nematodes.

2 In the case of fields to be used for planting potatoes, other than those intended for the production of seed potatoes, officially recorded as infested as referred to in Article 8(1) or 8(2), the responsible official bodies of the Member States shall prescribe that these fields shall be subject to an official control programme aiming at least at the suppression of potato cyst nematodes.

The programme referred to in paragraph 2 of this Article shall take into account the particular production and marketing systems for host plants of potato cyst nematodes in the relevant Member State, the characteristics of the population of potato cyst nematodes present, the use of resistant potato varieties of the highest levels of resistance available as specified in Section I of Annex IV and, where appropriate, other measures. This programme shall be notified in writing to the Commission and to the other Member States with a view to ensuring comparable levels of assurance between the Member States.

The degree of resistance of potato varieties, other than those already notified under Article 10(1) of Directive 69/465/EEC shall be quantified according to the standard scoring notation table set out in Section I of Annex IV of this Directive. Testing for resistance shall be carried out according to the protocol set out in Section II of Annex IV of this Directive.

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### *Article 10*

1 Member States shall prescribe that for potatoes or plants listed in Annex I, which have been designated as contaminated under Article 8(3):

- a in the case of seed potatoes and the host plants listed in point 1 of Annex I, they shall not be planted unless they have been decontaminated under the supervision of the responsible official bodies of a Member State using an appropriate method adopted under paragraph 2 of this Article, based on scientific evidence that there is no risk of spreading potato cyst nematodes;
- b in the case of potatoes intended for industrial processing or grading, they shall be subject to officially approved measures in accordance with Section III(B) of Annex III;
- c in the case of plants listed in point 2 of Annex I, they shall not be planted unless they have been subject to the officially approved measures as referred to in Section III(A) of Annex III, such that they are no longer contaminated.

2 Specifications of the methods referred to in paragraph 1(a) of this Article shall be adopted in accordance with the procedure referred to in Article 17(2).

### *Article 11*

1 Without prejudice to Article 16(1) of Directive 2000/29/EC, Member States shall prescribe that the suspected occurrence or confirmed presence of potato cyst nematodes in their territory resulting from a breakdown or change in the effectiveness of a resistant potato variety which relates to an exceptional change in the composition of nematode species, pathotype or virulence group shall be reported to their own responsible official bodies.

2 For all cases reported under paragraph 1, Member States shall provide that the potato cyst nematode species and, where applicable, the pathotype or virulence group involved, are investigated and confirmed by appropriate methods.

3 The details of the confirmations referred to in paragraph 2 shall be sent in writing each year by 31 December at the latest to the Commission and to the other Member States.

4 The appropriate methods referred to in paragraph 2 of this Article may be adopted in accordance with the procedure referred to in Article 17(2).

### *Article 12*

Member States shall notify in writing to the Commission and to the other Member States each year by 31 January at the latest, a list of all new varieties of potatoes which they have found by official testing to be resistant to potato cyst nematodes. They shall state the species, pathotypes, virulence groups or populations to which the varieties are resistant, the degree of resistance and the year of its determination.

### *Article 13*

If, after the officially approved measures referred to in Section III(C) of Annex III have been taken, the presence of potato cyst nematodes is not confirmed, the responsible official bodies of the Member State shall ensure that the official record referred to in Article 4(5), Article 8(1) and Article 8(2) is updated and any restrictions imposed on the field are revoked.

### *Article 14*

Without prejudice to Articles 3 and 5 of Directive 2000/29/EC, Member States may authorise derogations from the measures referred to in Articles 9 and 10 of this Directive in accordance with the provisions laid down in Commission Directive 95/44/EC of 26

July 1995 establishing the conditions under which certain harmful organisms, plants, plant products and other objects listed in Annexes I to V to Council Directive 77/93/EEC may be introduced into or moved within the Community or certain protected zones thereof, for trial or scientific purposes and for work on varietal selections<sup>(1)</sup>.

## CHAPTER IV

### GENERAL AND FINAL PROVISIONS

#### *Article 15*

Member States may adopt in relation to their own production such additional or stricter measures as may be required to control potato cyst nematodes or to prevent them spreading in so far as they are in compliance with Directive 2000/29/EC.

Those measures shall be notified in writing to the Commission and to the other Member States.

#### *Article 16*

Amendments to the Annexes, to be made in the light of developments in scientific or technical knowledge, shall be adopted in accordance with the procedure referred to in Article 17(2).

#### *Article 17*

1 The Commission shall be assisted by the Standing Committee on Plant Health, hereinafter referred to as 'the Committee'.

2 Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

#### *Article 18*

1 Member States shall adopt and publish by 30 June 2010 at the latest the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

They shall apply those provisions from 1 July 2010.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2 Member States shall communicate to the Commission the text of the main provisions of national law, which they adopt in the field governed by this Directive.

#### *Article 19*

Directive 69/465/EEC is repealed with effect from 1 July 2010.

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*Article 20*

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

This Directive is addressed to the Member States.

Done at Luxembourg, 11 June 2007.

*For the Council*

*The President*

H. SEEHOFER

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- (1) [OJ L 184, 3.8.1995, p. 34](#). Directive as last amended by Commission Directive 97/46/EC ([OJ L 204, 31.7.1997, p. 43](#)).