



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

Directorate B – Sustainability

Brussels

Dear [REDACTED],

I would like to thank you for your email¹ of 13 May 2022, in which you ask to address different requests for clarification received from the Ministry of Agriculture of Japan concerning the use of herbicides in organic farming. Please accept my apologies for the delay in replying.

For the sake of clarity, please find below our specific replies in relation to your different questions.

1) Are herbicides included in the pesticides allowed to be used under the EU organic standards? If so, what are the relevant articles and where are they stipulated?

No, herbicides have not been included in the list of approved active substances to be used in organic production as laid down under Commission Implementing Regulation (EU) 2021/1165² adopted by the Commission on the basis of an empowerment in Art. 24(9) of Regulation (EU) 2018/848³.

Please note in particular the following provisions:

First, as provided for in Annex II, Part, I, Point 1.10.1 of Regulation (EU) 2018/848: “ *The prevention of damage caused by pests and weeds shall rely primarily on the protection by:*

- *natural enemies,*
- *the choice of species, varieties and heterogeneous material,*
- *crop rotation,*
- *cultivation techniques such as biofumigation, mechanical and physical methods, and*

¹ ARES (2022)3704013

² http://data.europa.eu/eli/reg_impl/2021/1165/oj

³ [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 \(OJ L 150, 14.6.2018 p.1 \)](#)

[REDACTED]

— *thermal processes such as solarisation and, in the case of protected crops, shallow steam treatment of the soil (to a maximum depth of 10 cm).*”

Therefore, for the control of weeds, primarily agronomic practices and biological and physical methods have to be applied in organic production.

However, point 1.10.2 of Part 1 of Annex II to Regulation (EU) 2018/848 as amended by Regulation (EU) 2021/1691 provides for the following: “1.10.2. *Where plants cannot adequately be protected from pests by measures provided for in point 1.10.1 or in the case of an established threat to a crop, only products and substances authorised pursuant to Articles 9 and 24 for use in organic production shall be used, and only to the extent necessary. Operators shall keep records proving the need for the use of such products, including the date or dates on which each product was used, the name of the product, its active substances, the amount applied, the crop and parcels concerned, and the pest or disease to be controlled.*”

Hence, it is important to clarify the definition of “pest”, which is laid down under Article 3(24) of Regulation (EU) 2018/848 as follows: “(24) ‘pest’ means a pest as defined in Article 1(1) of Regulation (EU) 2016/2031 of the European Parliament and of the Council” and Article 1(1) of Regulation (EU) 2016/2031⁴ reads: “ 1. This Regulation establishes rules to determine the phytosanitary risks posed by any species, strain or biotype of pathogenic agents, animals or **parasitic plants injurious to plants or plant products** (‘pests’) and measures to reduce those risks to an acceptable level.”

Consequently, under the definition of pest, parasitic plants are included and in order to eliminate such plants, active substances could potentially be assessed and approved under Article 24 of Regulation (EU) 2018/848 to be used as herbicides in organic production. However, as already mentioned, at present, no active substances have been authorised to be used as herbicide in organic production. Under point 1 of Annex I to Commission Implementing Regulation (EU) 2021/1165, it is set that authorised basic substances cannot be used as herbicides. Under point 4 of the same Annex, the use of several authorised substances is approved except as herbicides.

- 2) ***Can Slasher Organic Weedkiller of Eco Organic Garden be used under EU organic standards? This material seems to be a herbicide with nonanoic acid (pelargonic acid) as an active ingredient. Product HP: <https://www.ecoorganicarden.com.au/products/weedkiller/slasher/>***

On the basis of the information that you have provided, the product seems to contain as active substance the nonanoic acid or pelargonic acid (C9), which is a fatty acid included in the fatty acids group approved with CAS number 67701-09-1. However, even though

⁴ Regulation (EU) 2016/2031 of the European Parliament of the Council of 26 October 2016 on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC (OJ L 317, 23.11.2016, p.4)

fatty acids are approved as basic substances for use in organic production, as mentioned above, under point 4 of Annex I to Commission Implementing Regulation (EU) 2021/1165, it is also clear from the very same provision that currently, they cannot be used as herbicides in organic production.

The present opinion is provided on the basis of the facts as set out in your email of 13 May 2022 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,

