



COMMISSION OF THE EUROPEAN COMMUNITIES

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REPORT FROM THE COMMISSION TO THE COUNCIL

**On the results of application of Article 12 of Council Directive 98/56/EC of 20 July 1998
on the marketing of propagating material of ornamental plants**

Article 12(1) last paragraph of Council Directive 98/56/EC of 20 July 1998 on the marketing of propagating material of ornamental plants lays down that "The Commission shall by 31 December 2002, submit a report to the Council, on the operation of the control arrangements foreseen in this Article, together with any appropriate proposal which may, if appropriate, include proposals for removing requirements of this Directive from retail sales".

The aim of this report is to evaluate the results of the application of the control measures foreseen by Article 12(1) of the Council Directive and to submit some proposals for improving working of the legislation.

1. INTRODUCTION

Article 12 lays down that Member States shall require that suppliers¹ take all necessary measures to guarantee compliance with the requirements of the above Directive on the marketing of propagating material of ornamental plants.

To this end, Member States shall ensure that propagating material is officially inspected to verify compliance with the requirements.

To fulfil this requirement two minimum conditions are listed:

- Inspections shall be carried out at least by random checks;
- Inspections shall be carried out at least in respect of marketing to persons professionally engaged in production or sale of ornamental plants and propagating material.

Member States may also take samples in order to verify compliance with the requirements.

In carrying out supervision and monitoring, the responsible official bodies shall have free access to all parts of suppliers' establishments at all reasonable times.

To permit the Commission to submit a comprehensive and up-to-date report to the Council, a specific questionnaire was circulated to Member States. The text of the questionnaire and the answers were examined in co-operation with experts from Member States. Herewith, the evaluation of the fulfilment of the two above-mentioned minimum conditions is described. To complete the overview more information is added in the attached Annex.

2. GENERAL INFORMATION

All Member States have implemented Council Directive 98/56/EC. All Member States have established or designated the authority responsible for the quality requirements laid down by the Directive as the responsible official body (hereafter-official body). The legal provisions relating to this Directive have been put into practice by means of specific national legislation.

¹ Suppliers (as defined in Article 2.2 of the Directive): any natural or legal person engaged professionally in marketing or importing of propagating material.

Overall organisation of the responsible official body

The number of staff (inspectors and administrative personnel expressed in full-time equivalents) employed by the official body under the provisions of Directive 98/56/EC and its implementing measures are considered to be adequate in relation to the value of the propagating material of ornamental plants in the Member State concerned. Inspectors must have the equivalent of a Degree or Diploma in Agriculture, Horticulture or a related biological science degree and relevant experience. A qualification from an agricultural school or similar technical qualification is required for auxiliary staff, where these are employed. In the majority of Member States staff are trained and regularly attend general and technical refresher courses.

3. CARRYING OUT OF INSPECTIONS (ARTICLES 12 AND 13)

Member States' official bodies make annual work plans for their inspection programmes, which are reviewed periodically. Formal internal or external assessments of the official body's work are usually undertaken. In the majority of Member States inspectors use a manual for inspections.

Registered suppliers are periodically inspected to check compliance with the requirements for propagating material (Articles 6 to 9). Inspectors usually assess how suppliers identify and monitor the critical points in the production process which influence the quality of the material (in particular health and external quality). They also check the monitoring information kept by suppliers, how and why samples are taken and how it is ensured that, during production, lots of propagating material remain separately identifiable. Where material is being marketed, a further objective is to ensure that the record keeping, labelling and variety identification requirements are complied with, and that propagating material is being marketed in identifiable lots.

Where necessary, samples are taken during the inspections, mainly to check plant health (identification of quality harmful organisms "non quarantine regulated pests"). The necessity to check quality aspects such as the identity of propagating material occurs less frequently. A manual for sampling has been adopted by the majority of the official bodies.

In the case of the appearance or suspected presence of a harmful organism on the premises of a supplier, as outlined in Directive 2000/29/EC (Plant Health Directive)², the supplier is required to report it to the responsible official body and to carry out any necessary measures laid down by that body. If symptoms or signs of harmful organisms are discovered during an official inspection, the inspectors inform both the responsible official body and the supplier of any necessary measures to be taken. Where appropriate, (presence of harmful organisms impairing the quality of propagating material) a follow up visit will take place.

4. PERSONS NOT PROFESSIONALLY ENGAGED

Concerning retailers and persons not professionally engaged, the Member States have adopted different implementing measures. These measures have been successful in preventing problems in these areas.

Retailers and persons not professionally engaged have been informed by various means about the requirements of the current Directive. These means include: orders or circulars about plants, information given directly to different organisations (such as trade associations), publications in growers magazines, visits by inspectors, sending information upon request. Retailers or persons not professionally engaged are officially inspected either by on the spot checks or, in the case of complaints as a follow up. In a few Member States (four) there are generally no inspections carried out under this Directive of the retailer or person not professionally engaged, however their activities are still monitored under trading legislation.

Inspectors can take samples when they have doubts about the quality of material. If material is found that does not fulfil the requirements, tracing back to the supplier is a regular procedure. The majority of samples taken are flower seeds, bulbs and young plants, in particular roses. Non-conformity has been found in only a few cases.

Article 12 of the Directive provides the legal basis for monitoring the complete chain of production of ornamental plant propagating material. The appropriate documents accompanying plant-propagating material to the retailers (required by Article 8) permit a rapid and reliable trace back in the limited cases where problems are identified.

It is clearly understood that the aim of this legislation is to control the marketing of ornamental plant propagating material, particularly for professional use. However, it seems that, from the information received, few problems have arisen with material retailed for private use by the final consumer, and such trade is still monitored either under Directive 98/56 or through general trading law. Therefore, customers are adequately protected.

² Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spreading within the Community.

5. CONCLUSIONS AND PROPOSALS

Council Directive 98/56/EC on the marketing of propagating material of ornamental plants introduced a new approach compared to the previous legislation in this area and the other legislation on the marketing of seed and propagating material. In particular:

- It is now the responsibility of the suppliers of propagating material to ensure that their products fulfil the conditions laid down in the Directive;
- The role of the competent authorities of the Member States is to ensure that suppliers fulfil those conditions;
- Community rules for all genera and species of ornamental plants in the Community are established (with the exception of those covered by Council Regulation (EC) No 338/97 of 9.12.1996 on the protection of species of wild fauna and flora by regulating trade therein);
- Member States have encountered some difficulties in transposing the Directive as the reorganisation of services and the training of staff takes time. A specific problem has been the delay in transposition (average delay of 6.5 months). Consequently, it should be possible to accomplish an exhaustive and more conclusive evaluation of the operations and control arrangements that have been put in place to fulfil the requirements of the above Directive in the medium term (5 years). The present report, prepared in close co-operation with the Member States' official bodies, should be considered as a preliminary evaluation.

The experience achieved during the first period of application demonstrates that the basic items are in place (i.e. identification of official bodies, administrative and technical procedures). In this area, the level of harmonisation amongst Member States can be considered acceptable.

Although very few problems have been identified or reported to official bodies since the implementation of the Directive, clearly the existence of even a limited number of such cases suggests that some technical aspects related to the requirements to be met by suppliers of propagating material could be further improved (e.g. identification and monitoring of critical points, labelling, identification, health and external quality of propagating material).

One means of assessing whether such improvements occur is through tests and trials. Under the provisions laid down by the Directive (Article 14) it is proposed that the Commission will continue to ensure that the arrangements for co-ordinating, carrying out, inspecting and possibly financing³ tests and trials are in place. The tests and trials aim at harmonising technical methods of examination of propagating material and ensuring that propagating material complies with the requirements and conditions of the Directive. The tests and trials on roses, carnations and *Pelargonium* carried out under the requirements of the former Directive 91/682/EEC produced interesting results which were discussed by the relevant Standing Committee and which improved the mutual confidence amongst the Member States.

The main conclusions are that:

- Member States should continue their efforts in improving the control system by on the spot checks, sampling and testing to verify compliance with the requirements.
- Member States should continue to encourage suppliers to improve their efforts to fully understand their new role and to improve the quality level of propagating material for the production of ornamental plants, which occupies an important place in the agriculture of the Community.
- The official bodies of the Member States consider that the requirements concerning the retail trade are important for the protection of the final consumer both from the economic point of view i.e. goods true to type (confidence in the market and economic protection of consumer) and concerning plant health and the related practices to achieve this.

Based on the general opinion expressed by the official bodies, the Commission proposes that all the requirements for the operation of the control arrangements foreseen in Article 12 should be maintained, as well as the requirements for retail sales which are regarded as an essential tool for transparency permitting the consumers (professionals/amateurs) to receive good quality, true to type and healthy material.

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A draft proposal (2002/0232(CNS)) amending the relevant Directives to create a clear legal basis for the Community financial contribution in the interest of transparency has been presented by the Commission.

ANNEX

1. TESTS AND TRIALS (ARTICLE 14)

In the majority of Member States where ornamental plant production is an important business, samples taken from the market are submitted for tests and/or trials as foreseen in Article 14 to check compliance with the quality requirements.

Samples are examined by official bodies which are either the designated authority responsible for the quality requirements laid down by the Directive or bodies co-operating on the basis of agreements. Usually the bodies responsible for tests and trials follow a quality system.

The results of sampling revealed only a few cases where quality problems had been found. Concerning plant health, the most frequent cases refer to roses, *Pelargonium*, perennials and bulbs (e.g. *Narcissus*, *Freesia*, *Lilium*). The most frequent pests are viruses (mosaic in particular), bacteria (*Agrobacterium* and *Xanthomonas*), fungi (*Botrytis*, *Fusarium*, *Verticillium*) and insects (in particular Thrips and leafminers). Concerning other quality issues, the most frequent cases were identity problems, incorrect naming and insufficient trueness-to-type which were found on roses, perennials (e.g. *Hosta* and *Hemerocallis*) and flowers propagated by seeds.

2. CORRECTIVE ACTION IN THE PROPAGATING MATERIAL OF ORNAMENTAL PLANTS SECTOR (ARTICLE 13)

As a follow up to inspections or tests and trials:

The corrective action required depends on the severity/complexity of the problem. For straightforward matters, the inspector visiting the premises may issue immediate instructions. For more complex matters requiring a follow up (e.g. new pests, infringements) the matter is referred to senior inspectors who may, where necessary, seek advice from Headquarters (principal inspectors and policy colleagues) to take the appropriate action.

As a follow up to complaints from customers:

The official body requires direct corrective action to be taken by suppliers if they are located in the same Member State. In the case of suppliers located in other Member States, the official body informs the official body of the Member State of the supplier concerned.

When complaints about the quality of propagating material are received, the official body checks whether the complaint is indeed related to or caused by the propagating material as it was supplied. If there is evidence that material of incorrect identity, health or quality was supplied, the supplier and customer are informed about this fact. The supplier must then take measures to solve the problem and is advised how to prevent a repetition of the problem.

It must be emphasised that a very low number of complaints have been received by official bodies from customers where corrective action was required. The most frequent cases refer to the absence of accompanying documents or to documents presented by nurseries/customers where it is unclear whether the supplier is a registered nursery. Some cases refer to quality problems like plant health and complaints about the poor growth of rootstocks or the poor quality of cuttings/young plants. The main species involved are roses, *Pelargonium*, *Prunus* spp. and bulbs.

The most frequent measures proposed are: treatment against pests, withdrawal of material from trade, destruction, improvement of the internal quality system, improvement of labelling of material, increased training of operators. The official body verifies the implementation of corrective action to be taken by subsequent inspections and checks.

3. TRACEABILITY

Registration of suppliers (Article 6)

To ensure an appropriate traceability (trace back and trace forward) suppliers are required to be registered in accordance with Article 6 of the Directive. To permit the harmonised application of traceability by the suppliers, registration forms are prepared by the official bodies. The details that may be recorded by official bodies include:

- Name and relevant addresses of supplier (offices, premises),
- Description of activities (production, treating, sale of material),
- Description of crops, places of production,
- Annual records of premises, varieties/lots grown and origin of propagating material,
- Administrative obligations (register of crop protection, register of buying/selling),
- Proper identification of material in the nursery.

Suppliers must first satisfy themselves that they are capable of meeting the requirements of the Directive. A registration number is then generated. For businesses previously accredited under Directive 91/682, the registration number may be the same as the previous accreditation number. The same procedure is adopted for suppliers already registered under Directive 2000/29/EC (as foreseen by Article 6(1)). Where necessary, telephone calls or visits to the premises are carried out by the official body to establish that the applicant is able to meet the requirements of the Directive.

The validity of a registration is indefinite in the majority of Member States. In others it is annual and automatically renewable, provided that certain conditions are met.

In particular circumstances the registration can be withdrawn. Inspectors work closely with businesses to avoid, where possible, the situation where standards deteriorate to the extent that suspension or revocation of a registration is necessary. Suspension may be considered where there has been a serious, but temporary, neglect of the Directive's requirements. A Notice can be issued to the supplier by the inspector or by the official body and the inspector checks if standards/procedures have been improved. Revocation would be considered only in extreme circumstances, such as a deliberate disregard of the Directive's requirements with little likelihood of improvement.

The registration records are available to the authorities but are usually unavailable to the public. However the list of registered suppliers (registration number, name, place) is publicly accessible directly or under request in the majority of Member States.

Measures taken by suppliers (Article 7)

Generally suppliers take measures laid down in Article 7 of the Directive in an appropriate manner. In the case of doubts about plant health, the suppliers take samples to be submitted for analysis by agreed laboratories. In the majority of Member States these laboratories are official laboratories or laboratories working under an official agreement and following a quality system.

The suppliers ensure that, during production, lots of propagating material remain separately identifiable by: keeping records in the register of crop production, labelling propagating material along the production line, physical separation between batches, and the preparation of a plan of the nursery or greenhouse.

Suppliers must inform the official body immediately if harmful organisms as foreseen by Directive 2000/29/EC are present.

The official bodies report to have received few complaints from customers regarding non-compliance with the checks required.

Those complaints which are received refer particularly to identity problems, plant health and the external quality of plant propagating material of roses, *Pelargonium* and perennials. An appropriate follow up (e.g. survey of the nursery, trace back) is done by the official bodies where necessary.

EXPLANATORY MEMORANDUM

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