

## COMMISSION IMPLEMENTING REGULATION (EU) 2022/1309

of 26 July 2022

amending and correcting Implementing Regulation (EU) 2018/2019 as regards certain plants for planting of *Malus domestica* originating in Ukraine and in Serbia

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/2031 of the European Parliament and of the Council of 26 October 2016 on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC<sup>(1)</sup>, and in particular Article 42(4), first subparagraph, thereof,

Whereas:

- (1) Commission Implementing Regulation (EU) 2018/2019<sup>(2)</sup> establishes, on the basis of a preliminary assessment, a list of high risk plants, plant products and other objects.
- (2) Commission Implementing Regulation (EU) 2018/2018<sup>(3)</sup> lays down specific rules concerning the procedure to be followed in order to carry out the risk assessment referred to in Article 42(4) of Regulation (EU) 2016/2031 for high risk plants, plant products and other objects.
- (3) Following a preliminary assessment, 34 genera and one species of plants for planting originating from third countries were included in the Annex to Implementing Regulation (EU) 2018/2019 as high risk plants. That Annex includes the genus *Malus* Mill.
- (4) On 18 October 2019, Ukraine submitted to the Commission a request for export to the Union of one- to three-year old rootstocks and grafted plants for planting of *Malus domestica* that are dormant and bare-rooted. That request was supported by the relevant technical dossier.
- (5) On 30 September 2021, the European Food Safety Authority ('the Authority') adopted a scientific opinion regarding the commodity risk assessment of *Malus domestica* plants for planting from Ukraine<sup>(4)</sup>. The Authority identified *Lopholeucaspis japonica*, *Eotetranychus prunicola*, Tobacco ringspot virus and *Erwinia amylovora* as pests relevant for those plants for planting.
- (6) The Authority evaluated the risk mitigation measures described in the dossier for *Lopholeucaspis japonica*, *Eotetranychus prunicola* and Tobacco ringspot virus and estimated the likelihood of the freedom of the commodity from those pests. Concerning *Erwinia amylovora*, the Authority evaluated whether the special requirements for the introduction into and movement within the specified protected zones, listed in point 9 of Annex X to Commission Implementing Regulation (EU) 2019/2072<sup>(5)</sup>, of plants of *Malus* Mill., other than fruits and seeds, are fulfilled.

<sup>(1)</sup> OJ L 317, 23.11.2016, p. 4.

<sup>(2)</sup> Commission Implementing Regulation (EU) 2018/2019 of 18 December 2018 establishing a provisional list of high risk plants, plant products or other objects, within the meaning of Article 42 of Regulation (EU) 2016/2031 and a list of plants for which phytosanitary certificates are not required for introduction into the Union, within the meaning of Article 73 of that Regulation (OJ L 323, 19.12.2018, p. 10).

<sup>(3)</sup> Commission Implementing Regulation (EU) 2018/2018 of 18 December 2018 laying down specific rules concerning the procedure to be followed in order to carry out the risk assessment of high risk plants, plant products and other objects within the meaning of Article 42(1) of Regulation (EU) 2016/2031 of the European Parliament and of the Council (OJ L 323, 19.12.2018, p. 7).

<sup>(4)</sup> EFSA PLH Panel (EFSA Panel on Plant Health), 2021. Scientific Opinion on the commodity risk assessment of *Malus domestica* plants from Ukraine. *EFSA Journal* 2021;19(11):6909, 58 pp. <https://doi.org/10.2903/j.efsa.2021.6909>

<sup>(5)</sup> Commission Implementing Regulation (EU) 2019/2072 of 28 November 2019 establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 of the European Parliament and the Council, as regards protective measures against pests of plants, and repealing Commission Regulation (EC) No 690/2008 and amending Commission Implementing Regulation (EU) 2018/2019 (OJ L 319, 10.12.2019, p. 1).

- (7) On the basis of the Authority's scientific opinion, the phytosanitary risk from the introduction into the Union of up to three-year old bare-rooted dormant rootstocks and grafted plants for planting of *Malus domestica* originating in Ukraine is considered to be acceptable, provided that the respective special import requirements set out in Annex VII to Implementing Regulation (EU) 2019/2072 and the special requirements for protected zones set out in point 9 of Annex X thereto are complied with.
- (8) *Lopholeucapsis japonica* and Tobacco ringspot virus are listed as Union quarantine pests in Annex II to Implementing Regulation (EU) 2019/2072. *Erwinia amylovora* is listed as a protected zone quarantine pest and as a Union regulated non-quarantine pest in Annex III and Annex IV to Implementing Regulation (EU) 2019/2072 respectively, and special requirements are in place in point 9 of Annex X to that Regulation, to prevent the entry and spread of the pest within the specified protected zones.
- (9) *Eotetranychus prunicola* is not yet included in the list of Union quarantine pests. Nevertheless, on the basis of evidence provided by the Member States, the impact of that pest on its host plants in the Union is not significant. Consequently, no import requirements are necessary with respect to that pest.
- (10) Therefore, it is appropriate that up to three-year old bare-rooted dormant rootstocks and grafted plants for planting of *Malus domestica* originating in Ukraine are no longer considered high-risk plants.
- (11) Commission Implementing Regulation (EU) 2020/1361 <sup>(6)</sup> amended Implementing Regulation (EU) 2018/2019 by specifying that it is prohibited to introduce into the Union *Malus Mill.*, other than one- to two-year old bare rooted, dormant, grafted plants for planting of *Malus domestica* originating in Serbia. However, by omission, that Regulation does not specify that those plants for planting should be free of leaves, in accordance with the relevant EFSA scientific opinion <sup>(7)</sup>. That omission should be therefore corrected.
- (12) The Annex to Implementing Regulation (EU) 2018/2019 should therefore be amended and corrected accordingly.
- (13) In order to comply with the Union obligations deriving from the World Trade Organization agreement on the application of sanitary and phytosanitary measures <sup>(8)</sup>, the import of up to three-year old bare-rooted dormant rootstocks and grafted plants for planting of *Malus domestica* originating in Ukraine should resume within the shortest possible delay.
- (14) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee for Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

#### Article 1

The Annex to Implementing Regulation (EU) 2018/2019 is amended and corrected in accordance with the Annex to this Regulation.

#### Article 2

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

<sup>(6)</sup> Commission Implementing Regulation (EU) 2020/1361 of 30 September 2020 amending Implementing Regulation (EU) 2018/2019 as regards certain plants for planting of *Malus domestica*, originating in Serbia and certain plants for planting of *Acer japonicum* Thunberg, *Acer palmatum* Thunberg and *Acer shirasawanum* Koidzumi, originating in New Zealand (OJ L 317, 1.10.2020, p. 1).

<sup>(7)</sup> EFSA PLH Panel (EFSA Panel on Plant Health), 2020. Scientific Opinion on the commodity risk assessment of *Malus domestica* plants from Serbia. *EFSA Journal* 2020;18(5):6109, 53 pp. <https://doi.org/10.2903/j.efsa.2020.6109>

<sup>(8)</sup> Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) (adopted on 15 April 1994, entered into force on 1 January 1995; UNTS volume 1867, p. 493); World Trade Organization, [https://www.wto.org/english/tratop\\_e/sps\\_e/spsagr\\_e.htm](https://www.wto.org/english/tratop_e/sps_e/spsagr_e.htm)

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 26 July 2022.

*For the Commission*  
*The President*  
Ursula VON DER LEYEN

---

## ANNEX

In the Annex to Implementing Regulation (EU) 2018/2019, in the table in point 1, in the second column 'Description', the entry '*Malus* Mill., other than one- to two-year old bare rooted, dormant, grafted plants for planting of *Malus domestica* originating in Serbia' is replaced by the following:

'*Malus* Mill., other than:

- one- to two-year old bare-rooted, dormant, free of leaves, grafted plants for planting of *Malus domestica* originating in Serbia;
  - up to three-year old bare-rooted, dormant, free of leaves, rootstocks of *Malus domestica* originating in Ukraine; and
  - up to three-year old bare-rooted, dormant, free of leaves, grafted plants for planting of *Malus domestica* originating in Ukraine'.
-