

**COMMISSION IMPLEMENTING REGULATION (EU) 2023/1310****of 27 June 2023****establishing a derogation from Implementing Regulation (EU) 2019/2072 concerning the introduction into the Union territory of naturally or artificially dwarfed plants for planting of *Chamaecyparis* Spach, *Juniperus* L. and certain species of *Pinus* L., originating in the Republic of Korea**

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 Articles 40(2) and 41(2) thereof,

Whereas:

- (1) Commission Decision 2002/499/EC <sup>(2)</sup> authorised the Member States to provide for derogations from Article 4(1) of Council Directive 2000/29/EC <sup>(3)</sup>, with regard to the prohibitions referred to in point 1 of Part A of Annex III to that Directive, for introduction into the Union territory of naturally or artificially dwarfed plants of *Chamaecyparis* Spach, *Juniperus* L. and *Pinus* L., other than fruit and seeds, originating in the Republic of Korea.
- (2) On 17 January 2019, the Republic of Korea submitted a request for extension of the period of application of Decision 2002/499/EC, but that extension was not granted before the expiry of that Decision on 31 December 2020.
- (3) Regulation (EU) 2016/2031 has replaced Directive 2000/29/EC, while Commission Implementing Regulation (EU) 2019/2072 <sup>(4)</sup> has replaced Annexes I to V to that Directive.
- (4) Implementing Regulation (EU) 2019/2072 establishes a list of plants, plant products and other objects whose introduction into the Union territory from certain third countries is prohibited. In accordance with point 1 of Annex VI to that Regulation, the introduction into the Union territory of plants for planting of *Chamaecyparis* Spach, *Juniperus* L. and *Pinus* L., other than fruit and seeds is prohibited.
- (5) Until 31 December 2020, the introduction of the specified plants into the Union, subject to the requirements of Decision 2002/499/EC, as effectively applied by the Republic of Korea, has presented no phytosanitary risk for the Union territory. Moreover, since the date of application of that Decision, no scientific or technical evidence has indicated the emergence of any new risk with regard to those plants. Therefore that derogation should be granted again.

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

<sup>(2)</sup> Commission Decision 2002/499/EC of 26 June 2002 authorising derogations from certain provisions of Council Directive 2000/29/EC in respect of naturally or artificially dwarfed plants of *Chamaecyparis* Spach, *Juniperus* L. and *Pinus* L., originating in the Republic of Korea (OJ L 168, 27.6.2002, p. 53).

<sup>(3)</sup> 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 spread within the Community (OJ L 169, 10.7.2000, p. 1).

<sup>(4)</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).

- (6) The derogation should be subject to the same requirements as those that were set out in Decision 2002/499/EC. Those requirements should apply without prejudice to point 30 of Annex VII to Implementing Regulation (EU) 2019/2072, concerning the introduction into the Union territory of naturally or artificially dwarfed plants for planting other than seeds.
- (7) At the same time, the list of the pests of concern should be updated in relation to the corresponding list of Decision 2002/499/EC in order to reflect recent new scientific information.
- (8) Several of the pests hosted by the specified plants, and in particular the pests *Coleosporium paederiae* Dietel ex Hirats. f., *Crisicoccus pini* (Kuwana), *Dendrolimus spectabilis* (Butler), *Dendrolimus superans* Butler, and *Thecodiplosis japonensis* Uchida & Inouye are not yet listed as Union quarantine pests, because their phytosanitary risk has not been fully assessed. Therefore, as this Regulation addresses a particular phytosanitary risk, which is not yet fully assessed, the requirements it provides are to have a temporary character pursuant to Article 7 of Implementing Regulation (EU) 2019/2072.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

#### Article 1

#### Definitions

For the purposes of this Regulation, the following definitions apply:

- (1) 'specified plants' means naturally or artificially dwarfed plants for planting, originating in the Republic of Korea, of the following species:
  - (a) *Chamaecyparis* sp. Spach;
  - (b) *Juniperus* sp. L.;
  - (c) *Pinus parviflora* Sieb. & Zucc. (*Pinus pentaphylla* Mayr);
  - (d) *Pinus parviflora* Sieb. & Zucc., grafted on a rootstock of another *Pinus* species, originating in the Republic of Korea;
- (2) 'pest of concern' means:
  - (a) for all specified plants: any Union quarantine pest, protected zone quarantine pest or pest subject to the measures referred to in Article 30 of Regulation (EU) 2016/2031 which is not known to occur in the Union;
  - (b) for *Pinus parviflora* Sieb. & Zucc. (*Pinus pentaphylla* Mayr) plants, the pests referred to in point (a) and any of the following pests:
    - (i) *Coleosporium paederiae* Dietel ex Hirats. f.;
    - (ii) *Crisicoccus pini* (Kuwana);
    - (iii) *Dendrolimus spectabilis* (Butler);
    - (iv) *Dendrolimus superans* Butler;
    - (v) *Thecodiplosis japonensis* Uchida & Inouye.

*Article 2***Derogation from the prohibition to introduce the specified plants into the Union territory**

1. By way of derogation from point 1 of Annex VI to Implementing Regulation (EU) 2019/2072, the introduction into the Union territory of the specified plants shall be allowed subject to compliance with the requirements set out in the Annex to this Regulation.
2. Paragraph 1 shall apply to the specified plants introduced into the Union territory in the following periods:
  - (a) for *Chamaecyparis*: from 1 July 2023 to 31 December 2028;
  - (b) for *Juniperus*: from 1 November to 31 March of each year until 31 December 2028;
  - (c) for *Pinus parviflora* Sieb. & Zucc. (*Pinus pentaphylla* Mayr) and *Pinus parviflora* Sieb. & Zucc., grafted on a rootstock of another *Pinus* species, originating in the Republic of Korea: from 1 July 2023 to 31 December 2028.

*Article 3***Confirmed presence of a pest of concern during or following the post-entry detention period**

Member States shall notify the Commission and the other Member States of any pest of concern, the presence of which has been confirmed during or following the post-entry detention period referred to in point 9 of the Annex.

In such case, all specified plants originating from the nursery from which the infected/infested specified plant originated shall not be allowed to be introduced into the Union territory, until the renewal of nursery registration referred to in point 11 of the Annex.

*Article 4***Entry into force and period of application**

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

It shall apply until 31 December 2028.

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

Done at Brussels, 27 June 2023.

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

## ANNEX

**Requirements for the introduction into the Union territory of the specified plants as referred to in Article 2**

1. In the case where the specified plants are *Pinus parviflora* Sieb. & Zucc., grafted on a rootstock of another *Pinus* species, the rootstock shall not bear any shoots.
2. The total number of the specified plants imported shall not exceed the quantities that have been determined for each year and notified to the Commission and the other Member States by the importing Member State, having regard to the available confinement facilities or quarantine stations.
3. Prior to export to the Union, the specified plants shall have been grown, held and trained for at least two consecutive years in authorised nurseries, which are subject to a control regime by the National Plant Protection Organisation of the Republic of Korea ('NPPO') and specifically authorised for the purpose of export to the Union. The annual lists of the officially authorised nurseries shall be made available to the Commission, by 30 September of each year. Those lists shall include the number of plants grown in each of these nurseries, as far as they are deemed suitable for introduction into the Union territory
4. In the case of *Juniperus* plants, the plants of the genera *Chaenomeles* Lindl., *Crataegus* L., *Cydonia* Mill., *Juniperus* L., *Malus* Mill., *Photinia* Ldl. and *Pyrus* L., which have been grown in the two last years prior to import in the authorised nurseries mentioned in point 3 and in their immediate vicinity, shall have been officially inspected at least six times a year at appropriate intervals for the presence of the pests of concern for the respective plants. In the case of *Chamaecyparis* and *Pinus* plants, the plants of the genus *Chamaecyparis* Spach and of the genus *Pinus* L., which have been grown in those naturally or artificially dwarfed plants nurseries and in their immediate vicinity, shall have been officially inspected at least six times a year at appropriate intervals, for the presence of the respective pests of concern.
5. The specified plants shall have been found free, in those inspections, from the pests of concern.

Infested plants shall be removed by the NPPO, or the competent national bodies or professional operators under the official supervision of the NPPO. The remaining specified plants shall be effectively treated and held for an appropriate period and inspected to ensure freedom from those pests.

Any detection of pests of concern, during the inspections carried out pursuant to point 4, shall be officially recorded, and the records shall be made available to the Commission, upon request.

Any detection of any of those pests of concern shall disqualify the nursery from the list of authorised nurseries. The NPPO of the Republic of Korea shall inform immediately the Commission thereof and remove the nursery from the list of authorised nurseries, as referred to in point 3. The NPPO may only renew the registration of that nursery at the earliest in the following year.

6. The specified plants intended for export to the Union, shall at least during the period of two consecutive years referred to in point 3:
  - (a) be potted in pots which are placed either on shelves at least 50 cm above ground, or onto concrete flooring, impenetrable for nematodes, which is well maintained and free from debris;
  - (b) be found free, in the inspections referred to in point 4, from the pests of concern;
  - (c) be made recognisable with a marking or a traceability code, exclusive for each individual plant and notified to the NPPO, enabling the identification of the officially authorised nursery and the year of potting; and
  - (d) if they belong to the genus *Pinus* L. and in the case of grafting on a rootstock of a *Pinus* species other than *Pinus parviflora* Sieb. & Zucc., have a rootstock derived from sources officially approved as healthy material.

7. The specified plants shall be traceable from the time of their removal from the nursery until the time of loading for export, through sealing of transport vehicles or appropriate alternatives.
8. The specified plants and the adhering or associated growing medium ('the material') shall be accompanied by a phytosanitary certificate, issued by the NPPO, attesting compliance with the requirements specified in points 1 to 7 of this Annex, and in point 30 of Annex VII to Regulation (EU) 2019/2072.

The certificate shall indicate:

- (a) the name or the names of the authorised nursery or authorised nurseries;
  - (b) the markings or traceability codes referred to in point 6(c), as far as they enable identification of the authorised nursery and the year of potting;
  - (c) the specification of the last treatment applied, prior to dispatch;
  - (d) under 'Additional Declaration', the statement 'This consignment meets the requirements laid down in Regulation (EU) 2023/1310'.
9. Before the specified plants are released, they shall be subject to official post-entry detention in a confinement facility or quarantine station for a period of not less than three months of active growth.

In the case of *Juniperus* plants, the detention period shall cover the period from 1 April until 30 June.

The material shall also be found free, during and following that detention period, from any pests of concern. Particular attention shall be given by the competent authority or the professional operators to preserve the marking or traceability code, referred to in point 6(c) for each plant.

10. Any lot containing material which has not been found free from the pests of concern, during the post-entry detention period referred to in point 9, shall be immediately destroyed by the competent authority or the professional operator under the official supervision of the competent authority.
11. In such case, the relevant nursery in the Republic of Korea shall be removed by the NPPO from the list of the authorised nurseries, as referred to in point 3.

The NPPO may then only renew the registration of that nursery at the earliest in the following year.

---