



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

Directorate B – Sustainability

Brussels

Dear [REDACTED]

I would like to thank you for your email of 29 June¹, in which you ask for clarifications regarding derogations to use non-organic animals in organic production.

You first asked whether, when an operator wants to use the derogation foreseen under point 1.3.4.1. of Part II of Annex II of Regulation (EU) 2018/848¹ ("*By way of derogation from point 1.3.1, for breeding purposes, non-organically raised animals may be brought to an organic production unit when breeds are in danger of being lost to farming as referred to in point (b) of Article 28(10) of Regulation (EU) No 1305/2013 and acts adopted on the basis thereof. In such case, the animals of those breeds need not necessarily be nulliparous*"), the competent authority should grant an authorization to the operator.

The provisions of point 1.3.4.1. of Part II of Annex II of Regulation (EU) 2018/848 do not require that an authorization is granted by the competent authority. However, please note that the conditions for these breeds to be considered as in danger of being lost to farming set in Commission Delegated Regulation (EU) No 807/2014 of 11 March 2014 supplementing Regulation (EU) No 1305/2013² must be fulfilled. In addition, please note that, in accordance with point 1.3.4.5 of Part II of Annex II of Regulation (EU) 2018/848, the operator shall keep records or documentary evidence of the origin of the animals.

You then ask to what extent the requirements set out in points 1.3.4.4.1 to 1.3.4.4.3 of Part II of Annex II of Regulation (EU) 2018/848 are applicable as well, specifically the percentages set in point 1.3.4.4.2 and 1.3.4.4.3 and the requirements laid down in point 1.3.4.4.1, when a herd is constituted for the first time.

¹ 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.

² Commission Delegated Regulation (EU) No 807/2014 of 11 March 2014 supplementing Regulation (EU) No 1305/2013 of the European Parliament and of the Council on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and introducing transitional provisions, OJ L 227, 31.7.2014, p.1.



The provisions of point 1.3.4.4.1 of Part II of Annex II of Regulation (EU) 2018/848 state the following:

*“1.3.4.4.1. For breeding purposes, non-organic young animals may be introduced **when a herd or flock is constituted for the first time**. They shall be reared in accordance with the organic production rules immediately after they are weaned. In addition, the following restrictions shall apply on the date on which those animals enter the herd or flock:*

(a) bovine animals, equine animals and cervine animals shall be less than six months old;

(b) ovine animals and caprine animals shall be less than 60 days old;

(c) porcine animals shall weigh less than 35 kg;

(d) rabbits shall be less than three months old.”

Hence the provisions of point 1.3.4.4.1 apply when a herd is constituted for the first time with limitations on the species of animals and their respective ages but no limitations on percentages.

The provisions of point 1.3.4.4.2 and 1.3.4.4.3 of Part II of Annex II of Regulation (EU) 2018/848 state the following:

“1.3.4.4.2. For breeding purposes, non-organic adult male and non-organic nulliparous female animals may be introduced for the renewal of a herd or flock. They shall be reared subsequently in accordance with the organic production rules. In addition, the number of female animals shall be subject to the following restrictions per year:

(a) up to a maximum of 10 % of adult equine animals or bovine animals and 20 % of the adult porcine animals, ovine animals, caprine animals, rabbits or cervine animals may be introduced;

(b) for units with fewer than 10 equine animals, cervine animals or bovine animals or rabbits, or with fewer than five porcine animals, ovine animals or caprine animals, any such renewal shall be limited to a maximum of one animal per year.”

“1.3.4.4.3. The percentages set in point 1.3.4.4.2 may be increased up to 40 %, provided that the competent authority has confirmed that any of following conditions is fulfilled:

(a) a major extension to the farm has been undertaken;

(b) one breed has been replaced with another;

(c) a new livestock specialisation has been initiated.”

The constitution of a herd for the first time should be considered as similar to the condition that “a new livestock specialisation has been initiated”. Hence the percentages set in point 1.3.4.4.2 could be increased to up to 40% for non-organic nulliparous female animals.

The present opinion is provided on the basis of the facts as set out in your email of 29 June 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 faithfully,



ⁱ Ares(2022)4825058