



EUROPEAN COMMISSION
 DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

Deputy Director General, in charge of Directorates A, B and C

Brussels,
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[redacted]

Thank you for your email of 10 February 2016 in which you raise the question of the interpretation of Article 15 and Annex IV of Regulation (EC) No 889/2008 as regards organic eggs.

Based on the information in your email, the question concerns an egg production farm with 23,000 laying hens and where the total Nitrogen output per year is 130 kg/ha.

To be certified as organic, all the rules relating to organic livestock production in general and to organic poultry production in particular that are laid down in Regulations (EC) No 834/2007¹ and (EC) No 889/2008² have to be complied with.

You ask about Article 15 on stocking density, of Regulation (EC) No 889/2008.

"Article 15

Stocking density

1. The total stocking density shall be such as not to exceed the limit of 170 kg of nitrogen per year and hectare of agricultural area as referred to in Article 3(2).
2. To determine the appropriate density of livestock referred to above, the competent authority shall set out the livestock units equivalent to the above limit, taking as a guideline, the figures laid down in Annex IV or the relevant national provisions adopted pursuant to Directive 91/676/EEC."

For all animals, the stocking density cannot lead to exceeding the limit of 170 kg of nitrogen per year and per ha. Annex IV of Regulation (EC) No 889/2008 fixes for laying hens, a stocking density of 230 laying hens per ha that is equivalent to this 170 kg limit. This is the guideline to be used by the competent authorities when they set out the livestock units equivalent to the nitrogen limit.

¹ 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, O.J. L 189, 20.07.2007, p. 1

² 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, O.J. L 250, 18.09.2008, p. 1

[redacted]

According to you, the Spanish authorities have not made use of the possibility to adapt the figures laid down in Annex IV to Regulation (EC) No 889/2008. Those figures therefore apply as such.

Moreover, there are also rules on housing conditions that provide for the welfare of farm animals. Annex III of Regulation (EC) No 889/2008 fixes the minimum surface area indoors and outdoors for the different species and types of production. In particular, for laying hens, the minimum outdoors area is 4 m² per head provided that the limit of 170 kg of N/ha/year is not exceeded.

In addition, there is also a limit on the number of animals in a poultry house: 3000 for laying hens. The minimum indoors area is set at 6 animals per m², 18 cm of perch per animal and 7 laying hens per nest or, in the case of a common nest, 120 cm² per bird.

The overall principle in Article 4 (a) (ii) of Regulation (EC) No 834/2007 lays down that land-related livestock production must be practiced. Article 5 (g) of the same Regulation also states that organic farming shall be based on the practice of site-adapted and land-related livestock production. Article 16 of Regulation (EC) No 889/2008 on the prohibition of landless livestock production also provides the following

Article 16

Prohibition of landless livestock production

Landless livestock production, by which the operator of the livestock does not manage agricultural land and/or has not established a written cooperation agreement with another operator according to Article 3(3), is prohibited.

For your information Article 3(3) reads as follows

Article 3

Soil management and fertilisation

"...

3. Organic-production holdings may establish written cooperation agreements exclusively with other holdings and enterprises which comply with the organic production rules, with the intention of spreading surplus manure from organic production. The maximum limit as referred to in paragraph 2, shall be calculated on the basis of all of the organic-production units involved in such cooperation.

..."

In order to be certified organic, in addition to the "organic" rules relating to poultry production in general, all the other requirements regarding production of laying hens also have to be respected.

You may be aware that new standards on resources and emissions are going to help national authorities across the EU to lower the environmental impact of large poultry and pig farms. The new specifications stem from the review of the Best Available Techniques (BAT) Reference Document for the intensive rearing of poultry and pigs (IRPP), whose conclusions were published on 21 February 2017 in the Official Journal of the EU³.

Referring to the above mentioned BAT which concerns the intensive rearing of poultry (as from 40,000 animals), the estimated nitrogen excreted per laying hen per year lies between 0.4 and 0.8 kg. Therefore it seems quite impossible that 23,000 laying hens should produce only 130 kg in one year. Taking the lowest range, 0.4 kg, the total quantity of nitrogen produced over a year would be 9,200 kg. To arrive at 130 kg/ha, the

³ Commission Implementing Decision (EU) 2017/302 of 15 February 2017 establishing best available techniques (BAT) conclusions, under Directive 2010/75/EU of the European Parliament and of the Council, for the intensive rearing of poultry or pigs, OJ L 43 of 21.2.2017, p. 231

area would have to be at least 70,8 ha and with a higher excretion of nitrogen at 0.8 kg, the area would be double.

Coming back to your example of 23,000 hens:

- firstly the production cannot be landless;
- secondly, in order to respect animal welfare rules, a farm with 23,000 laying hens has to have at least 9.2 ha of land (because, as was mentioned previously, each animal has to have at least 4 m² of outdoor space, multiplied by 23,000, the total comes to 92,000 m² i.e. 9,2 ha);
- thirdly, to respect the 170kg N/ha/year, if the rule that is applied is to require a maximum stocking density of 230 laying hens per ha, then the minimum area will have to be 100 ha owned by the farmer or used under a written cooperation agreement with another organic farmer for the spreading of the manure.

So "a" cannot apply in the case you describe.

To answer your question, all these elements have to be taken into consideration including, where this is the case, the stocking density set out by the competent authority according to Article 15(2) applicable in the area where the holding is located, not just the provisions in Article 15 and Annex IV of Regulation (EC) No 889/2008. If, as you state in your email, the competent authority has not fixed a stocking density that is different from the figure laid down in Annex IV of Regulation (EC) No 889/2008, then the required area would be 100 ha for 23,000 laying hens.

I hope that you find this information helpful. If you have further questions don't hesitate to consult our website at https://ec.europa.eu/agriculture/organic/index_en; where you will be able to find a lot of useful information on organic production.

The present opinion is provided on the basis of the facts as set out in your email of 10 February 2016 and on the understanding that 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,

