



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

Directorate B – Sustainability

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I would like to thank you for your email¹ of 27 January 2022, in which you ask for clarification with respect to certain provisions of Commission Delegated Regulation C(2022)101², which is currently under scrutiny by the European Parliament and the Council. This act will amend Annex II to Regulation (EU) 2018/848.

Your first question concerns the case where *“[a] farmer wants to produce the seedlings himself (with the view to produce organic lettuce, etc.), and there are no organic or in-conversion seeds available, the farmer can ask for an authorization based on 1.8.5.1”*.

I can confirm that, in case of a lack of availability of organic or in-conversion plant reproductive material, the farmer will need to use non-organic plant reproductive material for the production of organic products. Hence competent authorities will be able to issue an authorisation under the provisions of point 1.8.5.1. of Part I of Annex II to Regulation (EU) 2018/848³. This authorisation will of course be subject to respecting the applicable provisions.

In the case of seedlings, the future point 1.8.5.8 of Part I of Annex II to Regulation (EU) 2018/848 provides that *“competent authorities shall not authorise the use of non-organic seedlings in the case of seedlings of species that have a cultivation cycle completed in one growing season, from the transplantation of the seedling to the first harvest of the product”*. Hence the farmers will require in that case an authorisation to use non-organic seeds and produce organically their own seedlings. I recall that this provision was requested by experts and stakeholders to ensure the integrity of final products.

As for your second question, I can also confirm that in the case where *“[a] farmer does not want to produce the seedlings of the vegetables himself, but want to buy them”*, operators producing and placing on the market plant reproductive material may also be

¹ ARES (2022) 660856

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 \(OJ L 150, 14.6.2018, p. 1\).](#)

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authorised by the competent authorities to produce organic seedlings under the conditions laid down under the future point 1.8.6 of Part I of Annex II to Regulation (EU) 2018/848 when they are not capable of complying with the provisions of point 1.8.2., i.e. when they need to use non-organic seeds because mother plants grown organically are not available.

Finally, you ask “*how do I have to understand the condition of (b) in point 1.8.6., namely “(b) the non-organic plant reproductive material used is not a seedling of species that have a cultivation cycle completed in one growing season, from the transplantation of the seedling to the first harvest of product;”.*”

Point 1.8.6. (b) is in line with point 1.8.5.8. and prohibits the authorisation for organic nurseries to use non-organic seedlings for the production of organic seedlings for species having a cultivation cycle completed in one growing season, from the transplantation of the seedling to the first harvest of product. This means that the operators can obtain authorisation to use non-organic seeds for such species, but not seedlings, so that they shall have to grow the seedlings organically and they will be able to place them on the market as organic; they cannot start from non-organic seedlings. In the same vein as the provisions of point 1.8.5.8., this aims to ensure the integrity of final products in crops having a short cycle of cultivation.

Species affected by this prohibition to use non-organic seedlings are lettuce, tomatoes, etc. Hence, species having a cultivation cycle completed in one growing season from the transplantation of the seedling to the first harvest of products. On the other hand, such a prohibition does not affect seedlings of long cycle crops, such as fruit trees or ornamentals as Christmas trees, where the cycle to the final product is longer than one growing season. In these last cases, competent authorities will be able to authorise, under the provisions of point 1.8.6 of Part I of Annex II to Regulation (EU) 2018/848, the use of non-organic seedlings to grow organic seedlings taking into account, among others, the duration of cultivation cycle.

As you know, the provisions of point 1.8.6 have been included to allow the development of the organic nursery sector in view of the lack of mother plants organically grown, in particular, for fruit and vine, and shall expire like the derogation provisions set under point 1.8.5 on 31 December 2036.

Moreover, the new provisions concerning the annual notification of authorisations granted under point 1.8.6, together with reporting provisions set under Article 53(6)⁴ of Regulation (EU) 2018/848, will allow the Commission to monitor the availability of organic plant reproductive material and to decide whether to end or extend these authorisations in the light of the conclusions presented in the report provided for in Article 53(7) of Regulation (EU) 2018/848 by 31 December 2026.

This opinion is provided on the basis of the facts set out in your letter of 27 January 2022 and expresses the opinion 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

⁴ 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)

Functioning of the European Union, ultimately for the Court of Justice of the European Union to provide a definitive interpretation of the applicable Union law.

Your sincerely,

