



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

Directorate B – Sustainability

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I would like to thank you for your email¹ of 8 February 2022 asking for clarifications with respect to certain provisions of Regulation (EU) 2018/848² and of Commission Delegated Regulation C(2022)101³, which is currently under scrutiny by the European Parliament and the Council. This act will amend Annex II to Regulation (EU) 2018/848.

Please find below the replies to your questions.

1. Is it really voluntary for the Member states to provide operators opportunity to offer the PRM produced according to point 1.8.6?

I understand that you are referring to the last paragraph of point 1.8.6 of Commission Delegated Regulation C(2022)101, which reads as follow: “*Operators who produce and market the plant reproductive material produced in accordance with the first paragraph shall be allowed to make public on a voluntary basis, the relevant specific information on the availability of such plant reproductive material in the national systems established in accordance with Article 26(2)...*”.

It is indeed voluntary for the operators. However, the Member States will have to comply with the provisions of Article 26(2) of Regulation (EU) 2018/848, which lays down that: “*Member States shall have in place systems that allow operators that market organic or in-conversion plant reproductive material, organic animals or organic aquaculture juveniles, and that are able to supply them in sufficient quantities and within a reasonable period, to make public on a voluntary basis, free of charge, together with their names and contact details, information on the following: (a) the organic and in-conversion plant reproductive material, such as plant reproductive material of organic heterogeneous material or of organic varieties suitable for organic production, excluding seedlings but including seed potatoes which is available; the quantity in weight*

¹ ARES (2022)917493

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) .../... of XXX amending Annex II to Regulation (EU) 2018/848 of the European Parliament and of the Council as regards specific requirements for the production and use of non-organic, in-conversion and organic seedlings and other plant reproductive material –C(2022)101

of that material and the period of the year of its availability; such material shall be listed using at least the Latin scientific name (...).” Hence, only seedlings are excluded and Member States may decide voluntarily to extend the scope and include also seedlings. On this issue, please consider also the reply presented to the Organic Production Committee in May 2021 and available in CIRCA BC⁴.

In addition, I would like to recall that Article 26(5) provides also that Member States may continue to use relevant information systems that are already in existence for the purpose of Article 26 (1), (2) and (3).

- 2. In any case, if the seed database provides the opportunity to offer 1.8.6 PRM, how should be this category named in the database? (providing the operators can put on the market this 1.8.6. PRM as organic, we understand this is not obligatory to call this 1.8.6. PRM differently than organic PRM even for the purpose of database, as it is also part of marketing.)***

The operators authorised to produce under the conditions of point 1.8.6 of Commission Delegated Regulation C(2022)101 will be able to label the PRM as organic. However, in the database or system under Article 26(2), the material should be identified as produced under point 1.8.6. so that other organic operators will be informed of the different conditions of production.

- 3. Is the assumption in the previous question - i.e. the producer of 1.8.6. PRM can market this PRM as organic therefore he/she can offer it in the database as organic as well – correct?***

No, as mentioned above, in the database, the operators will have to indicate produced with authorisation under point 1.8.6.

- 4. If so, how should the farmer checking the database distinguish PRM 1.8.6. from really organic PRM.***

See above.

- 5. In case these two types of PRM are not differentiated in the database, how can the farmer prefer organic PRM over the 1.8.6. Is the farm obliged to do so in such circumstances?***

See above.

⁴ ARES(2021)2807591

- 6. What is the difference between PRM dedicated for production of organic product and PRM as a final product? Is 1.8.6. PRM intended only for use in organic production (to be used by organic farmers to make organic products)? Or 1.8.6. PRM might be sold to final consumers as organic with organic EU logo and without the information it was planted from non-organic seeds unlike the „real“ organic PRM?**

Plant reproductive material is subject to horizontal rules on plant reproductive material. To address your first question, there is no difference when you refer to PRM placed on the market as PRM. The provisions of point 1.8.6. of Commission Delegated Regulation C(2022)101 allow competent authorities to authorise nursery operators producing PRM. In both cases, the labelling conditions do not change as the products are in compliance with the production conditions set under the Regulation.

- 7. If the information on the PRM being made according to 1.8.6. is supposed to be communicated only within B2B contracts – should we understand that the 1.8.6. is not intended for final consumers buying such PRM as a final product for their home gardens? Such consumers are probably not able to get the information.**

The PRM produced under the conditions of future point 1.8.6 of Commission Delegated Regulation C(2022)101 is not limited to any category of final users and can be placed on the market as organic, including final consumers for their home gardens, provided that the applicable conditions are met (see point 1.8.6) .

Through the database systems put in place in accordance with Article 26 of Regulation (EU) 2018/848, information may be provided to operators. The placing on the market of PRM in containers for final consumers is limited to the derogation set under point 1.4 of Part I of Annex II to Regulation (EU) 2018/848 for further transplanting.

- 8. What is the definition of transplantation (in the context of the point 1.8.5.8.? We feel that transplanting seedling of lettuce (small plant produced from seed in the same growing season, fresh during its (the seedlings vegetative stage) is not the same thing as transplanting the sowing potato/garlic/onion which is dry and not growing nor sprouting yet (similar as seed), plus the reproductive material was harvested as PRM during the previous season, the previous growing stage.**

We believe the word transplanting fits better to the case of lettuce/tomatoe/paprika etc. As small fresh plant is being transplanted to a different place in order to make the same plant bigger to harvest it as a final products. Do you agree? The sowing potatoes/garlic/onion are not transplanted in the same way as lettuce and co. but rather sowed.

The term transplantation is used only in point 1.4 of Part I of Annex II to Regulation (EU) 2018/848 for the derogation for production of seedlings and transplants in containers. In addition, in Commission Delegated Regulation C(2022)101, the term is used under point 1.8.5.8, which prohibits the authorisation for organic nurseries to use

non-organic seedlings for the production of organic seedlings for species having a cultivation cycle completed in one growing season, from the transplantation of the seedling to the first harvest of product. The term is used in its literal meaning in the sense of the action to transfer in soil the plant reproductive material.

I would also like to recall that the prohibition set under point 1.8.5.8 of Commission Delegated Regulation C(2022)101 was thoroughly discussed in the GREX and generally supported by experts and by the sector as well in the comments received within the context of the feedback mechanism. The objective is to limit the use of a certain category of non-organic seedlings to ensure the integrity of final products and the prevention of possible presence of residues.

The techniques applied for propagation are various and depend on the species' and varieties' properties. Please note that the provisions of point 1.8.5.8. of Commission Delegated Regulation C(2022)101 are clearly referring to seedlings, the meaning of which is also given in Commission Implementing Regulation (EU) 2021/464 as “young plants originating from seeds and not from cuttings”. Seed-potatoes are tubers, also defined in relevant horizontal rules⁵, and as such do not comply with the seedlings definition. Hence, the provisions of point 1.8.5.8 of Commission Delegated Regulation C(2022)101 do not cover potato plants derived from tubers. With respect to onion and garlic, they can be produced either via the sowing of seeds or the transplant of seedlings or bulbs. Therefore, in case of the use of seedlings, when necessary for the lack of organic seeds/seedlings, the competent authority will be able to authorize the use of non organic seeds for the production of organic seedlings in compliance with point 1.8.5 of Commission Delegated Regulation C(2022)101 in case of farmers using the seeds for the production of their own seedlings or in compliance with point 1.8.6. of Commission Delegated Regulation C(2022)101 in case of nursery/operators producing seedlings to be placed on the market as PRM.

- 9. Basic question; does the point 1.8.5.8. apply also for the sowing potatoes, garlic and onion? We are of the opinion the sowing potatoes, garlic and onion should not be treated as seedlings of species with cultivation cycle completed in one growing season. Even though they are not seeds, for the purpose of propagating in organics it should be considered rather as seeds, therefore derogation on non-organic growing potatoes/onions/garlic should be maintained (also in order to maintain these producers in organic regime).***

Please consider our above answers. I confirm that the organic producers will have to respect the organic production requirements also in case of derogation to use non-organic seeds under point 1.8.5. of Commission Delegated Regulation C(2022)101: the farmers will be able to produce their own seedlings under set organic conditions. In case of authorisation under point 1.8.6. of Commission Delegated Regulation C(2022)101, a producer of PRM shall be able to produce organic seedlings under the organic conditions set under point 1.8.6.

⁵ Council Directive 2002/56/EC of 13 June 2002 on the marketing of seed potatoes

This opinion is provided on the basis of the facts set out in your letter of 8 February 2022 and expresses the opinion 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 Court of Justice of the European Union to provide a definitive interpretation of the applicable Union law.

Yours sincerely,

