

**COMMISSION IMPLEMENTING REGULATION (EU) 2023/158****of 23 January 2023****amending Implementing Regulation (EU) 2018/2019 as regards certain plants for planting of *Prunus domestica* and *Prunus cerasifera* originating in Ukraine**

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 risk 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 risk 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, amongst which is the genus *Prunus* L.
- (4) On 18 October 2019, Ukraine submitted to the Commission a request for export to the Union of plants for planting of *Prunus domestica* grafted on *Prunus cerasifera* rootstocks, that are bare rooted, dormant and free of leaves. The request was supported by the relevant technical dossier.
- (5) On 17 May 2022, the European Food Safety Authority ('the Authority') adopted a scientific opinion regarding the commodity risk assessment of *Prunus domestica* plants for planting from Ukraine<sup>(4)</sup>. The Authority identified *Lopholeucaspis japonica*, *Eotetranychus prunicola*, *Erwinia amylovora* and *Xanthomonas arboricola* pv. *pruni* as pests relevant for those plants for planting, evaluated the risk mitigation measures described in the dossier and estimated the likelihood of freedom of the commodity from those pests.
- (6) *Lopholeucaspis japonica* is listed as a Union quarantine pest in Annex II to Commission Implementing Regulation (EU) 2019/2072<sup>(5)</sup>. *Erwinia amylovora* and *Xanthomonas arboricola* pv. *pruni* are listed as protected zone quarantine pests in Annex III and as Union regulated non-quarantine pests in Annex IV to that Regulation respectively.

<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), 2022. Scientific Opinion on the commodity risk assessment of *Prunus domestica* plants from Ukraine. EFSA Journal 2022;20(6):7391, 76 pp. <https://doi.org/10.2903/j.efsa.2022.7391>.

<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) *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.
- (8) On the basis of the opinion of the Authority, the phytosanitary risk from the introduction into the Union of bare-rooted, dormant, free of leaves plants for planting of *Prunus domestica* grafted on *Prunus cerasifera* rootstocks originating in Ukraine is considered to be acceptable, provided that the respective import requirements set out in Annex VII to Implementing Regulation (EU) 2019/2072 are complied with.
- (9) Therefore, it is appropriate that bare-rooted, dormant, free of leaves plants for planting of *Prunus domestica* grafted on *Prunus cerasifera* rootstocks originating in Ukraine are no longer considered high-risk plants.
- (10) Implementing Regulation (EU) 2018/2019 should therefore be amended accordingly.
- (11) In order to comply with the Union obligations deriving from the World Trade Organization Agreement on the Application of Sanitary and Phytosanitary Measures <sup>(9)</sup>, the import of those commodities should resume within the shortest possible time. Therefore, this Regulation should enter into force on the third day following that of its publication in the *Official Journal of the European Union*.
- (12) 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*

Implementing Regulation (EU) 2018/2019 is amended 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*.

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

Done at Brussels, 23 January 2023.

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

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<sup>(9)</sup> OJ L 336, 23.12.1994, p. 40.

## ANNEX

**Amendment of Implementing Regulation (EU) 2018/2019**

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

'*Prunus* L., other than bare-rooted, dormant, free of leaves plants for planting of *Prunus domestica* grafted on *Prunus cerasifera* rootstocks originating in Ukraine'.

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