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COMMISSION IMPLEMENTING DECISION

of 18 March 2014

on the organisation of a temporary experiment providing for certain derogations for the marketing of populations of the plant species wheat, barley, oats and maize pursuant to Council Directive 66/402/EEC

(notified under document C(2014) 1681)

(Text with EEA relevance)

(2014/150/EU)

(OJ L 82, 20.3.2014, p. 29)

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**COMMISSION IMPLEMENTING DECISION****of 18 March 2014****on the organisation of a temporary experiment providing for certain derogations for the marketing of populations of the plant species wheat, barley, oats and maize pursuant to Council Directive 66/402/EEC***(notified under document C(2014) 1681)***(Text with EEA relevance)**

(2014/150/EU)

*Article 1***Subject matter**

1. A temporary experiment is organised at Union level for the purpose of assessing whether the production, with a view to marketing, and marketing, under certain conditions, of seed from populations, as referred to in Article 2 and belonging to the species *Avena* spp., *Hordeum* spp., *Triticum* spp. and, *Zea mays* L., may constitute an improved alternative to the exclusion of the marketing of seed not complying with the requirements of Article 2(1)(E), (F) and (G) of Directive 66/402/EEC concerning varietal aspects of seeds of certain species, and to the requirements of Article 3(1) concerning the placing on the market with official certification as ‘certified seed’, ‘certified seed, first generation’ or ‘certified seed, second generation’.

2. The following elements shall be assessed:

- (a) whether the identification of populations of those species can take place on the basis of information on their breeding and production methods, the varieties used in the crossing, and the main characteristics of those populations; and
- (b) whether the identity of seeds from those populations marketed can be based on traceability requirements and identification of the region of production.

*Article 2***Scope**

This Decision shall cover plant groupings which fulfil all of the following requirements:

- (a) they result from a given combination of genotypes;
- (b) they are considered as units with regard to their suitability for being reproduced unchanged once established in a given region of production with specific agro- climatic conditions;
- (c) they are generated by one of the following techniques:
 - (i) crossing five or more varieties in all combinations followed by bulking of the progeny and exposing the stock to natural selection in successive generations;

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- (ii) growing together at least five varieties of a predominantly cross-fertilising species, bulking the progeny, repeatedly re-sowing and exposing the stock to natural selection until plants of the original varieties are no longer present;
- (iii) inter-crossing varieties using crossing protocols different from those in (i) or (ii) to produce a similarly diverse population that does not contain varieties.

Hereinafter such plant groupings are referred to as ‘populations’.

*Article 3***Participation of Member States**

1. Any Member State may participate in the experiment. The latest date at which they may start participating is ►**M1** 31 December 2019 ◀.
2. Member States which decide to participate in the experiment (hereinafter: ‘participating Member States’) shall inform the Commission and the other Member States concerning their participation, indicating the species and regions covered by their participation, and measures applied under this Decision.
3. Participating Member States may terminate their participation at any time by informing the Commission accordingly.

*Article 4***Release from obligations**

Participating Member States are released from the obligations provided for in Article 2(1)(E), (F) and (G), in Article 3(1) and in Article 10 of Directive 66/402/EEC, with regard to the production, with a view to marketing, and marketing of populations.

*Article 5***Identification of populations**

A population shall be identifiable on the basis of the following elements:

- (a) the varieties used in the crossing for the creation of the population;
- (b) the breeding schemes as defined by the respective protocols;
- (c) the region of production;
- (d) the degree of heterogeneity, in particular in self-pollinating species;
and
- (e) its characteristics, as referred to in Article 7(2)(f).

▼B*Article 6***Conditions for production and marketing seed of the populations**

For the purposes of this experiment, Member States shall ensure that the seed of the population may be produced, with a view to marketing, and marketed if the following conditions are satisfied:

- (a) the seed belongs to an authorised population;
- (b) the seed complies with Article 9;
- (c) the denomination of the population complies with Article 8;
- (d) the population is bred and the seed is produced by persons registered pursuant to Article 10.

*Article 7***Authorisation of populations**

1. Member States shall authorise populations in accordance with paragraphs 2, 3 and 4.

2. An application for authorisation shall be submitted to the seed certification authority. That application shall include the following elements:

- (a) name and address of the applicant;
- (b) species and denomination of the population;
- (c) a description of the type of technique used to generate the population, with reference, as applicable, to Article 2(c)(i), (ii) or (iii);
- (d) objectives of the breeding programme;
- (e) breeding and production method: breeding scheme as defined by the respective protocols, varieties used to breed and produce the population, and own production control programme used by the operator concerned;
- (f) a description of its characteristics:
 - (i) documentation of its characteristics which the applicant considers as important as regards yield, quality, performance, usability for low input systems, disease resistance, yield stability, taste or colour;
 - (ii) experimental trial results concerning the characteristics referred to in point (i);
- (g) region of production;
- (h) a declaration of the applicant concerning the trueness of the elements referred to in Article 5(1);
- (i) a representative sample of the population;
- (j) name and address of the person responsible for the breeding, production and maintenance.

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3. The seed certification authority shall check the following elements:

- (a) compliance of the application with paragraph 2; and
- (b) compliance of the population with the identification requirements of Article 5.

Compliance with the identification requirements of Article 5 shall be concluded on the basis of submitted documentation and inspections in the premises where the population is produced.

4. The authorisation of a population, and the elements set out in paragraph 2, shall be notified to the other Member States and the Commission.

*Article 8***Denomination of populations**

1. Populations shall have a denomination. The rules on the denomination of varieties, as laid down in Article 9(6) of Council Directive 2002/53/EC ⁽¹⁾, shall apply accordingly for the denomination of populations.

2. The word ‘population’ shall be added at the end of each denomination.

*Article 9***Requirements concerning the crop, the seed and the weights of lots and samples**

1. Points 1 and 6 of Annex I to Directive 66/402/EEC shall apply.

2. During the production and marketing of seed belonging to populations, the seed shall comply with points 2 and 3 of Annex II to Directive 66/402/EEC concerning the second generation of certified seed in the case of populations of *Avena nuda* L., *Avena sativa* L., *Avena strigosa* Schreb., *Hordeum vulgare* L., *Triticum aestivum* L., *Triticum durum* L. and *Triticum spelta* L. and certified seed in case of populations of *Zea mays* L.

3. During the production and marketing of seed belonging to populations, the weights of lots and samples shall comply with Annex III to Directive 66/402/EEC, and, in the case of *Zea mays* L., with the provisions of that Annex concerning certified seed of that species.

*Article 10***Registration of breeders, producers and persons responsible for the maintenance of populations**

1. Each Member State shall register the persons who breed populations or produce or maintain seed of populations in its territory in a register, if they comply with the requirements of paragraph 2.

⁽¹⁾ Council Directive 2002/53/EC of 13 June 2002 on the common catalogue of varieties of agricultural plant species (OJ L 193, 20.7.2002, p. 1).

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2. Breeders, producers and persons responsible for the maintenance of populations shall submit an application to the seed certification authority for inclusion in the register. That application shall include the following elements:

- (a) their name, address and contact details;
- (b) denomination of the population concerned.

3. The register shall contain the following elements:

- (a) name, address and contact details as set out in point (a) of paragraph 2;
- (b) denomination of the population referred to in paragraph 2(b) to be produced or maintained.

*Article 11***Labelling**

Packages or containers of seeds shall bear a label which is affixed by the producer. That label shall include the information set out in Annex I.

*Article 12***Quantitative restrictions**

1. The quantities of seed marketed of the authorised population of each species, for each participating Member State per year, shall not exceed 0,1 % of seed of the same species produced in that year in the participating Member State.

2. Each producer shall declare to the seed certification authority the quantity of each population it intends to produce for each year.

3. A participating Member State may prohibit the marketing of seed of a population if it considers that, in view of the purpose of the experiment, it is not appropriate that additional quantities of seed of the population concerned are placed on the market. It shall immediately inform the producer or producers concerned.

*Article 13***Traceability**

1. Any person marketing seeds of populations shall ensure traceability of those seeds.

2. A person marketing seeds of populations shall keep information allowing it to identify the persons which have supplied them with, and to whom they have supplied, seeds of a population.

3. The information shall be made available on request to the seed certification authority.

▼B*Article 14***Official controls**

The seed certification authorities of the participating Member States shall officially control the production and marketing of seeds of populations. Official controls shall include at least:

- (a) field inspection, sampling and checks of populations, as laid down in point (1) of Annex II;
- (b) supervision of organisation of comparative field trials for this purpose, as laid down in point (2) of Annex II;
- (c) quantities produced and quantities marketed;
- (d) compliance of the producer and any person marketing seed pursuant to this Decision.

The control referred to in point (d) shall take place at least once per year. It shall include inspections of the premises of the persons concerned and the fields used for the production of the populations.

*Article 15***Maintenance of populations**

1. The person responsible for the maintenance of the population shall maintain the population for the duration of this experiment.

That maintenance shall be in accordance with accepted practices for the species concerned.

2. The person responsible for the maintenance of the population shall keep records concerning the maintenance of the populations and make those records available for inspection by the responsible official body at any time.

3. The responsible official body shall carry out controls on the manner in which the populations are maintained and may, to this purpose, take samples of the seed of the populations concerned.

*Article 16***Notification obligations of producers**

Producers shall notify annually the seed certification authorities of the information set out in points (a), (b), (c), (f), (g), (h) and (i) of Annex III.

*Article 17***Recording of information**

Participating Member States shall record the information, as indicated in Annex III, concerning the production and marketing of populations. On request, they shall assist each other in recording that information.

▼B*Article 18***Reporting obligations**

1. Participating Member States shall, for each year, present to the Commission and the other Member States, by 31 March of the following year, an annual report, including the following elements:

- (a) information on types and number of populations authorised per species, produced and marketed under the experiment; and
- (b) the quantities produced and marketed per population and species, and, where applicable, the Member State for which the seed was intended.

The participating Member States may decide to include in the report any other relevant information.

2. The participating Member States shall present to the Commission and the other Member States, by 31 March 2018, a report setting out the information referred to in Annex III. That report shall include an assessment of the conditions of the experiment and of the interest of extending its duration, if appropriate, by reference to each species. That report may include other information they consider relevant in view of the purpose of the experiment.

3. A Member State ending its participation before 31 December 2017 shall submit its report by 31 March of the year following the end of its participation.

*Article 19***Time period**

The experiment shall start on 1 March 2014 and end on ►**M1** 28 February 2021 ◀.

*Article 20***Addressees**

This Decision is addressed to the Member States.

*ANNEX I***INFORMATION TO BE SET OUT ON THE LABEL PROVIDED FOR IN
ARTICLE 11**

The label of the packages or containers containing the seeds shall include the following:

- (1) the words ‘Temporary experiment under EU rules and standards’;
- (2) seed certification authority and the Member State, or their initials;
- (3) the name and address of the producer responsible for affixing the label, or its registration code;
- (4) region of production;
- (5) the reference number of the lot;
- (6) month and year of sealing expressed thus: ‘sealed ...’ (month and year) or month and year of the last official sampling for the purposes of control expressed thus: ‘sampled ...’ (month and year);
- (7) species, indicated at least under its botanical name, which may be given in abridged form and without the authors names, in roman characters;
- (8) denomination of the population;
- (9) Member State of production, if different to point 2;
- (10) declared net or gross weight, or declared number of seeds;
- (11) where weight is indicated and granulated pesticides, pelleting substances, or other solid additives are used, the nature of the additive and also the approximate ratio between the weight of pure seeds and the total weight;
- (12) where at least germination has been retested, declaration of the germination level on the label. Such information may be given on a sticker attached to the label.

▼B*ANNEX II***SAMPLING AND CHECKS REFERRED TO IN ARTICLE 14**

The following sampling and examination shall be carried out:

- (1) Production fields shall be inspected and seed samples shall be taken, at random every year, of at least of 5 % of all the lots of seeds of populations and production fields under the experiment by official seed samplers.

Each production field shall be officially checked during the temporary experiment at least twice.

These samples shall be used for controlling compliance with Article 5, as regards the identity, and with Article 9, as regards the quality of the seed.

- (2) Comparative field trials shall be carried out on each of the authorised populations marketed under the experiment.

The field trials shall be carried out by competent authorities, research institutions or by breeders or producers. In case of breeders and producers, the Member States shall supervise the trials.

▼B*ANNEX III***INFORMATION TO BE RECORDED AS REFERRED TO IN
ARTICLE 17**

The following information shall be recorded:

- (a) name of the species and denomination used for each authorised population under the experiment;
- (b) type of populations as referred to in Article 2(c);
- (c) the quantities produced and marketed per population and species and the Member State for which the seed was intended;
- (d) modalities of authorisation of populations by the Member States and related costs for the applicant;
- (e) description and results of the tests carried out in accordance with Annex II point (1);
- (f) comparative field trial results as referred to in Annex II point (2);
- (g) size of the participating breeders and producers: micro-enterprise, small enterprise, medium enterprise or large enterprise;
- (h) valuation of the populations by users as regards characteristics pursuant to Article 7(2)(f).