

# OPTIONS AND ANALYSIS OF POSSIBLE SCENARIOS FOR THE REVIEW OF THE EU LEGISLATION ON THE MARKETING OF SEED AND PLANT PROPAGATING MATERIAL

**DG Health and Consumers  
European Commission  
Brussels**

Please return this questionnaire no later than **30.05.2011** by:

1.- mail to: SANCO-CONSULT-E7@ec.europa.eu

2.- or by post to the following address:

European Commission  
Health & Consumers Directorate-General  
Mr Walter De Backer  
Office : F/101, 02/176  
B-1049 Brussels

THE RESPONSES TO THIS QUESTIONNAIRE WILL BE MADE  
AVAILABLE TO THE PUBLIC

<b>NAME OF THE ORGANISATION</b>	VERN e.V. (Verein zur Erhaltung und Rekultivierung von Nutzpflanzen in Brandenburg)
<b>STAKEHOLDER GROUP</b>	<input type="checkbox"/> <b>Competent Authority (CA) involved in S&amp;PM certification and control</b> <input type="checkbox"/> <b>Competent Authority (CA) involved in S&amp;PM variety and material registration</b> <input type="checkbox"/> <b>Breeder of S&amp;PM</b> <input type="checkbox"/> <b>Supplier of S&amp;PM</b> <input type="checkbox"/> <b>User of S&amp;PM</b> <input type="checkbox"/> <b>Professional user of raw material produced by agriculture, horticulture or forestry</b> <input type="checkbox"/> <b>Consumer</b> <input checked="" type="checkbox"/> <b>Other, please specify:</b>  The Verein zur Erhaltung und Rekultivierung von Nutzpflanzen in Brandenburg (VERN) e.V. is a non-profit NGO that safeguards seeds of old varieties, reproduces seeds of old, underutilized, neglected and non-registered varieties, exchanges seeds and gives them away on a non-commercial basis as niche supplier. VERN e. V. maintains a collection of old varieties which originates

	<p>from gene bank accessions (IPK Gatersleben) and other sources to make seeds available to home and hobby gardeners as well as subsistence farmers.</p> <p>Further, VERN e. V. supports local small scale gardeners and farmers in their <i>on-farm</i> conservation activities. VERN e. V. is also involved in the regional “Kulturlandschaftsprogramm” (KULAP, derived from EC-reg. ELER, agroenvironmental measures) of the federal state government Brandenburg, a programme that aims to promote agrobiodiversity and to boost the cultivation and use of old varieties in the region of the federal state of Brandenburg, Germany. VERN e. V. is an important national player, maintaining plant genetic resources of old varieties in Germany, seeking to maintain crop genetic resources (CGR) as a biological as well as a cultural heritage.</p> <p>-----</p> <p><input type="checkbox"/> SME company  <input type="checkbox"/> Company operating on national level  <input type="checkbox"/> International company</p> <p>-----</p> <p><input checked="" type="checkbox"/> Organisation operating on national level  <input type="checkbox"/> International organisation</p>
<b>COUNTRY</b>	Germany
<b>ADDRESS: (postal, e-mail address, telephone, fax and web page if available)</b>	Verein zur Erhaltung und Rekultivierung von Nutzpflanzen in Brandenburg (VERN) e.V. Burgstraße 20 16278 Angermünde / OT Greiffenberg e-mail: vern_ev@freenet.de Tel.: 033 334 / 70 232 Fax: 033 334 / 85 102 www.vern.de

## 1. General questions

### Question 1:

**1.1 Are the problems defined correctly in the context of S&PM marketing?**

Yes

No

**1.2 Have certain problems been overlooked?**

Yes

No

**If yes, which –**

- 1) *in situ* and *on farm* conservation of plant genetic resources,
  - 2) the guaranty of a “zero tolerance” policy related to GMOs.
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1) The framework of the S&PM legislation concerns the commercial interests of breeders, seed suppliers, farmers, horticulturalists, etc. However, the non-commercial seed saving activities in this sector, in the field of *in-situ* and *on-farm*

conservation of plant genetic resources (e.g. heirloom varieties, old varieties, etc.) as well as related use of neglected and underutilized varieties, including efforts to bring them back to the supply chain, have to be clearly delimited from the formal seed market. This is essential in order to harmonise the S&PM legislation with the requirements of the Convention on Biological Diversity (CBD) and other multilateral agreements, i.e. under the FAO.

The framework of the S&PM legislation needs a clear definition. The aim is to regulate the formal seed market, focusing interests and safety for modern, big and specialized farmers and horticulturalists. However, the non-commercial activities of NGOs, of seed initiatives, users of collections, niche suppliers and seed-exchanging-markets have to be excluded from the seed legislation. Heirloom, conservation varieties and old (non registered varieties) without economic potential or with restricted value reserved for informal and niche markets have to be excluded from official and technical bureaucratic regulation. This is mandatory to promote agrobiodiversity in the sake of the CBD and other multilateral agreements, for instance under the FAO.

The economic value of the "seed market" of heirloom and old varieties is marginal as compared to the formal seed market of large scale commercial breeders and seed suppliers. Mostly, the conservation of old varieties is a non-profit activity of seed initiatives, NGOs and volunteers. If producing and selling seeds of old and non-registered varieties in small amounts would obey the regulations the S&PM legislation, most of the *in-situ/on-farm* activities have to be given up. Seed initiatives, NGOs and other volunteers do not have the financial or staff capacities to meet the standards of the regulation. Consequently, this would set-back the promotion of agrobiodiversity as well as endanger future breeding options in the face of i.e. climate change and deeply disregard the requirements of the CBD and the International Seed Treaty under FAO (ITPGR).

2) Conservation varieties (as well as other varieties) are under constant threat of contamination with genetically modified seeds. This is being triggered and reinforced by industrial dissemination of gm-seeds and gm-material as well as by experimental research. Any legislation with regard to seed and plant varieties has to provide for a "zero tolerance" policy in order to keep these assets of humankind free from any contamination of this kind.

### 1.3 Are certain problems underestimated or overly emphasized?

Rightly estimated  Underestimated  Overestimated

Which ones: \_

the potential loss of heirloom and old varieties and the danger of reduced availability - see comment above

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### 1.4 Other suggestions and remarks:

## Question 2:

**2.1 Are the objectives defined correctly in the context of S&PM marketing?**

Yes

No

**2.2 Have certain objectives been overlooked?**

Yes

No

**If yes, which ones:**

Generally speaking, niche markets of conservation varieties are extremely marginal. It is nonsensical to include heirloom varieties into the context of commercial S&PM marketing.

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The recast of the S&PM legislation has to be harmonised with the requirements of the CBD and the ITPGR. Therefore we demand the exclusion of conservation and non-registered varieties from the proposed seed legislation. We demand the right to produce seeds of non-registered varieties to exchange and sell the seeds on a non-industrial commercial level of niche suppliers. The work of seed initiatives and the like guarantees on one hand the choice and access to a wide diversity of plant species and plant varieties for home and hobby gardeners as well as for subsistence farming. On the other hand we are safeguarding material for future adaption and research and development (R&D), for instance in face of climate change.

We disagree with the opinion of EU-DG in Scenario 4 that the marketing of conservation varieties is being liberalised (Scenario 4/4., page 13). The Commission Directive 2009/145/EC of 26 November 2009 does not reduce substantially the administrative burden. Consequently, the administrative burden of this registration plus the burden of registration fees (even reduced fees) are unsustainable for seed initiatives, NGOs and other volunteers who are not active in the industrial commercial seed sector. Seed production plots of most of the old and neglected varieties are very small (about 10 m<sup>2</sup> per variety or even smaller). It does not make any sense to carry out the registration of a huge number of old varieties conserved in such small quantities. Further, only small portions of seed are given away for the use of home and hobby gardeners. Thus, we demand to exclude this non-commercial and small scale commercial seed sector of conservation varieties from the S&PM legislation.

We absolutely dissent with the assertion of EU-DG, that conservation varieties would have necessarily “a strong link with their region of origin” (Scenario 4/4., page 14). This contradicts any historical experience. Dispersal and trade of seeds was and is not limited regionally. This is particularly true for food crops like grains and vegetables in Central Europe. If the contribution of conservation varieties is restricted to their region of origin this will reduce the number of their potential cultivators and users. Consequently, the potential population sizes of such conservation varieties will be arbitrarily reduced and their genetic development will be dangerously constricted. Thus, the proposed S&PM legislation would impair biodiversity, specifically agro-biodiversity.

**2.3 Are certain objectives inappropriate?**

Yes

No

If yes, which ones: \_\_\_\_\_

**2.4 If there is a need to prioritise the objectives, which should be the most important ones? Please rank (1 to 5, 1 being first priority)**

1  ensure availability of healthy high quality seed and propagating material;

5  secure the functioning of the internal market for seed and propagating material;

4  empower users by informing them about seed and propagating material;

3  contribute to improve biodiversity, sustainability and favour innovation;

2  promote plant health and support agriculture, horticulture and forestry.

**2.5 Other suggestions and remarks:**

the point "contribute to improve biodiversity" has to be harmonised with the requirements of the CBD and ITPGR.

**Question 3:**

**3.1 Are the scenarios defined correctly in the context of S&PM marketing?**

Yes

No

**3.2 Have certain scenarios been overlooked?**

Yes

No

If yes, which ones:

The field of non profit activities of the seed initiatives, NGOs and other volunteers is neglected. The objectives of the CBD to improve agrobiodiversity are not adequately considered, the same applies to the ITPGR objective to strengthen Farmers' Rights.

\_\_\_\_\_  
See also comment to question 2.

**3.3 Are certain scenarios unrealistic**

Yes

No

And, if so, why?\_

All 5 scenarios are aimed at commercial breeders or seed suppliers. None of the scenarios is really helpful for the needs of *in-situ / on-farm* conservation of plant genetic resources

**3.4 Do you agree with the reasoning leading to the discard of the "no-changes" and the "abolishment" scenarios?**

Yes

No

**3.5 How do you rate the proportionality of a generalised traceability/labelling and fit-for-purpose requirement (as set out in scenario 4)?**

**1 = very proportional, 2 = fairly proportional, 3 = proportional, 4 = not very proportional, 5 = not proportional at all.**

**3.6 Other suggestions and remarks:**

We can't rate those points because none of them meets our needs as a seed initiative.

#### **Question 4:**

**4.1 Are the impacts correctly analysed in the context of S&PM marketing?**

Yes

No

**4.2 Have certain impacts been overlooked?**

Yes

No

**If yes, which ones:**

negative impacts on agro-biodiversity

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The non-profit activities of seed initiatives, NGOs and other volunteers as well as small scale gardeners and farmers must not be put on a level with the commercial S&PM marketing. Seed initiatives and related stakeholders are not able to cope with the same financial and administrative burden as the commercial sector. The obligation to register every conservation variety, especially the huge amount of neglected and underutilized varieties of marginal significance will lead to the damage of *in-situ* / *on-farm* conservation activities and is negative in terms of agro-biodiversity.

**4.3 Are certain impacts underestimated or overly emphasized?**

Rightly estimated

Underestimated

Overestimated

**Please provide numeric data to support your comments wherever possible.**

Negative impacts on agro-biodiversity are underestimated.

**4.4 What are your views with regard to combining elements from the various scenarios into a new scenario?**

New options needed

New option not needed

#### **Question 5:**

**5.1 Do you agree with the analysis of the potential of the various scenarios to attain the objectives?**

Yes

No

**If not, please justify** \_\_\_\_\_

**5.2 Which scenario or combination of scenarios would best meet the objectives of the review of the legislation? Please justify.**

Scenario 1  Scenario 2  Scenario 3  Scenario 4  Scenario 5  Other scenario

**If other please describe the main elements of that scenario:**

Scenario 4 potentially allows the development of freedom of action for the use of underutilized species and varieties.

**5.3 Is it possible to have a regime whereby a variety is considered as being automatically registered in an EU catalogue as soon as a variety protection title is granted by CPVO?**

Yes

No

**5.4 Other suggestions and remarks:**

This point does not meet our needs as a seed initiative.

## 2. How do you assess the possible impact of the various scenarios on your organisation or on the stakeholders that your organisation represents

Type of impact	Not relevant	Very beneficial	Fairly beneficial	Neutral	Not very beneficial	Not at all beneficial	Don't know
Scenario 1: Cost recovery	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Scenario 2: Co-system	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Scenario 3: Reduced burden Co-system	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scenario 4: Enhanced flexibility	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scenario 5: Centralisation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

## 3. Written comments on the S&PM review

We do miss an acknowledgement and adequate empowerment of seed initiatives. We strongly recommend to relate any draft legislation on seeds and propagating material to the requirements of CBD and ITPGR, and to include a strong protection from gm-contamination (be it adventitious or not). The last point is of particular relevance as the EU seed industry heavily depends on imports of reproduced seeds from third countries, and exports to third countries.

**4. Please make reference here to any available data/documents that support your answers, or indicate sources where such data/documents can be found**

1. Huyskens-Keil, S., Lehmann, C., Lissek-Wolf, G, und Vögel, R. 2009: Wiedereinführung alter Salatsorten zur regionalen Vermarktung. Abschlußbericht eines Modell- und Demonstrationsvorhabens im Bereich der Biologischen Vielfalt (Förderkennzeichen 05BM007-1; 05BM007-2)

Online: [http://service.ble.de/fpd\\_ble/index2.php?site\\_key=151](http://service.ble.de/fpd_ble/index2.php?site_key=151)

2. Lissek-Wolf, G., Huyskens-Keil, S., Lehmann, C. Vögel, R. 2010: On-farm Erhaltung genetischer Ressourcen am Beispiel alter *Lactuca* Sorten/ Wiedereinführung alter Salatsorten zur regionalen Vermarktung. In: Bundesanstalt für Landwirtschaft und Ernährung BLE (Hrsg). Informationstage Biologische Vielfalt, Modell- und Demonstrationsvorhaben, Bonn 21./22. April 2010, S. 227-237.

3. On breeding of transgenic seeds in third countries for reproduction:

Arnold Sauter: Transgenes Saatgut in Entwicklungsländern – Erfahrungen, Herausforderungen, Perspektiven. Endbericht zum TA-Projekt »Auswirkungen des Einsatzes transgenen Saatguts auf die wirtschaftlichen, gesellschaftlichen und politischen Strukturen in Entwicklungsländern«. TAB-Arbeitsbericht Nr. 128. Berlin 2008, 294 Seiten

(Analysis of the Office of Technology Assessment at the German Bundestag “Transgenic seeds in developing countries – experience, challenges, perspectives”)

Online: <http://www.tab-beim-bundestag.de/de/untersuchungen/u128.html>

4. On certified canola seed stocks in Canada, contaminated due to transgenes for herbicide tolerance:

Van Acker RC et al.: GM – Non-GM Crops Coexistence in Western Canada: Can it Work? (Manitoba Agronomists Conference 2003)

Online: [http://www.umanitoba.ca/afs/agronomists\\_conf/2003/pdf/vanacker\\_GM\\_nonGM\\_crops.pdf](http://www.umanitoba.ca/afs/agronomists_conf/2003/pdf/vanacker_GM_nonGM_crops.pdf)