



ARCHE NOAH

Introduction to the EU Seed marketing legislation



Diversifood Brussels Workshop, 27 November 2017



LEGAL FRAMEWORK



A . Marketing & Variety Registration

B . Conservation Varieties & Other Derogations



A. Marketing & registration



GENERAL FRAMEWORK

- **11 Vertical Directives**

Plant species / groups plant species : fodder, cereal, vine, ornamentals, beet, vegetable, potatoes, oil&fibre, vegetable other than seed, fruit, forest

- **1 Horizontal Directive**

The Common Catalogue Dir. 2002/53 (ONLY for agri plant species)

- NOT for ornamentals, forest, fruit, grape vines
- Vegetables: Common catalogue through Directive 2002/55



A. Marketing & registration



- Rationale

- « IDENTITY, QUALITY & VARIETAL PURITY »

Dir. 66/401 (fodder), Preamble

“Whereas it is, justifiable to **restrict marketing to certain varieties only if the user can be sure of actually obtaining seed of those varieties;**

Whereas certain Member States have for this purpose been applying certification schemes which are intended by **official control to ensure identity and varietal purity;**”

Dir. 2008/72 (veg prop mat), Preamble 12

“It is in the interests of the purchasers of vegetable propagating and planting materials that **the name of varieties be known and their identity safeguarded.**”

- « UNIFORM AND STRICT RULES FOR PRODUCTIVITY»

Dir. 66/401 (fodder), Preamble

“Whereas **greater productivity** will be achieved in Community fodder plant cultivation if for the choice of the varieties permitted to be marketed the Member States apply **uniform rules which are as strict as possible**”



A. Marketing & registration



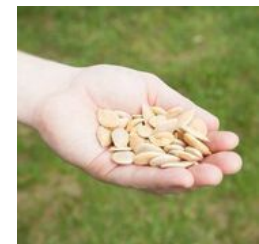
Principle

List variety in national catalogue & Common Catalogue (agri – vegetables) mandatory prior to marketing of seeds

- **Criteria for variety registration?**
- DUS
 - *Distinctness* (clearly distinguishable in one or more characteristic from variety known)
 - *Uniformity* (plants of which it is composed are similar or genetically identical as regards the characteristics)
 - *Stability* (after successive propagation or multiplications, it remains true to the description of its essential characteristics)
- VCU for fodder, beet, cereal, potatoes, oil/fibre and certain vegetable seed

All Directives do not impose variety registration!!!!

- **Supplier Accreditation** (vegetable PM other than seed)
- **Supplier Registration** (forest, ornamental, fruits)



A. Marketing & registration



- Scope
 - **Which genera or species?**
 - Defined in each Directive : Does NOT apply to all seeds & PRM !!
 - **Registration prior to « marketing »?**

Most recent definition in Directives from 2002 (beet, vegetable, seed potatoes, oil& fibre); also included in Council Directives 66/401/EEC (fodder) and 66/402/EEC (cereal), in Council Directive 68/193/EEC (vine) & Council Directive 2008/90 (fruit).

‘the sale, holding with a view to sale, offer for sale and any disposal, supply or transfer **aimed at commercial exploitation of seed** to third parties, whether or not for consideration.



B. Conservation & other derogations



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CONSERVATION VARIETIES

- **Principle?**

Accept in national registries or the Common Catalogue varieties which do not fulfil « classical » criteria in the name of biodiversity conservation

“for acceptance for **inclusion in the national catalogues** of varieties of agricultural plant species, as provided for in Directive 2002/53/EC, of **landraces and varieties which are naturally adapted to the local and regional conditions and threatened by genetic erosion**”;

- Amendment Directives beet, fodder-plant, cereal, seed potatoes, oil and fibre plants, vegetables, common catalogue



B. Conservation & other derogations



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CONSERVATION VARIETIES

Commission Directives 2008/62 of 20 June 2008 (agri crops), 2009/145 (vegetables), 2010/60 (fodder)

10 years & 12 drafts before the 1st text on agri crops (fodder, cereals, beet, oil & fibre)

- **Requirements?**
 - Substantive? Relaxed DUS
 - Procedural? No official examination
- **Major Restrictions :**
 - Geographical attachments : origin, production, marketing
 - Quantity restrictions

Amateur Varieties 2009/145 (vegetables)

- Varieties “with no intrinsic value for commercial crop production but developed for growing under particular conditions.”



B. Conservation & other derogations



FLEXIBILITIES IN THE DIRECTIVES

DEROGATION of the *WHOLE* Directive if

- Species not within the genera / species listed in Directive
- « Products which are intended for ornamental purposes »
- Activities not within the definition of marketing applicable to the specific plant species

MARKETING IN SMALL PACKAGES

MARKETING TO FINAL CONSUMER

- Derogations are possible for certain requirements (in general for labelling) & in certain Directives if you market small quantities (or in bulk) to the final (non-professional) consumer



B. Conservation & other derogations



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TEMPORARY EXPERIMENT

- **Alternatives to the exclusion of certain categories of seeds** that do not comply with strict DUS and VCU requirements.
 - assess the production of seed populations to gather information on seeds and PRM that could officially be marketed only if the strict criteria held up in the Directives were amended.
 - The Commission is empowered to launch such experiments, in Council Directive 66/402/EEC (cereals), Directive 2002/54 (beet seed), 2002/55 (vegetable seed), 2002/56/EC (seed potatoes), 2002/57 (oil and fibre plants).
- Commission Implementing Decision 2014/150/EU, in the plant species **wheat, barley, oats and maize**.
 - handful of countries : DK, UK, DE, FR, ITA, NL
 - authorisation procedure based on non-DUS criteria to establish varietal identity.
 - limited period of time & limited quantities of “new” seeds and PRM (crossed at least five plant groupings).



ADD : NEW ORGANIC REG?



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- ***Directly applicable !!! From 1 January 2021***
- ***New categories of seeds & PRM***
 - **'Organic heterogeneous material'** : high level of genetic and phenotypic diversity & does not meet the definition of variety
 - **'organic variety suitable for organic production'** is a plant grouping with a high level of genetic and phenotypical diversity between individual reproductive units; results from organic plant breeding activities & a variety (CPVO)
- ***Procedural requirements?***
 - **Heterogeneous material**
 - General derogation to the requirements of the 12 Directives
 - Simple notification procedure (based on description of the main agronomic and phenotypic characteristics, 3 months period)
 - **Organic Varieties**
 - Temporary experiment
- ***Farm saved seeds?*** *With due respect to PVP obligation, express autorisation farmers to use PRM cultivated on farm*



CONCLUSIONS



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- Extremely difficult to read & navigate the Directives governing marketing of seeds
 - **How to understand the consequences on the ground?**
- Productivity means uniformity : diversity is the tiniest exception!
 - **Risk to be in violation very high when trying to work with diversity !**

**NEED TO MAKE EFFICIENT AND COMPLETE USE OF DEROGATIONS /
FLEXIBILITIES OF SYSTEM !!!**





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THANK YOU FOR YOUR ATTENTION!

