



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

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

Brussels,
PP/sn/agri.ddg1.b.4(2020)2075989

Dear [REDACTED],

Thank you for your e-mail of 18 December 2019¹ in which you ask for clarification on the draft proposal for a Commission Delegated Regulation amending Annex II to Regulation (EU) No 2018/848 on organic production² as regards certain detailed production rules. Please accept my apologies for the late reply.

In particular, you refer to a recital included in the draft. Please let me first recall that the role of recitals is to provide reasoning for provisions included in articles.

Hence, it is confirmed that all sprouted seeds can be produced organically when derogating from the requirement of soil-related crop cultivation “by dipping in clear water”. This is based on the following provisions included in the draft Commission Delegated Regulation:

“Annex II to Regulation (EU) 2018/848 is amended as follows:

in Part I, point 1.3. is replaced by the following:

‘1.3. By way of derogation from point 1.1., the production of sprouted seeds , provided that the seeds are organic, and the obtaining of chicory heads including by dipping in clear water shall be allowed.’;

For sake of clarity, I would also recall provisions of point 1.1. of Part I of Annex II to Regulation (EU) No 2018/848: “ *Organic crops, except those which are naturally grown in water, shall be produced in living soil, or in living soil mixed or fertilised with materials and products allowed in organic production, in connection with the subsoil and bedrock.*”

¹ ARES(2019)7796113

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 \(OJ L 150, 14.6.2018 p.1 \)](#)



I bring your attention also to the definition of soil-related crop cultivation which is laid down under Article 3(70) of the same Regulation, as follows: “ *soil-related crop cultivation*’ means production in living soil or in soil that is mixed or fertilised with materials and products that are allowed in organic production in connection with the subsoil and bedrock;”.

Hence, the draft Commission Delegated Regulation act maintains the derogation from the living soil allowing cultivation of sprouted seeds by dipping in clear water subject to the use of organic seeds. It must be recalled that all other requirements for the production of organic sprouted seeds shall be respected, this means that pure hydroponic systems as defined under point 1.2. of Part I of Annex II are prohibited.” *Hydroponic production, which is a method of growing plants which do not naturally grow in water with their roots in a nutrient solution only or in an inert medium to which a nutrient solution is added, is prohibited.*”

I can also confirm that on the basis of provisions of the above-mentioned draft Commission Delegated Regulation, all kinds of sprouted seeds shall be produced using organic seeds, when produced under the derogation from point 1.1. On the contrary, if sprouted seeds are cultivated in living soil in compliance with point 1.1., the Competent Authorities of Member States may be able to allow the use of non-organic seeds under the specific conditions laid down under point 1.8.5.1. of Part I of Annex II to Regulation 2018/848. Currently, conditions for such derogation are laid down in Article 45 of Commission Regulation (EC) No 889/2008³.

Finally, with respect to your question on whether “whereas” referring to sprouted seeds in the draft Delegated Regulation could lead to misinterpretation, I confirm that as above-mentioned, the recital is correctly referring to sprouted seeds as the provisions concern all kinds of sprouted seeds.

The present opinion is provided on the basis of the draft delegated act which is not yet adopted by the Commission and therefore could still be changed. This opinion 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,



³ Commission Regulation (EC) No 889/2008 of 5 September 2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control (OJ L 250, 18.9.2008, p. 1)