



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

Directorate B. Quality, Research & Innovation, Outreach
The Director

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I would like to thank you for your email of 8 February 2021,¹ in which you request clarification with respect to the possible use of self-produced in-conversion seeds from organic operators and on whether the provisions of Regulation (EU) 2018/848 would imply essential changes for conventional seed breeders.

In its Annex II, Part I, point 1.8.1., Regulation (EU) 2018/848² reads as follows: “*For the production of plants and plant products other than plant reproductive material, only organic plant reproductive material shall be used*”.

Annex II of Regulation (EU) 2018/848, Part I, point 1.8.5.1., as recently amended by Commission Delegated Regulation (EU) 2020/1794,³ enables the use of the in-conversion plant reproductive material by way of derogation from its point 1.8.1.

Such use is allowed when the data collected in the database referred to in Article 26(1) of Regulation (EU) 2018/848 show that the needs of the operator for organic reproductive material are not met. The operator may then use the in-conversion plant reproductive material when in accordance with Article 10(4), point (a) of the same Regulation. To note, this last condition concerns: “*(a) plant reproductive material provided that a conversion period of at least 12 months has been complied with*”.

¹ Ares(2021)1923301

² [Regulation \(EU\) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation \(EC\) No 834/2007 \(OJ L 150, 14.6.2018 p.1 \)](#)

³ Commission Delegated Regulation (EU) 2020/1794 of 16 September 2020 amending Part I of Annex II to Regulation (EU) 2018/848 of the European Parliament and of the Council as regards the use of in-conversion and non-organic plant reproductive material(OJ L 402, 1.12.2020 p.23)

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The same Annex II of Regulation (EU) 2018/848, Part I point 1.8.5.1., as recently amended by Commission Delegated Regulation (EU) 2020/1794, in its last paragraph, lays down that *“When in compliance with Article 6 (i) operators may use both organic and in-conversion plant reproductive material obtained from their own holding, irrespective of the qualitative and quantitative availability according to the database referred to in Article 26(1) or the system referred to in point (a) of Article 26(2).”*.

This last paragraph aims to clarify that the operators, taking into account the horizontal rules, cited under Article 6 (i), can use self-produced organic and in-conversion plant reproductive material irrespective of the availability shown by the database referred to in Article 26(10) or the system referred to in Article 26(2) point (a).

However, the condition laid down under point 1.8.5.1. first paragraph, for the in-conversion plant reproductive material to comply with point (a) of Article 10(4) shall be respected. Hence, operators can use their self-produced in-conversion plant reproductive material when it is derived from parcels that have been under a conversion period of at least 12 months.

Finally, to address your second question, the new provisions of Article 10(4), which allow the marketing as “in-conversion” of plant reproductive material, provided that a conversion period of at least 12 months has been complied with, together with provisions of Article 9(9), which permit parallel production in case of plant nurseries, seed multipliers and breeding operations, could likely be an incentive for conventional breeders to convert at least partially to organic production.

With respect to the other provisions on production of organic plant reproductive material under point 1.8.2. of Regulation (EU) 2018/848, they are substantially the same as the current provisions under Article 12 of Council Regulation (EC) No 834/2007.⁴ However, the wide definition of plant reproductive material under Article 3(17) indirectly including seedling for transplant could have an impact on the production of those non-organic seedlings produced for the organic sector under the derogation for use set by the organic regulation. As you are well aware from the most recent meetings of the Committee on organic production, the issue is under discussion taking into account the evolution of the organic legislation with respect to possible derogations on the use of non-organic seedlings.

Finally, conventional seed breeders, may also, when interested in the production of organic heterogeneous material, be concerned by the future new provisions on organic heterogeneous material, which are currently under development with the draft Commission Delegated Regulation supplementing Regulation (EU) 2018/848 of the European Parliament and of the Council as regards the production and marketing of plant reproductive material of organic heterogeneous material of particular genera or species.

⁴ Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 (OJ L 189, 20.07.2007, p. 1)

The present opinion is provided on the basis of the facts as set out in your email and expresses the view of the Commission services and does not commit the European Commission. In the event of a dispute involving Union law it is, under the Treaty on the Functioning of the European Union, ultimately for the European Court of Justice to provide a definitive interpretation of the applicable Union law.

Yours sincerely,

