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For immediate release

## **CIOPORA, AIPH, Euroseeds and Plantum Request Revision of the Council Regulation (EC) No 2100/94 on Community Plant Variety Rights**

Brussels/Didcot/Gouda/Hamburg, August 27 – In a joint letter addressed to the EU Directorate General for Health and Food Safety, AIPH, CIOPORA, Euroseeds and Plantum have requested that the European Commission considers reviewing the Council Regulation (EC) No 2100/94 (Basic regulation) on the protection of Community Plant Variety Rights (CPVR). The joint effort was prompted by the non-inclusion of the Community Plant Variety Rights (CPVR) system in the EU IP Roadmap, the document that draws a plan for the improvement of IP protection laws and mechanisms in the EU<sup>1</sup>.

An effective plant breeding sector is essential for a variety of societal goals such as improving sustainable production systems and consumer qualities of agricultural and horticultural products. The European Green Deal and Farm to Fork Strategies will not deliver their goals without plant breeding. Breeders need an effective IP system in order to continue to invest in this important work. It is of utmost importance for breeders and growers that the EU Plant Variety Rights system is robust and effective.

Pointing out a number of provisions in the Basic Regulation that require improvement, the organizations argue that, however robust in the international comparison, the 25-year-old CPVR system fails to adapt to the latest developments in global agriculture, horticulture and plant breeding technologies. Already in 2011, the final report of the Evaluation of the Community Plant Variety Right Acquis<sup>2</sup> had requested an improvement of the Basic Regulation, but no legislative actions have been taken since.

The recent decision of the European Court of Justice (CJEU) in case C-176/18 (Nadorcott) regarding mandarin trees that were commercialised by a licensed grower without permission

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<sup>1</sup> Intellectual property action plan <<https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12510-Intellectual-Property-Action-Plan>>

<sup>2</sup> Evaluation launched by the Directorate-General for Health and Consumers in collaboration with GHK – April 2011.

of the breeder in the period between the application and the grant of the right exposed the weakness of the provisional protection and the protection of harvested material under CPVR. This does not provide an incentive for breeders to commercialize their varieties before a PVR is granted. Especially in the case of fruit trees this is a serious problem as the testing period needed before the right is granted can easily take six years. Furthermore, the limited scope of protection for harvested material is particularly disadvantageous for horticultural varieties that are grown in territories outside the EU with a low-level or no IP protection and are subsequently sold in the EU. This equally affects European breeders and growers, depriving particularly the latter of their competitiveness against cheaper, IP non-compliant imported products. Breeders have also called for a better enforceability of the Farm Saved Seed provision regarding the payment of the remuneration and for a longer duration of CPVR protection for woody crops, flower bulbs and Asparagus.

Next to the joint letter to DG SANTE, which is the European Commission Directorate responsible for Community Plant Variety Rights, the above organisations together with the German<sup>3</sup> and Spanish<sup>4</sup> national seed associations and circa 20 individual breeding companies, especially fruit breeders, have reacted likewise to the public consultation of the IP roadmap by DG Growth, the Commission Directorate responsible for IP rights)<sup>5</sup>.

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## **About:**

### **AIPH - International Association of Horticultural Producers.**

Since 1948, AIPH has united horticultural producers in an international community that thrives to this day. Much has changed in that time. Technologies advanced, cities rose from the ground, and we have become more connected than ever. As a result, our essential bond with nature has been weakened. AIPH strives to reignite and uphold an appreciation of plants that we believe is a basic human instinct. We support the work of grower associations globally and together we champion a prosperous industry, growing plants that enhance lives, advance societies and sustain our planet, for this generation and the next.

**Press contact: Rachel Wakefield, AIPH Communications Executive**

Email: [rachel.wakefield@aiph.org](mailto:rachel.wakefield@aiph.org)

Tel: +44 (0) 1235 776160

[www.aiph.org](http://www.aiph.org)

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<sup>3</sup> Bundesverband Deutsche Pflanzenzüchter (BDP)

<sup>4</sup> Anove

<sup>5</sup> Intellectual property action plan. Public feedback. <[https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12510-Intellectual-Property-Action-Plan/feedback?p\\_id=8196436](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12510-Intellectual-Property-Action-Plan/feedback?p_id=8196436)> 24.08.2020



### **CIOPORA: Uniting Breeders, Protecting Innovation.**

CIOPORA is the International Association of Breeders of Asexually Reproduced Horticultural Varieties. Breeders of such varieties account for two-thirds of all Plant Variety Rights (PVR) titles in the world. For more than 50 years, CIOPORA has represented these breeders in all matters of Intellectual Property (IP)

protection and aims to foster an environment in which the innovation of these breeders can flourish. CIOPORA is a member-based, non-profit organization.

#### **Press contact: Anna Kaehne, Director PR and Communications**

Email: [anna.kaehne@ciopora.org](mailto:anna.kaehne@ciopora.org)

Tel: +49 40 555 63 702

[www.ciopora.org](http://www.ciopora.org)

### **Euroseeds**

Euroseeds is the voice of the European seed sector representing the interests of those active in research, breeding, production and marketing of seeds of agricultural, horticultural and ornamental plant species. Today, Euroseeds, with more than 34 national member associations from EU Members States and beyond, represents several thousands of seed businesses, as well 67 as direct company members, including from seed related industries.

#### **Press contact: Ewa Józefowicz Amador , Manager Project Communications & Membership Relations**

Email: [ewajozefowicz@euroseeds.eu](mailto:ewajozefowicz@euroseeds.eu)

Tel : +48 510 412 907

[www.euroseeds.eu](http://www.euroseeds.eu)

### **Plantum**

Plantum is the Dutch organisation for the plant breeding and plant reproductive material sector. An economically healthy, innovative and diverse seed and young plant sector contributes to important social goals such as food security and quality; product diversity; a more sustainable agriculture and horticulture and well-being in a healthy living environment.

Press contact: Niels Louwaars, Director Plantum

Email: [n.louwaars@plantum.nl](mailto:n.louwaars@plantum.nl)

Tel: +31 (0)182 68 86 68

[www.plantum.nl](http://www.plantum.nl)