



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

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

Brussels,  
PP/nb(2020)2077283

Dear [REDACTED]

Thank you for your e-mail of 30 January 2020 (Int. Ref. ARES(2020)658842) asking for clarification with respect to national lists of organic plant reproductive material and the principle of internal market.

In particular, you refer to a possible future provision currently included in the draft proposal for a delegated act under Article 12 of Regulation (EU) 2018/848<sup>1</sup> as regards the use of in-conversion and non-organic plant reproductive material. Such provision would result in the possibility for a Member State to list species, subspecies or varieties for which no derogation shall be issued for the use of non organic plant reproductive material, because such species, subspecies or varieties are sufficiently available in quantitative and qualitative terms as organic or in-conversion plant reproductive material in the territory of that Member State. You present the case of an operator potentially not respecting such provision and sowing non-organic seeds bought in a neighbour Member State where such list could not include the same concerned species.

I would distinguish the two aspects of marketing and using the plant reproductive material: in the internal market plant reproductive material can be put on the market and freely circulate when in compliance with relevant horizontal legislation but the use of such material in the context of organic production is strictly regulated as follows.

In fact, point 1.8.1. of Part I of Annex II to Regulation (EU) 2018/848 lays down “*For the production of plants and plant products other than plant reproductive material only organic plant reproductive material shall be used*”. The operators can buy non organic seeds, but they cannot use them in organic production without a specific individual authorisation issued by competent authorities or control bodies on the basis of the provisions laid down under point 1.8.5. of Part I of Annex II to Regulation (EU) 2018/848.

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<sup>1</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 \( OJ L 150, 14.6.2018 p.1 \)](#)

The draft proposal for a delegated act amending provisions on the use of in-conversion and non-organic plant reproductive material includes a clause according to which species, subspecies or varieties included in a national list may not be derogated from.

Therefore, competent authority or control bodies when deciding about derogations shall respect the existence of the national list and the operator shall not be allowed to use that concerned non-organic plant reproductive material.

The present opinion is provided on the basis of the draft delegated act which is not yet adopted by the Commission and therefore could still be changed. This opinion 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,

