

# Law N. 49 (I)/ 2018

## on compliance measures for users from the Nagoya Protocol

(Ο περί των Μέτρων Συμμόρφωσης των Χρηστών Βάσει του Πρωτοκόλλου της Ναγκόγια για την Πρόσβαση στους Γενετικούς Πόρους και τον Δίκαιο και Ισότιμο Καταμερισμό των Οφελών που Απορρέουν από τη Χρησιμοποίησή τους στην Ένωση Νόμος του 2018)

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# The national law

- Transposition of the EU ABS Regulation into national legislation (only elements that need to be regulated at member state level)
- “Obligatory” for member states to:
  - a) Designate competent authority(-ies) (*Article 6 of Reg.*)
  - b) Lay down rules on penalties applicable to infringements of articles 4 and 4 of the Regulation (*Article 11 of Reg.*)
- Law N.49(I)/ 2018: Published in Official Journal of the Republic of Cyprus on the 1<sup>st</sup> of June, 2018

# Designation of Competent Authority (Art 3)

- The Director of the Department of Environment, Ministry of Agriculture, Rural Development and Environment

Responsible for the application of the Regulation in Cyprus

Other authorities and relevant stakeholders involved *via* their participation in the Scientific Advisory Committee

# Establishment of a Scientific Advisory Committee (ΕΣΕΓΕ) (Art 4)

- Comprised of a president (**Director of DoE**) and appointed (by the head of their unit) representatives from the **Dept of Fisheries and Marine Research**, the **Dept of Agriculture**, the **Dept of Forests**, the **Agricultural Research Institute**, the **Veterinary Services**, the **Game & Fauna Service**, and the **Pharmaceutical Services** (3-year appointment)
- Participants from other governmental services, regional/local authorities, public bodies, academic institutions or persons with relevant expertise may be invited to participate in committee sessions

# Establishment of a Scientific Advisory Committee (ΕΣΕΓΕ) (Art 4)

- Role of the Committee

Advises the Competent Authority on:

- a) The examination of an application by a collection holder to include a collection or part of it to the Register of collections (*“verification that the collection meets criteria set out in Article 5 of Reg.”*)
- b) The development/ renewal of a periodically reviewed plan using a risk-based approach, intended to be used when conducting checks on user compliance (*Article 9 of Reg.*)
- c) The application of complementary measures as per *Article 13 of the Reg.* (eg promotion of awareness raising and training activities for stakeholders, development of sectoral codes of conduct, guidelines, best practices for non-commercial research, communication tools, technical guidance to users etc)

# Checkpoints (*Article 7 of Reg.*)

- Department of Environment: to obtain information and submit “due diligence” certification as per *Art. 4 of Reg.* for the stages of research and final development of product utilizing GR
- Provision on the obligation to exercise due diligence at the stage of funding research introduced in the new Work Programme of the RESTART 2016-2020 Programmes for Research, Technological Development and Innovation of the Research Promotion Foundation ([www.research.org.cy](http://www.research.org.cy))
- A commitment to comply with national and EU legislation also included in the contract agreement with the RPF (declaration by beneficiary and associated beneficiaries of funded research)

# Infringements and penalties (Art 10)

<p><b>Access</b> to genetic resources and traditional knowledge associated with genetic resources without the IRCC or other required information and relevant documentation [Art. 4 (3)]</p>	<p>Maximum penalty of €100.000</p>
<p><b>Transfer</b> of genetic resources and traditional knowledge associated with genetic resources to subsequent users without the IRCC or other required information and relevant documents [Art. 4 (3)]</p>	<p>Maximum penalty of €100.000</p>

# Infringements and penalties (Art 10)

Violation of the obligation to <b>keep</b> information relevant to access and benefit-sharing, as required by [Art. 4(6)]	Maximum penalty of €50.000
Violation of the obligation to fulfill obligations of Art 4 (8) (special cases of access to/ utilization of human pathogens with present or imminent public health emergency, requiring that due diligence or discontinuation of utilization is fulfilled with different deadlines)	Maximum penalty of €50.000



# Infringements and penalties (Art 10)

Violation of the obligation to <b>exercise due diligence obligation</b> in accordance with Article 4, by a <b>recipient of research funding</b> involving the utilization of genetic resources and traditional knowledge associated with genetic resources [Art. 7(1)]	Maximum penalty of €100.000
Violation, by <b>users</b> , of the obligation to declare to the competent authority at the stage of <b>final development of a product developed via the utilization of genetic resources</b> and traditional knowledge associated with genetic resources, that they have fulfilled the obligations under Article 4, and to submit the relevant information [Art. 7(2)]	Maximum penalty of €100.000

# Inspections and control system (Art. 6)

- **Chief Inspector and Inspectors** appointed by the Minister of Agriculture, Rural Development and Environment to enforce the legislation
- Inspectors may:
  - 1) Enter premises (excl. private residences) housing private or public **collections belonging to the EU register** of collections for verification
  - 2) Carry out **checks on users** of GR & TK (documentation or on the spot), to verify whether users comply with obligations under Art. 4 & 7 of Reg, using a periodically reviewed plan or on the basis of information received
  - 3) Issue a **notice of remedial action** or measures to the user

# Records of checks

- The DE keeps for the records of checks at least 5 years, indicating the results and remedial actions or measures
- The public may access this information according to Law 119(I)/2004 (on public access to environmental information)
- The DE compiles a written report yearly on the results of inspections and makes it publicly available

# Complementary regulations

The Council of Ministers may issue complementary regulations to further define the procedures of monitoring user compliance at the stage of funding research or at the stage of the final development of a product resulting from the utilization of GR

# Current situation in Cyprus

- DE assigned a study\* in 2017 to assess and map the degree of utilization of GR in Cyprus
- Catalogue of possible “users” compiled, consisting of research/academic institutions, public bodies, pharmaceutical companies, companies producing cosmetics, dietary supplements, animal feed
- Out of 62 recipients of questionnaire, 24 persons responded (16 entities)
- A total of 4 institutions seem to fall within the scope of the ABS Regulation, at the stage of research / holders of ex-situ collections

\* C. Kounnamas, N-G. Eliades, M. Andreou

# Mapping the degree of utilization of GR in Cyprus\*

**Πίνακας 2:** Φορείς που εμπíπτουν στον Κανονισμό 511/2014 ανά τομέα δράσης.

<b>ΤΟΜΕΙΣ</b>	<b>ΦΟΡΕΙΣ/ ΤΟΜΕΑ</b>
Αναπαραγωγή (βελτίωση) ζώων ( <i>animal breeding</i> )	ΙΓΕ, ΤΕΠΑΚ
Βιολογική καταπολέμηση και βιοδιεγερτές φυτών ( <i>biocontrol &amp; stimulants</i> )	ΤΕΠΑΚ
Βιοτεχνολογία ( <i>biotechnology</i> )	ΤΕΠΑΚ
Καλλυντικά ( <i>cosmetics</i> )	-
Τρόφιμα και Ζωοτροφές ( <i>food &amp; feed</i> )	ΤΕΠΑΚ
Φαρμακευτικά προϊόντα ( <i>pharmaceuticals</i> )	-
Αναπαραγωγή (βελτίωση) φυτών ( <i>plant breeding</i> )	ΙΓΕ, ΤΕΠΑΚ
Κάτοχοι συλλογών ( <i>collection holders</i> )	ΙΓΕ, ΠΦ, ΠΚ

Χρηματομορφία: ΙΓΕ: Ινστιτούτο Γεωργικών Ερευνών, ΤΕΠΑΚ: Τεχνολογικό Πανεπιστήμιο Κύπρου, ΠΚ: Πανεπιστήμιο Κύπρου, ΠΦ: Πανεπιστήμιο Frederick

\* C. Kounnamas, N-G. Eliades, M. Andreou

# Current situation in Cyprus: Utilization of GR

- Research stage: relevant research but uncertain if “utilization”
- Product development stage: most industries use “results of utilization” from other suppliers
- Uncertainty about the “utilization” in specific sectors
- Cyprus: mostly a “provider” than a “user” country
- Gap in current legislation on access to GR:

L.53(I)/2003 requires obtaining authorization from C.A. to obtain animal/plant specimen of sp. under Annex III

L.25(I)/2012 requires obtaining permit from C.A. to collect any plant species from State Forest Land

No dedicated law on **access** to all GR or **benefit-sharing** mechanism

# Current situation in Cyprus: Access to GR

- Cyprus committed ratify the Nagoya Protocol (2011)
- Need to establish a functional and transparent ABS regime
- Define which GR to be regulated, for which uses, from which sources (in-situ/ex-situ) what ABS agreements to establish...
- Possible GR: endemic /near-endemic plant and animal species, threatened species (Red Data Book of the Flora of Cyprus), species annexed in the Habitats Directive, crop wild relatives, landraces for plants and local breeds for domesticated animals, species with medicinal and aromatic properties
- **Study in 2018** to propose an ABS framework based on experiences gained from other biodiversity-rich provider Parties to the NP