



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

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

Brussels,
PP/nb(2020)911406

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Thank you for your e-mail of 23 January 2020 (Int. Ref. ARES(2020)426780) asking for clarification with respect to the prohibition of using “genome editing seeds” in organic production and in particular, how it is ensured that each organic farmer is not using “genome editing seeds” in Europe.

First of all, I would recall the recent judgement of the Court of Justice of the European Union¹ who concluded that only organisms obtained by techniques of mutagenesis, conventionally used in a number of applications and with a long safety record, are exempted from the EU legislation on “genetically modified organisms” (GMOs) (Directive 2001/18/EC²). Therefore, the GMO legislation is applicable to organisms obtained by new mutagenesis techniques, such as genome editing, which have emerged after the adoption of Directive 2001/18/EC.

With respect to organic production, I refer to the provisions of Article 9 of Council Regulation (EC) No 834/2007³ which lays down the prohibition of the use of any GMOs and products produced from or by GMOs as food, feed, processing aids, plant protection products, fertilisers, soil conditioners, seeds, vegetative propagating material, micro-organisms and animals in organic production. The same Regulation provides in its Article 2(t) the reference to the definition of “GMO” given in Directive 2001/18/EC.

¹ Judgement of the Court of Justice of 25 July 2018, Confédération paysanne and Others v Premier ministre and Ministre de l’agriculture, de l’agroalimentaire et de la forêt, C-528/16, ECLI:EU:C:2018:583.

² Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC (OJ L 106, 17.4.2001, p. 1).

³ Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 (OJ L 189, 20.07.2007, p. 1)

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In addition, Article 12 of Regulation 834/2007 provides for only organically produced seed and propagating material to be used in organic production and 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 organic rules for at least one generation, or, in the case of perennial crops, two growing seasons. However, derogations for use of conventional seeds can be issued by the Member States' competent authorities in case of complete unavailability of organic and in- conversion seeds.

The same Article 9 also provides for the possibility for the operators to assume that no GMOs or products produced from GMOs have been used in the manufacture of purchased food and feed products, when the latter are not labelled, or accompanied by a document, pursuant to Directive 2001/18/EC, Regulation (EC) No 1829/2003⁴ or Regulation (EC) No 1830/2003⁵ concerning the traceability and labelling of GMOs and the traceability of food and feed products produced from GMOs⁶.

Moreover, under its paragraph 3 with respect to products not being food or feed, or products produced by GMOs, operators using such non-organic products purchased from third parties shall require the vendor to confirm that the products supplied have not been produced from or by GMOs. Annex XIII of Regulation (EC) No 889/2008⁷ provides for a model of such vendor declaration.

I would also recall the provisions of Article 26 of Regulation (EC) No 889/2008⁸ for the operators to put in place appropriate procedures to ensure products comply with the organic production rules, in particular take precautionary measures to avoid the risk of any possible contamination.

Finally, Article 27 of Regulation (EC) No 834/2007 provides for Member States to set up a system of controls to verify the compliance of operators. Consequently, the assessment on whether use or presence of GMOs could represent an irregularity must be carried out and is the competence of Member States' control authorities.

Analogous provisions are confirmed in the new organic Regulation (EU) 2018/848⁹ which will be fully applicable from 1 January 2021 and therein, prohibition on GMOs in organic production and related provisions are laid down under its Article 11.

The present opinion is provided on the basis of the facts as set out in your e-mail of 23 January 2020 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

⁴ Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed (OJ L 268, 18.10.2003, p.1)

⁵ Regulation (EC) No 1830/2003 of the European Parliament and of the Council of 22 September 2003 concerning the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms and amending Directive 2001/18/EC (OJ L 268, 18.10.2003, p.24)

⁶ To note that in Europe, GM seed varieties must be assessed, approved and authorised for cultivation and GM seeds varieties have to be labelled as such.

⁷ 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)

⁸ 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)

⁹ [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 \(OJ L 150, 14.6.2018 p.1 \)](#)

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,

