



2023/2458

3.11.2023

**COMMISSION IMPLEMENTING REGULATION (EU) 2023/2458**

**of 31 October 2023**

**amending Implementing Regulation (EU) 2018/2019 as regards certain plants for planting of *Fagus sylvatica* originating in the United Kingdom and Implementing Regulation (EU) 2020/1213 as regards the phytosanitary measures for the introduction of those plants for planting into the Union territory**

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), third subparagraph thereof,

Whereas:

- (1) Commission Implementing Regulation (EU) 2018/2019 <sup>(2)</sup> establishes, on the basis of a preliminary risk assessment, a list of high risk plants, plant products and other objects.
- (2) Following a preliminary assessment, 34 genera and one species of plants for planting originating from third countries are provisionally listed in Implementing Regulation (EU) 2018/2019 as high risk plants. One of the listed genera is *Fagus* L.
- (3) Commission Implementing Regulation (EU) 2020/1213 <sup>(3)</sup> sets out the phytosanitary measures for the introduction into the Union territory of certain plants, plant products and other objects, which have been removed from the Annex to Implementing Regulation (EU) 2018/2019, but for which phytosanitary risks are not yet fully assessed. This is because one or more pests hosted by those plants are not yet included in the list of Union quarantine pests of Commission Implementing Regulation (EU) 2019/2072 <sup>(4)</sup>, but they may fulfil the conditions to be included in that list following a further complete risk assessment.
- (4) On 16 June 2022, the United Kingdom <sup>(5)</sup> submitted to the Commission a request for export to the Union of the following plants for planting ('the relevant plants'):

— up to two-year-old plants for planting of *Fagus sylvatica* with a maximum diameter of 10 mm,

<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) 2020/1213 of 21 August 2020 concerning the phytosanitary measures for the introduction into the Union of certain plants, plant products and other objects which have been removed from the Annex to Implementing Regulation (EU) 2018/2019 (OJ L 275, 24.8.2020, p. 5).

<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).

<sup>(5)</sup> In accordance with the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, and in particular Article 5(4) of the Protocol on Ireland/Northern Ireland in conjunction with Annex 2 to that Protocol, for the purposes of this act, references to the United Kingdom do not include Northern Ireland.

- up to seven-year-old bare-rooted plants for planting of *Fagus sylvatica* with a maximum diameter of 40 mm,
- up to fifteen-year-old plants for planting of *Fagus sylvatica* in growing medium, with a maximum diameter of 80 mm.

That request was supported by the relevant technical dossier.

- (5) On 27 June 2023, the European Food Safety Authority ('the Authority') adopted a scientific opinion as regards the risk assessment of the relevant plants originating in the United Kingdom <sup>(6)</sup>. The Authority identified *Phytophthora ramorum* (non-EU isolates), *Thaumetopoea processionea*, *Meloidogyne mali* and *Phytophthora kernoviae*, as pests relevant for those plants.
- (6) The Authority evaluated the risk mitigation measures described in the dossier for the identified pests. It concluded that the likelihood that the relevant plants are free from those pests is high, provided the relevant risk mitigation measures are applied.
- (7) On the basis of that opinion, the phytosanitary risk arising from the introduction into the Union territory of the relevant plants is considered to be reduced to an acceptable level, provided that appropriate measures are applied to address the risk of pests related to those plants.
- (8) The measures described by the United Kingdom in the technical dossier are considered sufficient to reduce the risk arising from the introduction into the Union territory of the relevant plants to an acceptable level. Those measures should therefore be adopted as phytosanitary import requirements to ensure the phytosanitary protection of the Union territory from the risk arising from the introduction of the relevant plants into it.
- (9) The phytosanitary risk arising from the introduction into the Union territory of fifteen-year-old bare-rooted plants for planting of *Fagus sylvatica* is considered to be lower than or similar to the risk arising from the introduction of *Fagus sylvatica* plants for planting of the same age in growing medium.
- (10) Consequently, plants for planting of *Fagus sylvatica* that are up to 15 years old, with a maximum diameter of 80 mm, should no longer be considered high risk plants.
- (11) Implementing Regulation (EU) 2018/2019 should therefore be amended accordingly.
- (12) *Phytophthora ramorum* (non-EU isolates) and *Thaumetopoea processionea* are listed as Union quarantine pest and protected zone quarantine pest respectively, in Annexes II and III to Implementing Regulation (EU) 2019/2072.
- (13) *Phytophthora kernoviae* is not yet included in the list of Union quarantine pests of Implementing Regulation (EU) 2019/2072. An updated complete pest risk assessment needs to become available, to determine whether it fulfils the conditions in order to be listed in Annex II to Implementing Regulation (EU) 2019/2072, and whether the relevant plants, originating in the United Kingdom, are to be listed in Annex VII to that Regulation, together with the respective specific requirements.
- (14) Implementing Regulation (EU) 2020/1213 should therefore be amended accordingly.
- (15) *Meloidogyne mali* is not included in the list of Union quarantine pests. A pest risk analysis for that pest was published by the European and Mediterranean Plant Protection Organization in September 2017 <sup>(7)</sup>. It was concluded that the pest should not be regulated as a Union quarantine pest nor as a Union regulated non-quarantine pest, because although it has been present in certain Member States for a long time without official control measures, the phytosanitary risk arising from it in those Member States is considered low. For that reason, no import requirements are necessary with respect to that pest.

<sup>(6)</sup> EFSA PLH Panel (EFSA Panel on Plant Health), 2023. Commodity risk assessment of *Fagus sylvatica* plants from the UK. *EFSA Journal*, 21(7), 1–151. <https://doi.org/10.2903/j.efsa.2023.8118>.

<sup>(7)</sup> EPPO (2017), Pest risk analysis for *Meloidogyne mali*. EPPO, Paris. Available at [http://www.eppo.int/QUARANTINE/Pest\\_Risk\\_Analysis/PRA\\_intro.htm](http://www.eppo.int/QUARANTINE/Pest_Risk_Analysis/PRA_intro.htm) and <https://gd.eppo.int/taxon/MELGMA>.

- (16) 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 in accordance with Annex I to this Regulation.

*Article 2*

The Annex to Implementing Regulation (EU) 2020/1213 is amended in accordance with Annex II to this Regulation.

*Article 3*

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

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

Done at Brussels, 31 October 2023.

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

## ANNEX I

In the Annex to Implementing Regulation (EU) 2018/2019, in the table of point 1, in the second column 'Description', the entry for 'Fagus L.', is replaced by the following:

'Fagus L., other than up to fifteen-year-old plants for planting of *Fagus sylvatica* with a maximum diameter of 80 mm at the base of the stem, originating in the United Kingdom'.

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## ANNEX II

In the table in the Annex to Implementing Regulation (EU) 2020/1213, the following entry is inserted after the entries 'Albizia julibrissin Durazzini, bare rooted, dormant grafted plants for planting with a maximum diameter of 2,5 cm':

Plants, plant products or other objects	CN Code	Third countries of origin	Measures
'Fagus sylvatica, up to fifteen-year-old plants for planting with a maximum diameter of 80 mm at the base of the stem.	ex 0602 10 90 ex 0602 90 41 ex 0602 90 45 ex 0602 90 46	United Kingdom	(a) Official statement that: <ul style="list-style-type: none"> <li>(i) the plants are free from <i>Phytophthora kernoviae</i>;</li> <li>(ii) the site of production has been found free from <i>Phytophthora kernoviae</i> during official inspections, including laboratory testing of any suspicious symptoms, carried out at appropriate times, since the beginning of the last growing season;</li> <li>(iii) a system has been put in place to ensure that tools and machinery have been cleaned to be free from soil and plant debris, and disinfected to be free from <i>Phytophthora kernoviae</i>, before they have been introduced into the site of production; and</li> <li>(iv) immediately prior to export, consignments of the plants have been subjected to an official inspection for the presence of <i>Phytophthora kernoviae</i> including laboratory testing of any suspicious symptom.</li> </ul> (b) The phytosanitary certificates for those plants include under the heading "Additional Declaration": <ul style="list-style-type: none"> <li>(i) the following statement: "The consignment complies with Commission Implementing Regulation (EU) 2020/1213"; and</li> <li>(ii) the specification of the registered sites of production.'</li> </ul>