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Regulation (EU) No 1143/2014 of the European Parliament and of the Council of 22 October 2014 on the prevention and management of the introduction and spread of invasive alien species

REGULATION (EU) No 1143/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 22 October 2014

on the prevention and management of the introduction and spread of invasive alien species

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[(1)],

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure[(2)],

Whereas:

(1) The appearance of alien species, whether of animals, plants, fungi or micro-organisms, in new locations is not always a cause for concern. However, a significant subset of alien species can become invasive and have serious adverse impact on biodiversity and related ecosystem services, as well as have other social and economic impact, which should be prevented. Some 12 000 species in the environment of the Union and in other European countries are alien, of which roughly 10 to 15 % are estimated to be invasive.

(2) Invasive alien species represent one of the main threats to biodiversity and related ecosystem services, especially in geographically and evolutionarily isolated ecosystems, such as small islands. The risks such species pose may intensify due to increased global trade, transport, tourism and climate change.

(3) The threat to biodiversity and related ecosystem services that invasive alien species pose takes different forms, including severe impacts on native species and the structure and functioning of ecosystems through the alteration of habitats, predation, competition, the transmission of diseases, the replacement of native species throughout a significant proportion of range and through genetic effects by hybridisation. Furthermore, invasive alien species can also have a significant adverse impact on human health and the economy. Only live specimens, and parts that can reproduce, represent a threat to biodiversity and related ecosystem services, human health or the economy, and therefore, only those should be subject to the restrictions under this Regulation.

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(4) The Union, as a party to the Convention on Biological Diversity, approved by Council Decision 93/626/EEC[(3)], is bound by Article 8(h) of that Convention, according to which the Parties shall, as far as possible and as appropriate, 'prevent the introduction of, control or eradicate those alien species which threaten ecosystems, habitats or species'.

(5) The Union, as a Party to the Convention on the Conservation of European Wildlife and Natural Habitats, approved by Council Decision 82/72/EEC[(4)], has undertaken to take all appropriate measures to ensure the conservation of the habitats of the wild flora and fauna species.

(6) To support the achievement of the objectives of Directives 2000/60/EC[(5)], 2008/56/EC[(6)] and 2009/147/EC[(7)] of the European Parliament and of the Council and Council Directive 92/43/EEC[(8)], this Regulation should establish rules to prevent, minimise and mitigate the adverse effects of invasive alien species on biodiversity and related ecosystem services, and on human health and safety as well as to reduce their social and economic impact.

(7) Some species migrate naturally in response to environmental changes. They should not be considered as alien species in their new environment and should be excluded from the scope of this Regulation. This Regulation should focus only on species introduced into the Union as a consequence of human intervention.

(8) There are currently over 40 Union legislative acts on animal health which include provisions on animal diseases. Moreover, Council Directive 2000/29/EC[(9)] includes provisions on organisms which are harmful to plants or plant products, and Directive 2001/18/EC of the European Parliament and of the Council[(10)] sets out the regime applicable to genetically modified organisms. Therefore, any new rules on invasive alien species should be aligned with and not overlap with those legislative acts of the Union and should not apply to the organisms targeted by those legislative acts.

(9) Regulations (EC) No 1107/2009[(11)] and (EU) No 528/2012[(12)] of the European Parliament and of the Council and Council Regulation (EC) No 708/2007[(13)] provide for rules concerning the authorisation for the use of certain alien species for particular purposes. The use of certain species has already been authorised under those regimes at the time of entry into force of this Regulation. To ensure a coherent legal framework, species used for those purposes should thus be excluded from the scope of this Regulation.

(10) As invasive alien species are numerous, it is important to ensure that priority is given to addressing the subset of invasive alien species considered to be of Union concern. A list of such invasive alien species considered to be of Union concern ("the Union list") should therefore be established and regularly updated. An invasive alien species should be considered to be of Union concern if the damage that it causes in affected Member States is so significant that it justifies the adoption of dedicated measures applicable across the Union, including in the Member States that are not yet affected or are even unlikely to be affected. To ensure that the identification of invasive alien species of Union concern remains proportionate, the Union list should be established and updated gradually and be focused on species whose inclusion on the Union list would effectively

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prevent, minimise or mitigate the adverse impact of those species in a cost efficient manner. As species within the same taxonomic group often have similar ecological requirements and may pose similar risks, the inclusion of taxonomic groups of species on the Union list should be allowed, where appropriate.

(11) The criteria for inclusion on the Union list are the core instrument of application of this Regulation. To ensure the effective use of resources, those criteria should ensure that among the potential invasive alien species currently known, those that have the most significant adverse impact will be listed. The Commission should submit to the committee established by this Regulation a proposal for a Union list based on those criteria within one year of the entry into force of this Regulation. When proposing the Union list, the Commission should inform that committee on how it took those criteria into account. The criteria should include a risk assessment pursuant to the applicable provisions under the relevant Agreements of the World Trade Organisation (WTO) on placing trade restrictions on species.

(12) To avoid disproportionate or excessive costs for any Member State and to safeguard the added value of Union action through this Regulation, when proposing the Union list and consequential measures, the Commission should take into consideration the implementation cost for Member States, the cost of inaction, the cost-effectiveness and the socio-economic aspects. In this context, in selecting the invasive alien species to be included on the Union list, special attention should be given to species that are widely used and provide significant social and economic benefits in a Member State, without compromising the objectives of this Regulation.

(13) To ensure compliance with the rules under the relevant Agreements of the WTO and the coherent application of this Regulation, common criteria should be established to carry out the risk assessment. Where appropriate, those criteria should be based on existing national and international standards and should encompass different aspects of the characteristics of the species, the risk and modes of introduction into the Union, the adverse social, economic and biodiversity impact of the species, the potential benefits of uses and the costs of mitigation to weigh them against the adverse impact, as well as on an assessment of the potential costs of environmental, social and economic damage demonstrating the significance for the Union, so as to further justify action. In order to develop the system progressively and build upon the experience gained, the overall approach should be assessed by 1 June 2021.

(14) Some invasive alien species are included in Annex B to Council Regulation (EC) No 338/97[(14)], and their importation into the Union is prohibited because their invasive character has been recognised and their introduction into the Union has an adverse impact on native species. Those species are: *Callosciurus erythraeus, Sciurus carolinensis, Oxyura jamaicensis, Lithobates (Rana) catesbeianus, Sciurus niger, Chrysemys picta and Trachemys scripta elegans*. To ensure a coherent legal framework and uniform rules on invasive alien species at Union level, the listing of those invasive alien species as invasive alien species of Union concern should be considered as a matter of priority.

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(15) Prevention is generally more environmentally desirable and cost-effective than reaction after the fact, and should be prioritised. Therefore, priority should be given to the listing of invasive alien species that are not yet present in the Union or are at an early stage of invasion and of invasive alien species that are likely to have the most significant adverse impact. As new invasive alien species can be introduced continuously into the Union and alien species present are spreading and expanding their range, it is necessary to ensure that the Union list is constantly reviewed and kept up-to-date.

(16) Regional cooperation should be explored between Member States concerned with the same species that are not able to establish a viable population in a large part of the Union. Where the objectives of this Regulation are better achieved by measures at Union level, those species could also be included on the Union list.

(17) In pursuing the objectives of this Regulation, it is appropriate to take account of the specific situation of the outermost regions, and in particular their remoteness, insularity and the uniqueness of their respective biodiversities. Therefore, the requirements under this Regulation to take restrictive and preventive measures relating to invasive alien species of Union concern should be adapted to the specificities of the outermost regions, as defined by the Treaty on the Functioning of the European Union (TFEU), taking into account European Council Decisions 2010/718/EU[(15)] and 2012/419/EU[(16)].

(18) The risks and concerns associated with invasive alien species represent a cross-border challenge affecting the whole of the Union. It is therefore essential to adopt a ban at Union level on intentionally or negligently bringing into the Union, reproducing, growing, transporting, buying, selling, using, exchanging, keeping and releasing invasive alien species of Union concern in order to ensure that early and consistent action is taken across the Union to avoid distortions of the internal market and to prevent situations where action taken in one Member State is undermined by inaction in another Member State.

(19) With a view to enabling scientific research and ex-situ conservation activities, it is necessary to provide specific rules for the invasive alien species of Union concern subject to those activities. Those activities should be carried out in closed establishments where the organisms are in contained holding and with all the necessary measures taken to avoid the escape or unlawful release of invasive alien species of Union concern. Where authorised by the Commission in duly motivated exceptional cases of compelling public interest it should be possible for those rules to apply also to certain other activities, including commercial activities. In implementing those rules, particular attention should be paid to avoiding any adverse impact on protected species and habitats, in accordance with relevant Union law.

(20) There may be cases where alien species not yet recognised as invasive alien species of Union concern appear at the Union borders or are detected in the territory of the Union. Member States should therefore be granted the possibility to adopt certain emergency measures on the basis of available scientific evidence. Such emergency measures would allow immediate reaction against invasive alien species which could pose risks related to their introduction, establishment and spread in those countries, while Member States assess the actual risks posed by them, in line with the applicable

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provisions of the relevant Agreements of the WTO, in particular with a view to having those species recognised as invasive alien species of Union concern. There is a need to couple national emergency measures with the possibility of adopting emergency measures at Union level to comply with the provisions of the relevant Agreements of the WTO. Furthermore, emergency measures at Union level would equip the Union with a mechanism to act swiftly in case of presence or imminent danger of entry of a new invasive alien species in accordance with the precautionary principle.

(21) A large proportion of invasive alien species are introduced unintentionally into the Union. It is therefore crucial to manage the pathways of unintentional introduction more effectively. Action in this area should be gradual, given the relatively limited experience in this field. Action should include voluntary measures, such as the actions proposed by the International Maritime Organisation's Guidelines for the Control and Management of Ships' Biofouling, and mandatory measures. Action should build on the experience gained in the Union and in Member States in managing certain pathways, including measures established through the International Convention for the Control and Management of Ships Ballast Water and Sediments adopted in 2004. Accordingly, the Commission should take all appropriate steps to encourage Member States to ratify that Convention.

(22) To develop an adequate knowledge base to address the problems raised by invasive alien species, it is important that Member States undertake research, monitoring and surveillance of such species. As surveillance systems offer the most appropriate means for early detection of new invasive alien species and for the determination of the distribution of already established species, those systems should include both targeted and general surveys and benefit from the involvement of different sectors and stakeholders, including regional and local communities. Surveillance systems should imply paying continuous attention to any new invasive alien species anywhere in the Union and aim to provide an effective and complete picture at Union level. In the interest of efficiency and cost-effectiveness, existing systems of customs control, surveillance and monitoring already established by Union law should be applied, in particular those set out in Directives 92/43/EEC, 2000/60/EC, 2008/56/EC and 2009/147/EC.

(23) Official controls on animals and plants should be carried out to prevent the intentional introduction of invasive alien species. Live animals and plants should only enter the Union through border control entities in accordance with Regulation (EC) No 882/2004 of the European Parliament and of the Council[(17)], and Council Directives 91/496/EEC[(18)] and 97/78/EC[(19)] or points of entry in accordance with Directive 2000/29/EC. To ensure efficiency gains and avoid creating parallel systems of customs controls, competent authorities should verify whether those species are invasive alien species of Union concern at the first border control entity or point of entry.

(24) After the introduction of an invasive alien species, early detection and rapid eradication measures are crucial to prevent their establishment and spread. The most effective and cost efficient response is often to eradicate the population as soon as possible while the number of specimens is still limited. In the event that eradication is not feasible or the costs of eradication outweigh the environmental, social and economic benefits in the