



PROVISIONAL INSTITUTIONS OF SELF GOVERNMENT

KUVENDI I KOSOVËS
СКУПШТИНА КОСОВА
ASSEMBLY OF KOSOVO

Law No.2004 / 13

ON PLANTING MATERIAL

The Assembly of Kosovo

Taking into account the UNMIK Regulation No. 2001/ 9 of May 15 2001 on Constitutional Framework for Provisional Self Governance in Kosovo, article 9.1.26 (a) and 5.1 (n).

For the purpose of regulating the production and marketing of planting material of agricultural varieties, including hybrid varieties of forest seedlings in Kosovo

Hereby adopts the following:

LAW ON PLANTING MATERIAL

GENERAL PROVISIONS

Article 1

The present law regulates matters related to production, trade, import, export of planting material, control of planting material, as well as registration of producers and traders of planting material.

DEFINITIONS

Article 2

The terms used in the present Law have the following meanings:

“**Variety**” means a plant grouping within a single botanical taxon of the lowest known rank, which grouping, irrespective of whether the conditions for a grant of a breeder’s right are fully met, can be:

- defined by the expression of the characteristics resulting from a given genotype or combination of genotypes,
- distinguished from any other plant grouping by the expression of at least one of the said characters, and
- considered as a unit with regards to its suitability for being propagated unchanged.

“Planting material” means plants in general, parts of plants, root stocks, undergrafts and whole planting material and final seedling which is:

- intended for the production of vegetables, except for seeds;
- intended for the production of fruit plants;
- intended for the production of ornamental plants, shrubs and plants;
- intended for the production of vine plants;
- intended for the production of forest tree plants.

“The Ministry” means the Ministry of Agriculture, Forestry and Rural Development (MAFRD).

“The Minister” means the Kosovo Minister of Agriculture within the Ministry of Agriculture, Forestry and Rural Development (MAFRD).

“Inspector” means any person authorized by the Minister to be an inspector for the purposes of this Law.

“Department” means Official Authority of the Ministry of Agriculture, Forestry and Rural Development, responsible for implementation of the Law.

“Person” means any natural or legal person.

“Export” means circulation of planting material outside Kosovo.

“Import” means entry of planting material in Kosovo.

“Trader” means any person registered for trading the planting material in market.

“Registration” means the approving act by the Competent Authority to deal with planting material, and

“Licensing authority” is the authority which licenses the persons dealing with planting material.

REGISTRATION OF PRODUCERS AND TRADERS OF PLANTING MATERIAL

Article 3

3.1. All producers, importers, exporters and traders of planting material shall be registered in the official register of the Ministry of Agriculture, Forestry and Rural Development.

3.2. The following particulars of each individual which applies for registration shall be kept by the Ministry:

- a) name of the individual
- b) address of the individual to which the application relates,
- c) a registration number unique to the official register of the Ministry .

3.3. An application to be listed in the official register shall be made by:

- a) applicant involved or intending to become involved in propagating, growing, trading or any other activity associated with planting material,
- b) applicant intending to import any planting material.

3.4. The application shall be made in writing, in the form determined by the Administrative Instruction.

3.5. The Ministry may refuse to register an applicant if considers that criteria were not met according to the Administrative Instruction.

3.6. Unsatisfied party on the decision exempting registration is entitled for appeal within 15 days from the day receiving the decision. Appeal is forwarded to the Ministry.

3.7. Producers producing planting material for their own needs are not obliged to register in the official register of the Ministry

CATEGORIES OF PLANTING MATERIAL

Article 4

4.1. The following categories of planting material are prescribed for fruit and grape vine :

- a) pre-basic planting material, produced under the responsibility of the maintainer and used for the production of basic planting material. Pre-basic planting material shall be free from diseases, pests, mycoplasma and viroids. Pre-basic planting material is subject to official inspection.
- b) basic planting material, produced from pre-basic material either directly or in a known number of stages in a vegetative way from pre-basic material intended for the production of certified planting material. This material is subject to official inspection and is free from viroids and it shall be labelled with a white label.
- c) certified planting material, produced from Basic material either directly or in a known number of stages in a vegetative way from basic material, which satisfies the conditions for certified material and can be used as propagating material. Certified planting material may also be used for the production of shoots or parts used for production of standard planting material. Certified planting material is viroids free and shall be labelled with a blue label.
- d) standard planting material means propagating material originating from certified parental trees or plants, which has verified varietal identity and purity and health and is used for the production of young plants or parts of plants for use in the production of grapes. Standard planting material shall be labelled with a yellow label.
- e) CAC (Conformitas Agraria Communitatis) means fruit propagating material and fruit plants satisfying the minimum conditions laid down for this category relative to the species concerned.
- f) CAC material must, at least on visual inspection, be substantially free from any harmful organisms and diseases impairing quality, or any signs or symptoms thereof, which reduce the usefulness of the propagating material or fruit plants and

in particular be free from those harmful organisms listed in the Administrative Instruction on the Marketing of Fruit Plant material.

- g) CAC material shall have adequate identity and purity toward the respective genus or species and it shall have identity and purity.

4.2. The use of the pre-basic, basic, certified and standard planting material categories is compulsory for the production of vine planting material and vine plants.

4.3. The use of the pre-basic, basic, certified and CAC (Conformitas Agraria Communitatis) planting material categories is compulsory during the production of fruit planting material and fruit plants.

4.4. The following categories of planting material are prescribed for forest tree species:

- a) source-identified means planting material derived from basic material which may be either a seed source or stand located within a single region of provenance,
- b) selected means planting material derived from basic material which shall be a stand located within a single region of provenance, which has been phenotypically selected at the population level,
- c) qualified means planting material derived from basic material which shall be seed orchards, parents of families, clones or clonal mixtures, the components of which have been phenotypically selected at the individual level,
- d) tested means planting material derived from basic material which shall consist of stands, seed orchards, parents of families, clones or clonal mixtures. The advantage of planting material must have been demonstrated by comparative testing or an estimate of the superiority of the planting material calculated from the genetic evaluation of the components of the basic material,
- e) all the planting materials categories from point 4 should be free of diseases, pests, mucoplasma and virosis.

PRODUCTION OF PLANTING MATERIAL

Article 5

Planting material shall be produced only by persons registered in the Register of planting material producers excluding those from article 3 (7).

Article 6

6.1. The planting material producer shall produce material of only those species and varieties included in the Kosovo Variety List, which is kept by the Plant Variety Rights Office of the Ministry of Agriculture, Forestry and Rural Development.

6.2. Entry of new variety in Kosovo Variety List shall be regulated through an Administrative Instruction.

6.3. The Ministry may authorize the production of planting material of certain species and varieties which are not included in the Kosovo Variety List, for research purposes.

Article 7

7.1. The planting material producer is obliged to keep records of the total amount, specie and variety of planting material produced, traded and destroyed.

7.2. The planting material producer is obliged to inform the Department of Plant Production and Protection on the total amount, specie and variety of planting material produced, traded and destroyed, at least once a year.

7.3. The content, form and record keeping procedures and the reporting procedures mentioned in paragraphs (1) and (2) of the present article shall be prescribed by the Ministry by way of Administrative Instruction.

Article 8

8.1. The Ministry may permit the planting material producer to multiply planting material of a variety that is not included in the Kosovo Variety List for a foreign client and from imported parental planting material, provided that the contract with the foreign client obliges that client to purchase the total amount of the planting material produced.

8.2. The production of the planting material mentioned in paragraph (1) of this Article shall be subject to compulsory health inspection during the production period by an inspector authorized by the Ministry.

CONTROL OF PLANTING MATERIAL PRODUCTION

Article 9

9.1. The production of planting material shall be subject to official health and quality control and purity of the variety during the production process by Ministry's Inspectors and after the professional report by relevant scientific institutions.

9.2. The control as set in paragraph (1) of this article determines the origin of the planting material, authenticity of variety, health situation and quality of planting material.

Article 10

Planting material that meets the health and quality standards, prescribed in the Administrative Instruction, shall be certified by the Department of Plant Production and Protection and Department of Forestry of MAFRD and labelled accordingly

Article 11

The planting material producer is obliged to destroy the planting material that fails to meet the prescribed health and quality standards, in the presence of the inspector.

Article 12

12.1. The Department of Plant Production and Protection is obliged to keep records on the control of plantations producing planting material of fruits, vegetable and grape vine by species, varieties and quantities of specific planting material produced.

12.2. Department of Forestry keeps the records on control of forest planting material and forest ornamental seedlings.

THE QUALITY OF PLANTING MATERIAL

Article 13

13.1. The quality of planting material is determined by origin, authenticity of variety and of stock, vegetative development and health state.

13.2. The quality of planting material shall comply with the standards prescribed in the Administrative Instruction based on suggestions from relevant Ministry's Departments.

PACKING AND LABELLING OF PLANTING MATERIAL

Article 14

14.1. Planting material intended for marketing must be packed, sealed and labelled in accordance with the procedures prescribed in the Administrative Instruction.

14.2. The packing, sealing and labeling of the planting material shall be carried out by the producer, at the place of its production

MARKETING OF PLANTING MATERIAL

Article 15

15.1. Planting material shall be marketed only by legal and natural persons registered by the Ministry for that activity.

15.2. Planting material that is to be traded shall be stored and transported in conditions that will maintain the quality of the planting material, described in Administrative Instruction.

15.3. Fruit planting material shall only be marketed as basic, certified, or CAC (Conformitas Agraria Communitatis), planting material, if it is of a variety that is included in the Kosovo Variety List and if it complies with the health and quality standards prescribed in the Administrative Instruction.

15.4. Vine planting material shall only be marketed as basic, certified or standard planting material, if it is of a variety that is included in the Kosovo Variety List and if it complies with the health and quality standards prescribed in the Administrative Instruction.

15.5. Vegetable and Ornamental planting material shall only be marketed if it is of a variety that is included in the Kosovo Variety List and if it complies with the health and quality standards prescribed in the Administrative Instruction

15.6. Forest planting material shall only be marketed as Source-identified, selected, qualified or tested planting material if it complies with the health and quality standards prescribed in the Administrative Instruction, and is enlisted in the Kosovo Variety List.

15.7. Ornamental, tree and shrub planting material shall only be marketed if it complies with the health and quality standards determined with the Administrative Instruction

IMPORTED PLANTING MATERIAL

Article 16

16.1. Planting material shall only be imported by those legal or natural persons registered for that purpose according to Article 3 of this Law.

16.2. Basic, certified, standard and CAC (Conformitas Agraria Communitatis) planting material shall only be permitted to be imported if it is of a variety that is entered in the Kosovo Variety List and if it is accompanied by a certificate of origin and authenticity of species, variety and stock and a phytosanitary certificate, issued by the official Authority of the exporting country, confirming that the planting material meets the requirements of the present Law of and the requirements of the Administrative Instruction.

16.3. All consignments of imported planting material shall be officially inspected at the point of entry into Kosovo or at the final users premises, in accordance with the provisions of applicable Laws on plant health with regard to the introduction, spread and suppression of plant diseases and pests , plant products and other regulated objects.

Article 17

17.1. The importer is permitted to trade the imported planting material in its original packaging.

17.2. Imported planting material must be labelled with labels issued by the Official Authority of the exporting country.

Article 18

The importer is responsible for the quality and authenticity of imported planting material

Article 19

The Ministry may permit the importation of planting material of a variety, not entered in the Kosovo Variety List, for research purposes., by issuing a special license.

INSPECTION

Article 20

20.1. Official control of quality, packaging, labeling, trading and other required controls of planting material is carried out by the Ministry's Inspectors in accordance with the method described in the Administrative Instruction.

20.2. Unsatisfied party on the decision exempting registration is entitled for appeal within 15 days from the day receiving the decision. Appeal is forwarded to the Ministry.

20.3. Against the decision of the Ministry, unsatisfied party could initiate the administrative dispute in the competent court within 30 days after receiving the decision. Appeal does not suspend execution of the decision.

PUNITIVE MEASURES

Article 21

21.1. With a fine of 1.000 € to 15.000 € shall be punished for minor offence a person who:

- a) produces, trades and places in the market the planting material while not being registered in the producer register (article 3) of the present Law and Administrative Instructions;
- b) produces, trades and places in the market the marketing material, quality and health of which does not meet the set standards (article 13) of the present Law and Administrative Instructions;
- c) imports and exports the planting material in violation with the present Law (article 16) and Administrative Instructions;
- d) packages, labels or stores the planting material in violation with the present Law (article 14) and Administrative Instructions;
- e) does not keep nor declare data on quantity, specie and variety of planting material in accordance with article 7 of the present Law and Administrative Instructions.
- f) interferes the authorized official person upon inspection of production, trade, placing in the market, packaging, labeling, storing and transporting planting material (article 9, 10) of the present Law and Administrative Instructions;

21.2. For recurrent violation, except the fine, violators license shall be retained and violator shall be removed from the register of registered persons for production and trading planting material.

Article 22

The incomes that are generated from the application of provisions of this law are deposited to the Kosovo Consolidated Budget.

ENFORCEMENT

Article 23

The Ministry of Agriculture, Forestry and Rural Development is the competent body for issuing Administrative Instructions for implementing the present law.

Article 24

Issue of registration and registration fees shall be set out through an Administrative Instruction.

TRANSITIONAL PROVISIONS

Article 25

25.1. After entering into force of the present Law, provisions of all the applicable Laws on planting material contradicting the present Law shall be abrogated.

25.2. Any person who currently produces, packages, labels and trades planting material in Kosovo shall apply for license according to the article 3 of the present Law not later than 30 days after entering into force of the present Law.

ENTRY INTO FORCE

Article 26

This Law shall come into force after its approval by the Kosovo Assembly and promulgation by the United Nations Special Representative of Secretary General.

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29 April 2004