



2024/1162

23.4.2024

COMMISSION IMPLEMENTING REGULATION (EU) 2024/1162

of 22 April 2024

amending Implementing Regulation (EU) 2018/2019 as regards certain plants for planting of *Malus domestica* and certain plants for planting of *Berberis thunbergii* originating in Türkiye and amending Implementing Regulation (EU) 2020/1213 as regards the phytosanitary measures for the introduction of the *Malus domestica* 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 ⁽¹⁾, and in particular Article 42(4), the first and third subparagraphs, thereof

Whereas:

- (1) Commission Implementing Regulation (EU) 2018/2019 ⁽²⁾ establishes, on the basis of a preliminary risk assessment, a list of high risk plants, plant products and other objects.
- (2) Commission Implementing Regulation (EU) 2018/2018 ⁽³⁾ 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 all third countries were included in the Annex to Implementing Regulation (EU) 2018/2019 as high risk plants. That Annex includes the genera *Malus* Mill. and *Berberis* L.
- (4) The list of plants, plant products or other objects, removed from the Annex to Implementing Regulation (EU) 2018/2019 and that may only be introduced into, or moved within, the Union territory if special requirements are fulfilled, is provided for in Commission Implementing Regulation (EU) 2020/1213 ⁽⁴⁾.
- (5) Implementing Regulation (EU) 2020/1213 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 ⁽⁵⁾, but they may fulfil the conditions to be included following a further complete risk assessment.

⁽¹⁾ OJ L 317, 23.11.2016, p. 4.

⁽²⁾ 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).

⁽³⁾ 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).

⁽⁴⁾ 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).

⁽⁵⁾ 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) On 9 August 2019, Türkiye submitted to the Commission, a request for export to the Union of *Malus domestica* plants for planting consisting of up to one-year-old budwood and scions that are free of leaves, and of rootstocks and grafted plants that are bare-rooted, dormant, free of leaves and with a maximum stem diameter of 3 cm. That request was supported by the relevant technical dossier.

- (7) On 31 March 2022, the European Food Safety Authority ('the Authority') adopted a scientific opinion regarding the commodity risk assessment of *Malus domestica* plants from Türkiye ⁽⁶⁾. The Authority identified *Anoplophora chinensis*, *Calepitrimerus baileyi*, *Cenopalpus irani*, *Cicadatra persica*, *Diplodia bulgarica*, *Erwinia amylovora*, *Hoplolaimus galeatus*, *Lopholeucaspis japonica*, *Malacosoma parallela*, *Pratylenchus loosi*, *Pyrolachnus pyri* and Tomato ringspot virus as pests relevant for those plants for planting.

- (8) On 7 November 2022, the Authority amended the scientific opinion to include *Didesmococcus unifasciatus*, *Euzophera semifuneralis*, *Maconellicoccus hirsutus*, *Pochazia shantungensis* and *Russellaspis pustulans* as relevant pests for those plants for planting.

- (9) The Authority evaluated the risk mitigation measures described in the dossier for *Calepitrimerus baileyi*, *Cenopalpus irani*, *Cicadatra persica*, *Didesmococcus unifasciatus*, *Diplodia bulgarica*, *Euzophera semifuneralis*, *Hoplolaimus galeatus*, *Lopholeucaspis japonica*, *Maconellicoccus hirsutus*, *Malacosoma parallela*, *Pochazia shantungensis*, *Pratylenchus loosi*, *Pyrolachnus pyri* and Tomato ringspot virus and estimated the likelihood of freedom of the commodity from those pests. The Authority evaluated whether Türkiye applies the emergency measures, set out in Commission Implementing Regulation (EU) 2022/2095 ⁽⁷⁾ to prevent the introduction into and the spread within the Union of *Anoplophora chinensis* and whether, concerning *Erwinia amylovora*, the special requirements for the introduction into and movement within the specified protected zones listed in point 9 of Annex X to Implementing Regulation (EU) 2019/2072, of plants of *Malus* Mill., other than fruits and seeds, are fulfilled. It concluded that Türkiye does apply those emergency measures and that the requirements listed in point 9 of Annex X to Implementing Regulation (EU) 2019/2072 were not fulfilled. The risk mitigation measures for *Russellaspis pustulans* were not evaluated by the Authority. However, a Scientific opinion on the pest categorisation of *Russellaspis pustulans* ⁽⁸⁾ published earlier by the Authority, indicates risk mitigation measures that are effective against the pest.

- (10) On 27 November 2019, Türkiye submitted to the Commission, a request for export to the Union of two to three-year-old potted plants of *Berberis thunbergii*, that are 20 to 40 cm tall. That request was supported by the relevant technical dossier.

- (11) On 19 May 2022, the Authority adopted a scientific opinion regarding the commodity risk assessment of *Berberis thunbergii* potted plants from Türkiye ⁽⁹⁾. The Authority identified *Bemisia tabaci* and *Malacosoma parallela* as pests relevant for those plants for planting, evaluated the risk reduction measures described in the dossier and estimated the likelihood of freedom of the commodity from those pests.

- (12) Following official confirmation concerning the absence of *Malacosoma parallela* in Türkiye, the pest is no longer considered relevant for the *Malus domestica* and *Berberis thunbergii* commodities originating in that country.

⁽⁶⁾ EFSA PLH Panel (EFSA Panel on Plant Health), 2022. Scientific Opinion on the commodity risk assessment of *Malus domestica* plants from Turkey. *EFSA Journal* 2022;20(5):7301, 142 pp. <https://doi.org/10.2903/j.efsa.2022.7301>.

⁽⁷⁾ Commission Implementing Regulation (EU) 2022/2095 of 28 October 2022 establishing measures to prevent the introduction into, establishment and spread within the Union territory of *Anoplophora chinensis* (Forster) and repealing Decision 2012/138/EU (OJ L 281, 31.10.2022, p. 53, ELI: http://data.europa.eu/eli/reg_impl/2022/2095/oj).

⁽⁸⁾ EFSA PLH Panel (EFSA Panel on Plant Health), 2022. Scientific Opinion on the pest categorisation of *Russellaspis pustulans*. *EFSA Journal* 2022;20(6):7335, 29 pp. <https://doi.org/10.2903/j.efsa.2022.7335>, ISSN:1831-4732.

⁽⁹⁾ EFSA PLH Panel (EFSA Panel on Plant Health), 2022. Scientific Opinion on the commodity risk assessment of *Berberis thunbergii* potted plants from Turkey. *EFSA Journal* 2022;20(6):7392, 43 pp. <https://doi.org/10.2903/j.efsa.2022.7392>

- (13) On the basis of those opinions, and the additional information from Türkiye with regards to *Malacosoma parallela*, the phytosanitary risk from the introduction into the Union territory of *Malus domestica* plants for planting consisting of up to one-year-old budwood and scions that are free of leaves and of rootstocks and grafted plants that are bare-rooted, dormant, free of leaves and with a maximum stem diameter of 3 cm, originating in Türkiye, is considered to be reduced to an acceptable level, provided that appropriate mitigation measures are applied to address the risk of pests related to those plants for planting, and that the requirements of Implementing Regulation (EU) 2022/2095, the special requirements listed in point 9 of Annex X to Implementing Regulation (EU) 2019/2072 and the corresponding special requirements in Annex VII to Implementing Regulation (EU) 2019/2072 are complied with.
- (14) Moreover, the phytosanitary risk arising from the introduction into the Union territory of up to three-year-old potted plants of *Berberis thunbergii* that are maximum 40 cm tall, originating in Türkiye, is considered acceptable, provided that the corresponding special requirements set out in Annex VII to Implementing Regulation (EU) 2019/2072 are complied with, while no further requirements are considered necessary.
- (15) As a consequence, *Malus domestica* plants for planting consisting of up to one-year-old budwood and scions that are free of leaves and rootstocks and grafted plants that are bare-rooted, dormant, free of leaves and with a maximum stem diameter of 3 cm, originating in Türkiye, should no longer be considered as high risk plants.
- (16) Similarly, up to three-year-old potted plants of *Berberis thunbergii* that are maximum 40 cm tall, originating in Türkiye, should no longer be considered as high risk plants.
- (17) The Annex to Implementing Regulation (EU) 2018/2019 should therefore be amended accordingly.
- (18) The measures described by Türkiye in the dossier concerning *Malus domestica* are considered sufficient to reduce the risk from the introduction into the Union territory of that commodity to an acceptable level. Those measures should therefore be adopted as phytosanitary import requirements to ensure the phytosanitary protection of the Union territory from introduction of those plants into it.
- (19) *Anoplophora chinensis*, *Bemisia tabaci*, *Lopholeucapsis japonica* and Tomato 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 in Annex III to that Implementing Regulation, and as a Union regulated non-quarantine pest in Annex IV to that Implementing Regulation. Special requirements are also set out in point 9 of Annex X to that Implementing Regulation, to prevent the entry and spread of that pest within the specified protected zones.
- (20) By contrast, *Calepitrimerus baileyi*, *Cenopalpus irani*, *Didesmococcus unifasciatus*, *Diplodia bulgarica*, *Euzophora semifuneralis*, *Hoplolaimus galeatus*, *Maconellicoccus hirsutus*, *Pochazia shantungensis* and *Pratylenchus loosi* are not yet included in the list set out in Annex II to Implementing Regulation (EU) 2019/2072, but may fulfil the conditions to be included once a complete risk assessment has been carried out. Therefore, phytosanitary measures are necessary concerning those pests until a complete risk assessment is carried out. The pest categorisation of *Russellaspis pustulans* indicates that the pest satisfies the conditions to be listed as a Union quarantine pest. Therefore, phytosanitary measures are necessary concerning that pest until it is listed in Annex II to Implementing Regulation (EU) 2019/2072.
- (21) The Annex to Implementing Regulation (EU) 2020/1213 should therefore be amended accordingly.
- (22) *Cicadatra persica* and *Pyrolachnus pyri* are not yet included in the list of Union quarantine pests. Nevertheless, given that no significant impact has been observed on host plants infected by those pests in the Union, no import requirements are necessary with respect to those pests.
- (23) 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 twentieth 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, 22 April 2024.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX I

In the Annex to Implementing Regulation (EU) 2018/2019, in the table in point 1, the second column 'Description', is amended as follows:

1. the entry for 'Malus Mill.' 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, grafted plants for planting of *Malus domestica*, originating in Moldova;
- up to three-year-old bare-rooted, dormant, free of leaves, rootstocks of *Malus domestica* originating in Ukraine;
- up to three-year old bare-rooted, dormant, free of leaves, grafted plants for planting of *Malus domestica* originating in Ukraine;
- up to one-year-old free of leaves, cuttings of *Malus domestica* originating in the United Kingdom;
- up to seven-year-old plants for planting of *Malus domestica* originating in the United Kingdom;
- up to seven-year-old plants for planting of *Malus sylvestris* with a maximum diameter of 40 mm at the base of the stem, originating in the United Kingdom;
- up to two-year-old bare-rooted, dormant, free of leaves, grafted, plants for planting of *Malus domestica*, originating in Bosnia and Herzegovina;
- up to one-year-old, free of leaves, budwood and scions of *Malus domestica* originating in Türkiye;
- plants for planting of *Malus domestica* that are bare-rooted, dormant, free of leaves and with a maximum stem diameter of 3 cm, originating in Türkiye.'

2. the entry 'Berberis L.' is replaced by the following:

'Berberis L., other than up to three-year-old plants for planting of *Berberis thunbergii* in growing medium, with a maximum height of 40 cm, originating in Türkiye.'

ANNEX II

In the table of the Annex to Implementing Regulation (EU) 2020/1213, the following entry is inserted after '*Ligustrum delavayanum* and *Ligustrum japonicum*, up to 20-year-old plants for planting in growing medium, with a maximum diameter of 18 cm at the base of the stem.' from the United Kingdom.

Plants, plant products or other objects	CN Code	Third countries of origin	Measures
'<i>Malus domestica</i>, — up to one-year-old, free of leaves, budwood and scions; — plants for planting that are bare-rooted, dormant, free of leaves, and with a maximum stem diameter of 3 cm.	ex 0602 10 90 ex 0602 20 20	Türkiye	(a) Official statement that: (i) the plants are free from <i>Calepitrimerus baileyi</i>, <i>Cenopalpus irani</i>, <i>Didesmococcus unifasciatus</i>, <i>Diplodia bulgarica</i>, <i>Euzophera semifuneralis</i>, <i>Hoplolaimus galeatus</i>, <i>Maconellicoccus hirsutus</i>, <i>Pochazia shantungensis</i>, <i>Pratylenchus loosi</i> and <i>Russellaspis pustulans</i>; (ii) the site of production has been found free from <i>Calepitrimerus baileyi</i>, <i>Cenopalpus irani</i>, <i>Didesmococcus unifasciatus</i>, <i>Diplodia bulgarica</i>, <i>Euzophera semifuneralis</i>, <i>Hoplolaimus galeatus</i>, <i>Maconellicoccus hirsutus</i>, <i>Pochazia shantungensis</i>, <i>Pratylenchus loosi</i> and <i>Russellaspis pustulans</i> during official inspections carried out at appropriate times, since the beginning of the production cycle of the plants; (iii) a system has been put in place to ensure that grafting, pruning and rogueing tools and machineries have been cleaned to be free from soil and plant debris, and disinfected to be free from <i>Calepitrimerus baileyi</i>, <i>Cenopalpus irani</i>, and <i>Diplodia bulgarica</i> before they have been introduced into each site of production; (iv) immediately prior to export, consignments of the plants have been subjected to an official inspection for the presence of <i>Calepitrimerus baileyi</i>, <i>Cenopalpus irani</i>, <i>Didesmococcus unifasciatus</i>, <i>Euzophera semifuneralis</i>, <i>Maconellicoccus hirsutus</i>, <i>Pochazia shantungensis</i> and <i>Russellaspis pustulans</i> with such a sample size as to enable at least the detection of 1 % level of infestation with a level of confidence of 99 % for each pest, and to an official inspection and systematic random sampling and testing of the plants for the presence of <i>Diplodia bulgarica</i>, <i>Hoplolaimus galeatus</i> and <i>Pratylenchus loosi</i>;

			(b) the phytosanitary certificates for those plants include under the heading “Additional Declaration”: (i) the following statement: “The consignment complies with Commission Implementing Regulation (EU) 2020/1213”; and (ii) the specification of the registered sites of production.’
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