

31st May 2023

Joint Letter to the European Commission on the EU Seed Marketing Legislation

signed by



Dear Executive Vice-President Frans Timmermans,

Dear Commissioner for Health and Food Safety Stella Kyriakides,

Dear Commissioner for Agriculture Janusz Wojciechowski,

Dear Commissioner for Environment, Oceans and Fisheries Virginijus Sinkevičius,

Dear Commissioner for International Partnerships Jutta Urpilainen,

Subject: Upcoming reform of the seed marketing legislation

Seeds are the foundation of our food system. Seeds shape the way we farm and the food we eat, and their quality is essential to ensure good production for farmers. However, seeds also have a social dimension that takes them beyond just a means of production. The names, characteristics and flavours of varieties are linked to our history, food culture, and communities.

The upcoming reform of the legislation on the production and marketing of seeds¹ will **determine the rules of the game for the seed market and the conservation and development of cultivated plant diversity² for the coming decades.** It has the potential to “make or break” the attainment of the goals set out in the Farm to Fork Strategy, the EU Biodiversity Strategy 2030, and the EU’s climate commitments.

Specifically:

- To **reverse the loss of genetic diversity of cultivated plants** we need legislation that encourages rather than infringes the right of peasants and other people working in rural areas to save, use, exchange and sell their own seeds³.
- To **adapt our food production to the great diversity of growing conditions, higher temperatures and extreme weather events** we need legislation that promotes resilience through greater genetic diversity and continuous and progressive adaptation to changing conditions, rather than highly genetically uniform varieties that are more vulnerable to pests and climatic shocks.
- To **reduce pesticide use by 50% by 2030** we need legislation that encourages rather than discriminates against the marketing of seeds that thrive under holistic and ecological farming systems, like organic farming and peasant agroecology.

The **impact of the reform will reach beyond the European Union**, as many other regions, especially in the Global South, orient their own legislation on EU provisions. The EU has a responsibility to introduce seed marketing legislation that rises to the challenges of the 21st

¹ The legislation applies to all plant reproductive and propagating material, which we refer to for simplicity in this letter as “seeds”.

² Cultivated plant diversity includes the diversity of species, varieties, and the genetic diversity within them, as well as the traditional knowledge associated with their cultivation and use.

³ United Nations Declaration on the Rights of Peasants and Other People Working in Rural Area (UNDROP), Article 19. Available online: <https://digitallibrary.un.org/record/1650694?ln=en>

century, and secures peasant seed systems and small-scale agriculture, which is responsible for the majority of the food production globally⁴.

As you consider the final details of the reform, we, **diverse actors involved in the conservation, dynamic management, development, production and/or use of cultivated plant diversity in farms and gardens across Europe**, ask you to ensure the reform truly advances the transition to a sustainable food system by ensuring:

1. The facilitation of the transition to more sustainable and resilient food systems

Only agricultural systems can be sustainable, not individual varieties. **We strongly oppose the creation of a “sustainability checklist” of single traits or characteristics to be applied in variety testing as it will simply lead to greenwashing.** Instead, the proposal should ensure that new registered varieties are adapted to future challenging cultivation conditions, including the biotic and abiotic stresses that accompany them. **It should thus provide that all variety testing (DUS/VCU) also takes place under organic and low-input conditions.**

Seeds covered by patents, where monopoly rights over native traits block access and use by farmers and breeders, are not sustainable. No sustainability test under the seed marketing legislation can replace the risk assessment and evaluation processes for genetically modified organisms (GMOs) under Directive 2001/18/EC.

2. An enabling environment for the conservation and development of cultivated plant diversity

“On farm” and “in garden” conservation and dynamic management of cultivated biodiversity is critical to the effective maintenance and development of the remaining cultivated plant diversity, as it enables the plants to adapt to changing environmental and climatic conditions⁵. This time-intensive work is primarily carried out by farmers and gardeners, in contrast to the largely state-led *ex situ* conservation efforts. Gardeners and farmers must be free to pursue their activities of maintaining, enlarging and developing diversity unencumbered by rules and regulations intended for the marketing of seeds for industrial seed and crop production, regardless of whether they are a member of a formal seed saving or peasant network or not.

This reform needs to create **a clear exemption from seeds marketing regulation for all activities aimed at the conservation and dynamic management of cultivated plant diversity.** Exchange of seeds between farmers is not a commercial exchange. Therefore, it must fall under the framework of mutual aid between farmers through exchanges of services (labor and means of exploitation), either free of charge or with compensation of the expenses incurred. The proposal must not introduce any new administrative burdens for those activities, such as an obligation for individual or associations of farmers or gardeners engaged in conservation or dynamic management activities to register as an operator or reporting requirements for seed saving networks. Any new obligations would result in gardeners and farmers giving up their efforts or operating illegally, and have a devastating effect on the conservation of cultivated plant diversity.

⁴ ETC Group. (2017). Who will feed us? The Industrial Food Chain vs. The Peasant Food Web. Available online: https://www.etcgroup.org/sites/www.etcgroup.org/files/files/etc-whoillfeedus-english-webshare.pdf_.pdf

⁵ FAO (2019) The State of the World's Biodiversity for Food and Agriculture, p. xxxix Available online: <https://www.fao.org/3/CA3129EN/CA3129EN.pdf>

3. Facilitated access to the market for cultivated plant diversity

The existing legislation is built around the principle of pre-marketing variety testing by national authorities. The DUS (distinct, uniform, stable) criteria applied in variety testing may serve a purpose in relation to industrial production, but they are largely irrelevant and discriminatory for a growing number of producers and users. First, owing to their cost, complexity and administrative burden, these pre-marketing tests block access to the market for small actors and new entrants, thus reducing the number of operators and the number of cultivated plant species and plant varieties. Second, the DUS criteria themselves prevent the marketing of varieties with a higher degree of genetic diversity, which can in fact be desirable for many gardeners and farmers, as they may respond to other specific needs such as taste or cultural heritage, and confer greater resilience in the face of extreme weather conditions and the spread of new pests and diseases. **Genetic diversity gives seeds the ability to better adapt to a specific growing region as well as changing environmental and climatic conditions, both through spontaneous adaptation within a season and in the long term through repeated cycles of seed multiplication.**

As stated in the Farm to Fork strategy, the reform should facilitate access to the market for seeds that diverge from the industrial standard. This means in practice (i) **a simple notification procedure for “diversity varieties”** capturing existing “amateur” varieties, conservation varieties, heterogeneous material, and other locally adapted/adaptable varieties, but excluding all hybrids and GMOs; (ii) **adapted, more flexible registration criteria for organic varieties**; (iii) the **exemption of the sale of seeds to hobby gardeners** from the variety registration and seed certification requirements.

4. Clear information for consumers

The current labelling requirements set out in the legislation are outdated and reflect the interest of national authorities and breeders rather than those of the end consumer. Consumers, whether gardeners or farmers, have a right to relevant and clear information on the packages about the seeds they are buying, so they can make an informed choice. **Labelling requirements for all seeds that are placed on the market should as a minimum include (i) the region of seed production, (ii) whether the seeds are F1 hybrids, and (iii) by which intellectual property rights the seeds are covered, if applicable.** Information on the breeding method should further be made mandatory in the catalogue for varieties that are registered, including a description of the parental material and its origin. These transparency provisions can in no way replace the need for the labelling and traceability of (new) GMOs in line with Directive 2001/18/EC and Regulation 1830/2003.

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