

**COMMISSION IMPLEMENTING DIRECTIVE (EU) 2022/1648****of 23 September 2022****amending Directive 2003/91/EC as regards a derogation for organic varieties of vegetable species  
suitable for organic production**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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 7(2)(a) and (b) thereof,

Whereas:

- (1) Commission Directive 2003/91/EC <sup>(2)</sup> aims to ensure that the varieties of vegetable plant species that Member States include in their national catalogues comply with the protocols established by the Community Plant Variety Office ('CPVO'). In particular, those protocols aim to ensure compliance with the rules concerning the characteristics to be covered as a minimum by the examination and the minimum conditions for examining certain varieties of vegetable species to establish distinctness, uniformity and stability ('DUS'). For the species not covered by the CPVO protocols, that Directive aims to ensure compliance with test guidelines of the International Union for Protection of New Varieties of Plants ('UPOV').
- (2) There is a need to ensure that producers can use organic varieties suitable for organic production resulting from organic breeding activities. Some of them meet the DUS criteria of all other varieties of the same species, but other varieties intended for organic production are characterised by a high level of genetic and phenotypical diversity between individual reproductive units.
- (3) Therefore, the standards for uniformity defined in the existing DUS protocols and guidelines of the CPVO and UPOV are not suitable for organic varieties for organic production, which are characterised by a high level of genetic and phenotypical diversity.
- (4) It is therefore necessary to offer the possibility to deviate from the existing DUS examination protocols so that they are more adapted for organic varieties suitable for organic production. Therefore, it should be possible to adjust the existing protocols for variety examination for certain species to meet the needs of the organic agriculture. It is therefore appropriate to derogate from certain provisions of Article 1 of Directive 2003/91/EC.
- (5) Member States should report, to the Commission and the other Member States, by 31 December of each year, until 31 December 2030, on the number of applications and results of the DUS examinations, in order to ensure a regular review of those requirements and further assess the need to amend, remove or also apply them to other species.
- (6) Directive 2003/91/EC should therefore be amended accordingly.
- (7) Competent authorities and the professional operators concerned should have sufficient time to adequately prepare before national provisions transposing this Directive start applying.
- (8) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

<sup>(1)</sup> OJ L 193, 20.7.2002, p. 33.

<sup>(2)</sup> 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 (OJ L 254, 8.10.2003, p. 11).

HAS ADOPTED THIS DIRECTIVE:

#### *Article 1*

### **Amendments to Directive 2003/91/EC**

Directive 2003/91/EC is amended as follows:

(1) Article 1, paragraph 2 is replaced by the following:

‘2. As regards distinctness, uniformity and stability:

- (a) the species listed in Annex I shall comply with the conditions laid down in the ‘Protocols for distinctness, uniformity and stability tests’ of the Administrative Council of the Community Plant Variety Office (CPVO) listed in that Annex;
- (b) the species listed in Annex II shall comply with the test guidelines for the conduct of tests for distinctness, uniformity and stability of the International Union for the Protection of New Varieties of Plants (UPOV) listed in that Annex.

By way of derogation from the first subparagraph, as regards uniformity, the organic varieties suitable for organic production, which belong to the species listed in Annex III, Part A, may comply instead with the conditions listed in Part B of that Annex.

Member States shall report, to the Commission and the other Member States, by 31 December of each year, until 31 December 2030, on the number of applications for variety registrations and results of the examinations for distinctness, uniformity and stability (DUS) concerning those organic varieties’;

(2) The text set out in the Annex to this Directive is added as Annex III.

#### *Article 2*

### **Transposition**

1. Member States shall adopt and publish, by 30 June 2023 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from 1 July 2023.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law, which they adopt in the field covered by this Directive.

#### *Article 3*

### **Entry into force**

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

#### *Article 4*

### **Addressees**

This Directive is addressed to the Member States.

Done at Brussels, 23 September 2022.

*For the Commission*  
Stella KYRIAKIDES  
*Member of the Commission*

---

## ANNEX

## ‘ANNEX III

## PART A

**List of species referred to in the second subparagraph of Article 1(2)**

Carrot

Kohlrabi

## PART B

**Specific provisions concerning tests for distinctness, uniformity and stability for organic varieties of vegetable species suitable for organic production****1. General rule**

The following shall apply to organic varieties of vegetable species suitable for organic production

- 1.1. As regards distinctness and stability, all characteristics of the protocols and guidelines referred to in Annexes I and II shall be observed and described.
- 1.2. As regards uniformity, all characteristics of the protocols and guidelines referred to in Annexes I and II shall be observed and described and the following shall apply to the characteristics listed under point 2:
  - (a) those characteristics may be assessed in a less stringent way;
  - (b) where for those characteristics a derogation from the respective technical protocol is provided for in that point 2, the level of uniformity within the variety shall be similar to the level of uniformity of comparable varieties of common knowledge in the Union.

**2. Derogation from technical protocols****2.1. Carrot**

For the varieties belonging to species carrot (*Daucus carota* L.) the following DUS characteristics of the CPVO protocol CPVO-TP/049/3 of the tested variety may deviate from the following DUS requirements for uniformity:

- CPVO No 4 – Leaf: division
- CPVO No 5 – Leaf: intensity of green colour
- CPVO No 19 – Root: diameter of core relative to total diameter
- CPVO No 20 – Root: colour of core
- CPVO No 21 – Excluding varieties with white core; Root: intensity of colour of core
- CPVO No 28 – Root: time of coloration of tip
- CPVO No 29 – Plant: height of primary umbel at time of its flowering

**2.2. Kohlrabi**

For the varieties belonging to species kohlrabi (*Brassica oleracea* L.) the following DUS characteristics of the CPVO protocol CPVO-TP/065/1 Rev. of the tested variety may deviate from the following DUS requirements for uniformity of the respective CPVO technical protocol:

- CPVO No 2 – Seedling: intensity of green coloration of cotyledons
- CPVO No 6 – Petiole: attitude
- CPVO No 8 – Leaf blade: length
- CPVO No 9 – Leaf blade: width

- CPVO No 10 – Leaf blade: shape of apex
- CPVO No 11 – Leaf blade: division to midrib (on lower part of leaf)
- CPVO No 12 – Leaf blade: number of margin incisions (on upper part of leaf)
- CPVO No 13 – Leaf blade: depth of margin incision (on upper part of leaf)
- CPVO No 14 – Leaf blade: shape in cross section
- CPVO No 19 – Kohlrabi: number of inner leave.'
-