

Commission Directive 2009/145/EC of 26 November 2009 providing for certain derogations, for acceptance of vegetable landraces and varieties which have been traditionally grown in particular localities and regions and are threatened by genetic erosion and of vegetable varieties with no intrinsic value for commercial crop production but developed for growing under particular conditions and for marketing of seed of those landraces and varieties (Text with EEA relevance)

COMMISSION DIRECTIVE 2009/145/EC

of 26 November 2009

providing for certain derogations, for acceptance of vegetable landraces and varieties which have been traditionally grown in particular localities and regions and are threatened by genetic erosion and of vegetable varieties with no intrinsic value for commercial crop production but developed for growing under particular conditions and for marketing of seed of those landraces and varieties

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2002/55/EC of 13 June 2002 on the marketing of vegetable seed<sup>(1)</sup>, and in particular Article 4(4), Article 44(2), and Article 48(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<sup>(2)</sup>, 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<sup>(3)</sup>, 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 repealing Regulation (EC) No 1467/94<sup>(4)</sup> 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)<sup>(5)</sup>. Specific conditions should be established under Directive 2002/55/EC in order to take account of these issues as regards the marketing of vegetable seed.
- (2) In order to ensure *in situ* conservation and the sustainable use of plant genetic resources, landraces and varieties which have been traditionally grown in particular localities and regions and are 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. In addition to the general aim of

---

*Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.*

---

protecting plant genetic resources, the particular interest of preserving these varieties lies in the fact that they are especially well adapted to particular local conditions.

- (3) In order to ensure the sustainable use of plant genetic resources, varieties with no intrinsic value for commercial crop production but developed for growing under particular conditions (varieties developed for growing under particular conditions) 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. In addition to the general aim of protecting plant genetic resources, the particular interest of preserving these varieties lies in the fact that they are apt to be grown under particular climatic, pedological or agro-technical conditions (such as manual care, repeated harvesting).
- (4) In order to preserve conservation varieties and varieties developed for growing under particular conditions, it is necessary to provide for derogations as regards the acceptance of those varieties as well as for the production and marketing of seed of those varieties.
- (5) Those derogations should concern the substantive requirements for the acceptance of a variety and the procedural requirements provided for in Commission Directive 2003/91/EC of 6 October 2003 setting out implementing measures for the purposes of Article 7 of Council Directive 2002/55/EC as regards the characteristics to be covered as a minimum by the examination and the minimum conditions for examining certain varieties of vegetable species<sup>(6)</sup>.
- (6) 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 acceptance of the variety as referred to in Annexes I and II to Directive 2003/91/EC. Where uniformity is established on the basis of off-types, the provisions should be based on defined standards.
- (7) Procedural requirements should be provided for under which a conservation variety or a variety developed for growing under particular conditions may be accepted without official examination. Furthermore, as regards the denomination of those varieties, it is necessary to provide for certain derogations from the requirements laid down in Directive 2002/55/EC and Commission Regulation (EC) No 637/2009 of 22 July 2009 establishing implementing rules as to the suitability of the denominations of varieties of agricultural plant species and vegetable species<sup>(7)</sup>.
- (8) As regards conservation varieties, restrictions should be provided for concerning the production and marketing of seed, in particular regarding the region of origin, to ensure that the marketing of the seed takes place in the context of conservation *in situ* and the sustainable use of plant genetic resources. In this context, 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 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.

- (9) Quantitative restrictions should be fixed for the marketing of each conservation variety and each variety developed for growing under particular conditions.
- (10) In the case of conservation varieties, the quantities of seed placed on the market for each variety should not exceed the quantity necessary to produce vegetable of the variety concerned on a limited surface fixed according to the importance of the cultivation of the species concerned. To make sure that these quantities are respected, Member States should require producers to notify the quantities of seed of conservation varieties that they intend to produce and should allocate quantities to producers where appropriate.
- (11) For varieties developed for growing under particular conditions, quantitative restrictions should take the form of requiring seed to be marketed in small packages, the relatively high cost of the seed sold in small packages having the effect of a quantitative limitation.
- (12) For conservation varieties and for varieties developed for growing under particular conditions, the traceability of seed should be ensured through appropriate sealing and labelling requirements.
- (13) To ensure that this Directive is correctly applied seed crops of conservation varieties and of varieties developed for growing under particular conditions should comply with specific conditions with respect to certification and verification of seed. Official post controls should be carried out on the seed. Official monitoring should be performed at all stages of production and marketing. Amounts of seed of conservation varieties placed on the market should be reported by suppliers to the Member States and by the Member States to the Commission.
- (14) After 3 years the Commission should assess whether the measures provided for in this Directive, in particular the provisions concerning quantitative restrictions for the marketing of seed of conservation varieties and of varieties developed for growing under particular conditions, are effective.
- (15) 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:

---

***Status:** EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.*

---

- (1) OJ L 193, 20.7.2002, p. 33.
- (2) OJ L 309, 13.12.1993, p. 1.
- (3) OJ L 378, 23.12.2004, p. 1.
- (4) OJ L 162, 30.4.2004, p. 18.
- (5) OJ L 277, 21.10.2005, p. 1.
- (6) OJ L 254, 8.10.2003, p. 11.
- (7) OJ L 191, 23.7.2009, p. 10.