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# POSITION

## ON THE REVIEW OF THE EU ORGANIC FARMING REGULATION\*

### INTRODUCTION

Europe's plant breeders and seed producers are and remain committed to serve all types of farming with the best possible plant reproductive material of new and improved varieties conforming to uniform European standards and requirements.

The current EU seed marketing and plant health legislation has successfully assured and guaranteed seed diversity and quality for European farmers and growers, irrespective of their choice of type of farming and respective seed inputs.

ESA therefore underlines the importance to maintain the current rules on variety registration, seed quality, seed health and seed certification for all seed and all markets (GM, non-GM, organic) as a precondition for the fair competition in the EU's Common Market for seed and for a high level environment and customer (farmer) protection. Organic seed must not be established as a lesser quality category of seed but must fulfil the same high expectations of identity, performance, quality and health of customers as non-organic seed.

### AVAILABILITY OF ORGANIC SEED AND DEROGATIONS FROM THE OBLIGATORY USE OF ORGANIC SEED FOR ORGANIC FARMING

The Commission proposes to continue the current provision of possible derogations from the obligatory use of organic seed until (at least) 2020. ESA would like to underline that neither the Commission proposal nor any of its related documents provide a reference, data or other proof of a general or specific lack of availability of organic seed. Europe's plant breeders and seed producers have for many years - and notably in conjunction with the earlier revisions on the organic farming rules - underlined the need to end the concept of general derogations in order to assure that organically produced seed is actually being used by organic

\* COM (2014) 180 fin and Annexes

producers. The current Commission proposal rightly points out that derogations are granted excessively and that this limits the further development of the organic seed market; why the Commission consequently proposes to just continue this very system of general derogations is incomprehensible and not supported by any relevant data. ESA, therefore, suggests to amend the Commission's proposal to take account of the well-established availability of sufficient volumes of organic seed for a number of crops and to provide a simple and effective system for the granting of derogations, including clear timetables for their phasing out, for those crops where this is not (yet) the case.

ESA therefore proposes to establish three categories on species-level or where justified on sub-species level to properly differentiate rules and procedures:

Category I: for species / sub-species listed in this category, no applications for derogations may be put forward as there is generally a wide availability of organically produced seed.

An emergency clause may be provided to allow for an EU-level decision on a time-limited derogation in case of e.g. natural disasters etc..

Category II: for species / sub-species listed in this category, individual applications for derogations may be put forward by organic growers, towards and granted by their respective competent national body before the background of availability of suitable organic seed on EU-level (see below ASSESSMENT OF AVAILABILITY OF ORGANIC SEED ON EU LEVEL). The granting of such derogations shall be examined by a competent EU-level Committee on an annual basis and a respective report shall be made public by the European Commission.

In any case, where derogations are granted these are to be limited to a single sowing period and have to be granted with a respectively defined deadline. It could also be considered to limit the use of non-organic seed to certain maximum rates, possibly combined with a defined phasing out / lowering of such rates.

An emergency clause may be provided to allow for an EU-level decision on a time-limited general derogation in case of e.g. natural disasters etc..

Category III: Commission and Member States shall establish those species and sub-species where it is generally accepted that insufficient amounts of suitable organic seed are available on EU level. For these species / sub-species, the Regulation shall lay down a general derogation from the obligatory use of organic seed.

This general derogation shall in any case be limited and clearly defined in time with a review foreseen at the latest two years ahead of the end of the derogation period.

## **ASSESSMENT OF AVAILABILITY OF ORGANIC SEED ON EU-LEVEL**

ESA is of the opinion that the current system of national (Member State) databases that list available organic seed based on information supplied by seed companies does not reflect the realities of supply, demand and flow of seed within the EU Internal Market.

ESA suggests the integration of the existing national databases and the information supplied therein into a common EU-level database on the availability of organic seed, similar to the system of the EU Common Catalogue of plant varieties.

We are of the opinion that decisions on derogations shall solely be taken on the basis of assessment of organic seed availability on EU level. National shortages in the one or other species generally can easily be compensated by supply from companies in other Member States.

## **ORGANIC CERTIFIED SEED FROM ORGANIC BASIC SEED**

The Commission proposal suggests the phasing out of derogations in order to achieve 100% organically produced plant reproductive material by 2021. It also specifies that the plant intended for the production of certified reproductive material (and where relevant the mother plant) shall have been produced according to the rules of the Regulation for at least one generation or, in the case of perennial crops, for at least one generation during two growing seasons.

ESA is of the opinion that an implementation of this requirement will make the production and use of certified organic seed economically unviable for a number of species. It is already technically challenging to produce earlier generation, multiplication grades of seed on an organic basis which still conforms to high requirements regarding quality, purity, health, etc.. If basic seed would have to be produced organically too, this would probably necessitate very small lots with consequent high production costs and thus considerable costs for farmers and growers.

ESA is of the opinion that the principle of organic production may still be preserved if organic seed is multiplied from untreated, non-organic basic seed.

## **PROVISIONS ON HETEROGENEOUS MATERIAL**

ESA rejects the introduction of the concept of heterogeneous material in this Regulation.

The concept, first put forward by the Commission in conjunction with the proposal of a revised seed marketing legislation, is still undefined and therefore not suitable to be put in a legislative text.

ESA points out that a respective experiment is currently carried out to establish proof of concept, as well as further technical precision. We suggest to await the outcome of this experiment and whether or not and for what species / sub-species respective rules may be laid down.

## **CONVERSION OF ENTIRE HOLDING**

Plant breeding and seed production are highly specialised and internationalised activities which, to a large extent, take place in special areas. The market for organic seed will remain a niche market for the vast majority of species for the foreseeable future.

While ESA accepts that fields dedicated for organic seed production may be certified separately and that specific provisions may be established by certifying bodies to assure that admixtures in the production, harvesting, conditioning (non-chemical treatment) and packaging are avoided, an obligation to fully convert entire seed operations to organic certification is unrealistic and counterproductive as regards the availability of organic seed.

It would force mixed holdings to choose between one of the two production systems and the choice would quite likely be made in favour of the non-organic system as it is economically less risky and probably more sustainable in the short run.

## **DECERTIFICATION THRESHOLD AT LEVELS OF THE BABY FOODS**

Article 20 proposes that products in which the presence of products or substances that have not been authorised according to the regulation is detected beyond the levels established, taking account in particular of Directive 2006/125/EC (baby foods directive), shall not be marketed as organic.

While ESA is of the opinion that this requirement would not be applicable to plant reproductive material, as it is not intended for nor may be reasonably expected to be used as food, we also consider the setting of such an organic decertification threshold based on the levels of the baby foods Directive unnecessary and unjustified. While sufficient purity needs to be ascertained, such extremely low levels suggest a specific health issue when surpassed – which is clearly not the case.

Here, thresholds should be tools to manage consumers' expectations of proper organic production and certification as well as the practicalities of open farm environments with mixed organic and non-organic farming.

## **EXCLUSION OF IONISING RADIATION**

Whereas the existing EU Regulation 834/2007 stipulates the prohibition of this method in food production only (art. 10), the new proposal does not specify whether it is restricted to food only or extended to other products, including seed.

In the meaning of article 1 of the Council Directive 96/29/Euratom, ionising radiation is “the transfer of energy in the form of particles or electromagnetic waves of a wavelength of 100 nanometre or less or a frequency of  $3 \times 10^{15}$  Hertz or more capable of producing ions directly or indirectly.”. This definition corresponds to ultraviolet rays, X ray and gamma rays. Those rays are used in breeding as mutagens to create genetic variability among a species.

The managed use of various rays raises the frequency of mutations and consequently the probability to identify a plant with a desired trait. This method does not differ from the spontaneous phenomenon; it was shown that a same mutation of a unique trait could originate either from natural or induced sources. No element could distinguish plants obtained from both methods.

Moreover, the prohibition of ionizing radiation is not compliant with the recommendations of the International Plant Protection Convention (IPPC) which considers this physical treatment as a disinfection alternative to Plant Protection Products. It allows the eradication of harmful organisms on seeds, which are plant parts not intended for food and feed.

## **PROHIBITION OF ARTIFICIAL POLYPLOID INDUCTION**

While the existing Regulation stipulates the prohibition of this method in animal production only (Art. 5-m), the new proposal lacks this clarification. ESA is of the opinion that the prohibition must not be extended to plant breeding and seed as this would reduce the means for breeding in some species where polyploidisation is commonly in use in breeding programs (e.g. use of dihaploids as parental lines in many crops) and organic producers would consequently be unable to continue to access the genetic progress achieved in those crops.

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ESA is the voice of the European seed sector. ESA's members are national associations and individual companies active in research, breeding, production and marketing of seeds of agricultural and ornamental plant species. ESA represents more than 7000 seed businesses in the EU and beyond.

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