EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

Directorate B – Sustainability

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I would like to thank you for your email[1] of 8 February 2022, in which you express your concern about and ask for clarification with respect to certain provisions of Commission Delegated Regulation C(2022)101[2], which is currently under scrutiny by the European Parliament and the Council. This act will amend Annex II to Regulation (EU) 2018/848[3].

I understand that you are concerned about the possibility to use the EU logo for plant reproductive material when produced under authorisation conditions set by new point 1.8.6 and wonder whether this is compatible with the labelling provisions under Article 33(1).

Please note that Article 33(1) of Regulation (EU) 2018/848 states the following:

"The organic production logo of the European Union may be used in the labelling, presentation and advertising of products which comply with this Regulation (...)."

Future point 1.8.6 of Commission Delegated Regulation C(2022)101 will be introduced into Annex II to the basic act. The production rules set out in this point 1.8.6 comply with the basic act. Once authorised, the plant reproductive material produced in accordance with point 1.8.6 would comply with the basic act, and the EU logo could therefore be used. This new category of plant reproductive material will be produced in accordance with EU organic production rules and authorised.

It is important to note, as already underlined in a previous response to your requests for clarifications[4], that the text limits the time provided for the authorisation to produce the new category of plant reproductive material given that the objective is to overcome the

1 ARES (2022) 912054

2 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

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).

4 ARES(2022)660856

current lack of organic plant reproductive material. In order to respect the long-term objectives of the basic act, the services of the Commission will monitor the progress.

I would like to draw your attention to the quite detailed conditions in point 1.8.6. of Commission Delegated Regulation C(2022)101, requiring the respect of all organic production requirements.

You are comparing plant reproductive material to other inputs, such as the authorisation of non-organic agricultural ingredients in processed food, but plant reproductive materials are themselves in the scope of the organic regulation and subject to specific production requirements.

The information from organic nursery to organic farmers is indeed already transmitted business to business and will also be transmitted via the systems under Article 26(2) of Regulation (EU) 2018/848 as operators will be able to provide data on the PRM produced, informing when an authorisation under the provisions of point 1.8.6 has been used.

You refer to a previous version of draft Commission Delegated Regulation C(2022)101, where the proposal to label in a differentiated way the PRM produced under the provisions of point 1.8.6. was put forward with the reference "may be used in organic production". However, that proposal was not supported as several delegates and the sector[5] expressed their strong disagreement considering such differentiated labelling as an additional burden and potentially undermining the activity of organic nursery due to the actual severe lack of mother plants organically grown. Following the strong requests from several Member States experts and a comprehensive technical assessment of the situation, the services of the Commission drafted production rules, in line with the basic act, in order to allow the use of the EU logo.

I confirm that when PRM is placed on the market there is no limitation in terms of potential customers. When on the market, it can be bought by farmers as well as final consumers. You are concerned by the fact that the final consumer is not informed of the origin of PRM. However, I would like to recall that, also under 1.8.6. provisions, the PRM shall be grown under organic conditions; to ensure integrity, we have agreed to include a prohibition regarding the authorisation to use non-organic seedlings for species having a short cultivation cycle.

You also express your concern with respect to the fact that the nursery sector, thanks to these possible authorisations under point 1.8.6., would not be encouraged to produce organic seeds.

I would also like to recall the specific provisions, introduced with Commission Delegated Regulation (EU) 2020/1794[6], which, while allowing flexibility for the competent authorities to avoid too much administrative burden, aim at the same time to limit the use of derogations and monitor the progress in the sector, in particular with the list of positive species under point 1.8.5.6.

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[5] Please see also documents circulated in GREX meeting of September 2021, when Commission Services presented the results of the Feedback mechanism by which more than 400 comments have been collated from the sector.

[6] Commission Delegated Regulation (EU) 2020/1794 of 16 September 2020 amending Part I of Annex II to Regulation (EU) 2018/848 of the European Parliament and of the Council as regards the use of in-conversion and non-organic plant reproductive material (OJ L 402, 1.12.2020, p.23).

The aim of this new delegated act is to permit more flexibility for the competent authorities to decide in case of a lack of availability of organically grown mother plants. Authorisations under 1.8.6. are not obligatory and the competent authorities play a fundamental role in deciding whether they are necessary, in monitoring progress and finally in limiting their use. Moreover, as already expressed in my previous reply to your letter of 27 January 2022[7], the annual notification under point 1.8.6, together with the reporting provisions set under Article 53(6)[8] of Regulation (EU) 2018/848, will allow the services of the Commission to monitor the availability of organic plant reproductive material and to decide, in compliance with Article 53, whether to end or extend these authorisations.

With respect to the database, since seedlings are excluded, the competent authority is not obliged to include them. Please note that the provisions are referring to the system established in accordance with Article 26(2), from which seedlings are also excluded.

The last paragraph of point 1.8.6. reads as follows: "*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).*"

On this, you consider that there is a conflict between the basic act and Commission Delegated Regulation C(2022)101. I fear I cannot follow your reasoning with respect to this point. Indeed, the provisions are duly reflecting the provisions of Article 26 of Regulation (EU) 2018/848 in order to allow operators to make public information on the availability of organic and in-conversion PRM. In accordance with Article 12 (2) points (b) and (e), the Commission is empowered to adopt delegated acts amending point 1.8.5 of Part I of Annex II as regards the use of in-conversion and non-organic PRM as well as amending Part I of Annex II by adding further detailed rules and cultivation practices for specific plants and plants products.

I take note of your request for further guidance and I confirm that we are working on a comprehensive chapter on PRM to be included in the FAQ document available on the European organic webpage.

Yours sincerely,

[7] ARES(2022)660856.

[8] To note also specific provisions set under Article 25 of Commission Implementing Regulation (EU) 2020/464 of 26 March 2020 laying down certain rules for the application of Regulation (EU) 2018/848 of the European Parliament and of the Council as regards the documents needed for the retroactive recognition of periods for the purpose of conversion, the production of organic products and information to be provided by Member States (OJ L 98, 31.3.2020, p.2).