



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

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

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Thank you for your e-mails of 4 December 2020 addressed to DG SANTE and of 7 and 9 December 2020 to DG AGRI¹ where you ask clarifications on fodder mixtures used in organic production and in particular, whether *“there will be some sort of derogation required for each individual seed batch if organic/in-conversion seed content is below 100% but above 70% threshold”*, ask for confirmation on the fact that *“for in-conversion they only need to specify that the material is in-conversion but they will not need a derogation (there is another act regulating the use of in-conversion plant reproductive material and prioritising it). The derogation would be required for conventional material in the bag.”* and for confirmation on the provisions concerning production of mother/parent plants.

Regulation (EU) 2018/848² in its Annex II Part I point 1.8.1. provides for *“For the production of plants and plant products other than plant reproductive material, only organic plant reproductive material shall be used.”*

Under its point 1.8.5. on use of in-conversion and non-organic plant reproductive material, conditions are set for possible derogations and on this purpose, I bring to your attention the recently published Commission Delegated Regulation (EU) 2020/1794³ amending Part I of Annex II to Regulation (EU) 2018/848 as regards provisions on use of in-conversion and non-organic plant reproductive material which among others, provides for a new point 1.8.5.1 of Part I of Annex II as follows: *“By way of derogation from point 1.8.1, where the data collected in the database referred to in Article 26(1) or the system referred to in point (a) of Article 26(2) shows that the qualitative or quantitative needs of the operator regarding relevant organic plant reproductive material are not met, the operator may use in-conversion plant reproductive material in accordance with point (a) of the second subparagraph of Article 10(4). Where organic and in-conversion*

¹ ARES(2020) 8288527, 7423572 and 7471789

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) 2020/1794 of 16 September 2020 amending Part I to Annex II to Regulation (EU) 2020/848 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)



*plant reproductive material is not available in sufficient quality or quantity to fulfil the operator's needs, **competent authorities may authorise the use of non-organic plant reproductive material** subject to points 1.8.5.3 to 1.8.5.7."*

Hence, there will be no need of derogation for the use of in-conversion plant reproductive material.

With respect to production of organic plant reproductive material, conventional seeds can be initially used in compliance with the mentioned provisions and in particular with point 1.8.2 of Part I to Annex II of Regulation (EU) 2018/848 and without prejudice to other relevant EU horizontal legislation. There is no requirement for derogation in case of plant reproductive material (see the above-mentioned point 1.8.1 and 1.8.5.1 of Regulation (EU) 2018/848).

Please note also that Regulation (EU) 2018/848 includes in its scope plant reproductive material, consequently, all relevant provisions of the Regulation shall apply where such products are produced and placed on the market as organic or in conversion.

Currently, the European Parliament and the Council are scrutinizing another delegated act on the labelling of mixtures of fodder plants. Thus, the explanation given herewith is subject to the final agreement of the European Parliament and the Council on this act.

According to this delegated act, if an operator wishes to label his fodder mixture referring to organic, he/she will have to follow specific rules and include in his/her product a minimum total percentage by weight of organic and in-conversion seeds of at least 70 %.

Point 2.1.3. of this proposal obliges the operators to make reference to organic and in-conversion components on the label when providing information on the exact components of the mixture, shown by percentage by weight of each component species, and where appropriate varieties.

The non-organic components, when present, should be subject to an authorisation for use under provisions of point 1.8.5. of Part I of Annex II to Regulation (EU) 2018/848 and in this case, the label shall also include the following statement: "The use of the mixture is only allowed within the scope of the authorisation and in the territory of the Member State of the competent authority which authorised the use of this mixture in conformity with point 1.8.5. of Part I of Annex II to Regulation (EU) 2018/848 on organic production and labelling of organic products."

Indeed, Member States will have to define the derogatory procedure in compliance with set rules, please note on this purpose that under new point 1.8.5.7. of Regulation (EU) 2018/848 as amended by Regulation (EU) 2020/1794 the competent authorities of the Member States may derogate from individual derogation provisions and grant under certain conditions "*a general authorisation to all operators concerned for the use of: (a) a given species or subspecies when and in so far as no variety is registered in the database referred to in Article 26(1) or the system referred to in point (a) of Article 26(2); (b) for a given variety when and in so far as the conditions laid down in point 1.8.5.1(c) are fulfilled....*". The national application of these provisions on fodder plants mixtures could facilitate the production and placing on the market of mixtures without undermining the monitoring and control of the use of such general derogation.

With respect to your latest question on the provisions concerning mother/parent plants, I can confirm that provisions of Article 12(i) of Regulation (EC) 834/2007 are as follows:

“for the production of products other than seed and vegetative propagating material only organically produced seed and propagating material shall be used. To this end, the mother plant in the case of seeds and the parent plant in the case of vegetative propagating material shall have been produced in accordance with the rules laid down in this Regulation for at least one generation, or, in the case of perennial crops, two growing seasons; and have been reflected under point 1.8.2. of Part I to Annex II to Regulation 2018/848 as follows: “To obtain organic plant reproductive material to be used for the production of products other than plant reproductive material, the mother plant and, where relevant, other plants intended for plant reproductive material production shall have been produced in accordance with this Regulation for at least one generation, or, in the case of perennial crops, for at least one generation during two growing seasons. “

Finally, I confirm that it is our intention to provide a comprehensive Frequently Asked Questions document concerning the future implementation of Regulation (EU) 2018/848 to be published on our website in 2021.

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

