



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

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

Brussels,  
PP/nb(2020)7240109

Dear [REDACTED],

Thank you for your e-mail of 19 December 2019<sup>1</sup> in which you ask for clarification on the provisions laid down under point 3.1.2.1. of Part III of Annex II to Regulation (EU) No 2018/848 on organic production<sup>2</sup> concerning possible derogations for aquaculture juveniles.

Please accept my apologies for the very late reply, indeed the issue raised by your question has been subject of discussions with colleagues of DG MARE and delegates of Member States within the Committee on organic production.

For sake of clarity with respect to the references to the date of entry into application of Regulation (EU) 2018/848, I would bring your attention to the fact that the Commission has adopted a proposal for the postponement of the entry into application of this Regulation until the 1 January 2022, which is expected to be soon adopted by the EU Parliament and Council.

In your question, you ask clarification in relation to the species mentioned under the following provisions laid down under point 3.1.2.1. of Part III of Annex II to Regulation (EU) 2018/848 “ *By way of derogation from point (a), Member States may authorise the introduction **for on-growing purposes** on an organic production unit of a maximum of 50 % of non-organic juveniles **of species that were not developed as organic in the Union by 1 January 2021**, provided that at least the latter two thirds of the duration of the production cycle are managed under organic management. Such derogation may be granted for a maximum period of two years and shall not be renewable*”. In particular, you ask whether the above text is referring to "new" species that have not yet been reared in organic aquaculture, or to species already reared under organic conditions and not sufficiently developed.

---

<sup>1</sup> ARES(2019)7813286

<sup>2</sup> [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]

To address your question it is necessary to recall the most recent amendments of the current legislation in force. Article 25(e) of Regulation (EC) No 889/2008<sup>3</sup> states:

“ 1. *For breeding purposes or for improving genetic stock and when organic aquaculture animals are not available, wild caught or non- organic aquaculture animals may be brought into a holding. Such animals shall be kept under organic management for at least three months before they may be used for breeding.*

2. *For on-growing purposes and when organic aquaculture juvenile animals are not available **non-organic aquaculture juveniles** may be brought into a holding. At least the latter two thirds of the duration of the production cycle shall be managed under organic management.*

3. *The maximum percentage of non-organic aquaculture juveniles introduced to the farm shall be 80 % by 31 December 2011, 50 % by 31 December 2014 and 0 % by 31 December 2016.”*

Hence, there is no more derogation for use of non-organic juveniles for on-growing purpose since December 2016. Please note that Article 25e of Regulation (EC) No 889/2008 was last amended by Regulation 2016/673<sup>4</sup>.

I can confirm that under new Regulation (EU) No 2018/848 the legislator, when re-introducing the possibility of derogations for non-organic juveniles, aimed to strictly limit them to those new species for which the organic production is not yet developed at Union level by the date of entry into application of new organic Regulation, foreseen to be postponed until the 1 January 2022.

The issuing of such derogations is in fact not linked to the lack of availability at EU level of organic species included in the national databases provided for under Article 26 of Regulation (EU) No 2018/848, while it is on the contrary the case for other derogations, such as those referring to livestock. Neither is it included among the specific provisions for reporting the implementation of derogations at national level under Article 53 of Regulation (EU) No 2018/848.

Finally, it has also to be recalled that Article 26 of Regulation (EU) 2018/848 provides for Member States to put in place systems or continue to use their already existing systems to allow operators that market organic aquaculture juveniles to make public, on a voluntary basis, information on the organic aquaculture juveniles available on their holding and the production capacity for each aquaculture species. Such systems shall be operational from the date of entry into application of Regulation (EU) No 2018/848, postponed until the 1 January 2022.

Member States shall have to report in accordance with Article 25 of Commission Implementing Regulation (EU) 2020/464<sup>5</sup> detailed information on organic juveniles available for each species on an annual basis. Hence, at Union level the Commission will

---

<sup>3</sup> 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. 1–84)

<sup>4</sup> Commission Implementing Regulation (EU) 2016/673 of 29 April 2016 amending Regulation (EC) No 889/2008 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 116, 30.4.2016 p.8)

<sup>5</sup> <https://eur-lex.europa.eu/legal-content/AUTO/?uri=CELEX:32020R0464&qid=1586275854758&rid=1>

be able to collect detailed evidence on species for which the production of organic juveniles is developed at certain qualitative and quantitative levels.

The present opinion is provided on the basis of the facts as set out in your e-mail 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,

