



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

Directorate B – Sustainability

Brussels

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Dear [REDACTED],

I would like to thank you for your email¹ of 28 February 2022, in which you ask for clarifications with respect to certain provisions of Regulation (EU) 2018/848² concerning sprouted seeds. For the sake of clarity, please find below responses for each of your questions.

Question 1: *“Provisions included in Article 9 (7) apply to production units only. Based on the definition of “production unit” it is unclear whether article 9(7) applies to the storage of raw materials (seeds for sprouting), preparation (washing, cutting) areas, packaging station of final product and storage/cooling facility of the final product.”*

I would like to start by drawing your attention to the definition of production unit under Article 3, point (9) of Regulation (EU) 2018/848 : *“production unit’ means all assets of a holding, such as primary production premises, land parcels, pasturages, open air areas, livestock buildings or parts thereof, hives, fish ponds, containment systems and sites for algae or aquaculture animals, rearing units, shore or seabed concessions, and premises for the storage of crops, of crop products, of algae products, of animal products, of raw materials and of any other relevant inputs managed as described in point (10), point (11) or point (12);”*.

On this basis, the storage of raw materials such as seeds for sprouting is part of the production unit as it is covered by the definition, as they are indeed inputs for the production of sprouted seeds.

However, the phase of preparation of the final products is not explicitly mentioned under the definition of production unit. A definition of preparation is provided under Article 3, point (44), of Regulation (EU) 2018/848: *“‘preparation’ means the operations of preserving or processing of organic or in-conversion products, or any other operation that is carried out on an unprocessed product without altering the initial product, such as slaughtering, cutting, cleaning or milling, as well as packaging, labelling or alterations made to the labelling relating to organic production;”*.

¹ ARES (2022)1998529

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



In accordance with Article 9(2) of Regulation (EU) 2018/848: “*The entire holding shall be managed in compliance with the requirements of this Regulation that apply to organic production.*”.

Article 3, point (8) provides for a definition of holding: ‘*holding*’ means all the production units operated under single management for the purpose of producing live or unprocessed agricultural products, including products originating from aquaculture and beekeeping, referred to in point (a) of Article 2(1) or products listed in Annex I other than essential oils and yeast”.

Please note that Article 9(7) is referring to the production phase as mentioned above and provides for: “*Notwithstanding paragraph 2, a holding may be split into clearly and effectively separated production units for organic, in-conversion and non-organic production, provided that for the non-organic production units:*

(a) as regards livestock, different species are involved;

(b) as regards plants, different varieties that can be easily differentiated are involved.”

The above provisions are relevant for the production of sprouted seeds, but not for the preparation.

Specific provisions for the preparation of unprocessed products are laid down under Annex II Part I concerning Plant production rules. Please see point 1.13:

1.13. *Preparation of unprocessed products*

If preparation operations other than processing are carried out on plants, the general requirements laid down in points 1.2, 1.3, 1.4, 1.5 and 2.2.3 of Part IV shall apply mutatis mutandis to such operations.

In particular, I would like to draw your attention to the fact that the preparation phase shall comply *mutatis mutandis* with the following requirements in accordance with point 1.5 of Part IV of Annex II :

“The preparation of processed organic, in-conversion and non-organic products shall be kept separate from each other in time or space. Where organic, in-conversion and non-organic products, in any combination, are prepared or stored in the preparation unit concerned, the operator shall:

(a) inform the control authority or control body, accordingly;

(b) carry out the operations continuously until the production run has been completed, separately in place or time from similar operations performed on any other kind of product (organic, in-conversion or non-organic);

(c) store organic, in-conversion and non-organic products, before and after the operations, separate by place or time from each other;

(d) keep available an updated register of all operations and quantities processed;

(e) take the necessary measures to ensure identification of lots and to avoid mixtures or exchanges between organic, in-conversion and non-organic products;

(f) carry out operations on organic or in-conversion products only after suitable cleaning of the production equipment.”

Against this background, I conclude that it is admissible that organic, in-conversion and non-organic products could be prepared in the same preparation plant, subject to compliance with the above mentioned applicable requirements. Please also note that in case the production and preparation are carried out by the same holding, the production units will have to be separated and non-organic products shall have to be different varieties, easy to recognise. In case of an organic operator acting only in the stage of preparation, the same provisions applicable for processing activity as mentioned above will apply.

I would like to underline the legislators' objective to ensure the traceability and integrity of organic products.

Question 2: *“What is the understanding of the Commission of “clearly and effectively separated production units”. Does it mean areas which are separated from conventional production areas, packaging lines and storage locations which can be done by marking zones as “organic” and “conventional”?”*

See previous answer for production phase to be distinguished from preparation.

Question 3: *“What is the definition of a “single management”? Is it an established separate legal entity to manage the organic division, aiming to legally separate organic from conventionally grown same variety produce?”*

I confirm that single management refers to a single legal entity responsible for the management of the holding, which can be constituted by organic, in-conversion and non-organic production units. This should also be read in relation to the organic notification and certification scheme. A single management will have to notify its activities in accordance with Article 34 of Regulation (EU) 2018/848 and must be certified in line with Article 35.

In line with Article 34(1), Prior to placing any products on the market as ‘organic’ or as ‘in- conversion’ or prior to the conversion period, operators and groups of operators referred to in Article 36 which produce, prepare, distribute or store organic or in-conversion products, which import such products from a third country or export such products to a third country, or which place such products on the market, shall notify their activity to the competent authorities of the Member State in which it is carried out and in which their undertaking is subject to the control system.

Moreover, operators shall not place products on the market as organic or in-conversion, unless they are already in possession of a certificate (see Article 35(2) of Regulation (EU) 2018/848).

Please also note that, in accordance with Article 35(4) of Regulation (EU) 2018/848, an operator shall not be entitled to obtain a certificate from more than one control body in relation to activities carried out in the same Member State regarding the same category of products, including cases in which that operator or group of operators operates at different stages of production, preparation and distribution.

This means that, in case a single management will carry out the production and preparation of sprouted seeds in accordance with Article 35(4) of Regulation (EU)

2018/848, all the phases of production and preparation shall be controlled and certified by the same control body.

This opinion is provided on the basis of the facts set out in your letter of 28 February 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 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.

Yours sincerely,

